



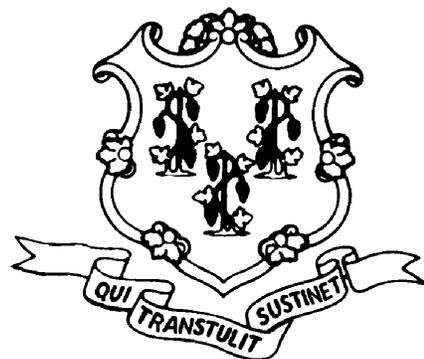
CONNECTICUT DEPARTMENT OF ECONOMIC & COMMUNITY DEVELOPMENT

LEGISLATIVE SUMMARY

2006

M. Jodi Rell
Governor

James F. Abromaitis
Commissioner



LEGEND

AAC	“An Act Concerning...”
CCCT	“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 Bill”
LLC	“limited liability company”
MAA	the “Manufacturing Assistance Act”
MME	“Manufacturing Machinery and Equipment”
OPM	the “Office of Policy and Management”
OWC	the “Office of Workforce Competitiveness”
PA	“Public Act”
SA	“Special Act”
SB	“Senate Bill”
SDE	“State Department of Education”

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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AN ACT CONCERNING TECHNICAL REVISIONS TO THE ENVIRONMENT STATUTES

EFFECTIVE DATE: October 1, 2006

SUMMARY: This act makes technical changes to environmental laws concerning (1) pesticides and (2) dry cleaning establishment remediation grants.

AN ACT CONCERNING MUNICIPAL PLANS OF CONSERVATION AND DEVELOPMENT

EFFECTIVE DATE: October 1, 2006

SUMMARY: This act alters the process local planning commissions (or combined planning and zoning commissions) must follow when amending plans of conservation and development (plan of C&D) when they or individuals propose changes or revisions. The law requires commissions to revise their plans at least once every 10 years. The act sets or extends deadlines for certain actions and changes the sequence in which other actions must occur. It also shortens the process for acting on changes citizens propose.

PROCESS FOR COMMISSION-INITIATED CHANGES

Submitting Drafts to the Legislative Body

The act changes the point in the process when a planning commission must submit a draft plan or plan amendment to the legislative body for endorsement. Prior law required the commission to submit the draft to the legislative body (or the board of selectmen if that body is the town meeting) after the commission held a hearing on the plan, but imposed no deadline for doing so.

Under the act, the commission must submit the draft to the legislative body or board of selectmen at least 65 days before the commission holds the hearing. It also requires the commission to submit the draft to the board of selectmen in towns where the legislative body is a representative town meeting.

Public Hearing and Endorsement

By changing when the commission must submit the plan to the legislative body, the act also changes the sequence when public hearings and endorsements must occur. Under prior law, a commission and a board of selectmen could hold separate hearings on a plan, but the commission had to hold its hearing first. The commission had to submit the plan after the hearing to the board if the town's legislative body was a town meeting. The board could then hold a hearing on the plan before submitting it to the legislative body for approval. This authorization to hold a second hearing did not specifically extend to towns with councils, boards of aldermen, or other types of legislative bodies.

Under the act, the board must hold its hearing and endorse or reject the draft before commission's hearing. This change stems from the fact that the commission must now give the board a copy of the

draft before the commission's hearing. The act also allows legislative bodies other than town meetings to hold hearings on the draft. These bodies must also endorse or reject the draft before the commission's hearing. The act allows the commission to approve or reject the draft without the legislative body or board's report regarding the draft.

Regional Planning Agency

The act changes the deadline by which the commission must submit the draft plan to the regional planning agency for comments. Under prior law, the commission had to submit the draft at least 35 days before its hearing. Under the act, it must submit the draft at least 65 days before that hearing. If the commission proposes to revise or amend only a part of an existing plan, the act requires it also to submit those sections to the agency.

By law, the agency must review the plan and submit an advisory report to the commission, which can approve the plan without the report.

Revising and Adopting the Draft

The act changes when the commission may revise the draft. Under prior law, the first opportunity was after the commission received the regional planning agency's comments. The second was after the commission held its hearing but before it submitted the draft to the legislative body or the board of selectmen. Under the act, the commission may revise the draft only after completing its hearing.

The act specifies that the commission may approve the draft only after its hearing. As under prior law, it may approve all or parts of the draft by a single resolution or successive resolutions. The commission must still approve the plan by a two-thirds vote if the legislative body did not endorse it. The act specifies that this requirement also applies to situations where the board of selectmen must approve or reject the plan instead of the town meeting or representative town meeting.

OPM Notification

By law, the commission must notify the Office of Policy and Management (OPM) about any inconsistencies between the adopted plan and the State Plan of Conservation and Development. The act requires the commission to do so within 60 days after the plan's adoption.

Internet Posting

By law, the commission must post the draft plan on the town's Internet web site, if it has one, at least 35 days before the hearing. The act requires the commission also to post the adopted plan on the web site within 30 days after adopting it.

Town Clerk

By law, the commission must file a copy of the draft plan with the town clerk before the hearing. The act requires the commission to do this at least 35 days before the hearing.

RESIDENT-PROPOSED CHANGES

The law allows property owners and tenants or their authorized agents to propose changes to the plan of C&D. Prior law established a two-step process for the commission to act on these proposals. The act shortens the process by eliminating the first step.

Under prior law, the commission first had to decide whether to hold a hearing on a proposed change within 35 days after receiving it. If the commission decided to hold the hearing, it had to schedule and conduct it within the same statutory time that combined planning and zoning commissions have to act on zone changes, special permits, and other land use applications requiring public hearings.

The next step depended on the magnitude of the change. The commission had to approve, deny, or modify the proposal if doing so required no significant changes to the plan's policies and goals. If the proposal did require significant changes, the commission had to act on it by following the same procedures it follows when it revises the plan. As discussed above, these procedures include public hearings and regional planning agency reviews.

The act eliminates the first step, thus requiring the commission to act on a citizen proposal under the same procedures it follows when it proposes to amend or revise the plan. It also requires the commission to follow these procedures regardless of whether the proposal would significantly change the plan.

Public Act# 06-27

HB# 5439

AN ACT PROMOTING INDUSTRIES USING RECYCLED MATERIALS

EFFECTIVE DATE: Upon passage

SUMMARY: This act makes several changes in the plan for supporting and promoting industries that use recycled materials that the Department of Economic and Community Development (DECD) commissioner must prepare.

The Act:

1. Expands the plan's scope to include (a) industries that process or transport, as well as use, recycled materials and (b) ways to use existing Connecticut Resources Recovery Authority (CRRA), Department of Environmental Protection (DEP), and Connecticut Development Authority programs to promote the industries, in addition to those of DECD and Connecticut Innovations, Inc. as required by prior law;
2. requires the DECD commissioner to consult with CRRA and the DEP commissioner in preparing the plan; and
3. eliminates requirements that the commissioner periodically update the plan and report to the Municipal Solid Waste Recycling Advisory Council every six months on its implementation.

The commissioner must complete the new plan by July 1, 2007. The deadline for preparing the former plan was July 1, 1989.

Public Act# 06-77

SB# 311

AN ACT DESIGNATING THE MONTH OF NOVEMBER AS LUNG CANCER AWARENESS MONTH AND CONCERNING THE ESTABLISHMENT OF A PUBLIC UMBILICAL CORD BLOOD BANK

EFFECTIVE DATE: Upon passage for the cord blood bank provisions; October 1, 2006 for the lung cancer awareness section.

SUMMARY: This act directs the public health (DPH) commissioner, in consultation with the Stem Cell Research Advisory Committee, to establish an ad hoc committee concerning a public umbilical cord blood bank in the state.

PUBLIC UMBILICAL CORD BLOOD BANK AD HOC COMMITTEE

Committee Responsibilities

The eight-member ad hoc committee must examine and evaluate the feasibility of (1) establishing a public umbilical cord blood bank for collecting and storing umbilical cord blood and placental tissue donated by maternity patients at hospitals in the state, (2) entering into a multistate public umbilical cord blood collaboration, and (3) developing a public-private partnership with existing cord blood banks. The first meeting must be held within 60 days of the act's effective date. The committee may examine other topics at the discretion of either the commissioner or the Stem Cell Research Advisory Committee.

Membership

Committee membership includes the commissioners of DPH and the Department of Economic and Community Development, or their designees, and the following members appointed by the public health commissioner: (1) one member of the Stem Cell Research Advisory Committee, selected by that committee; (2) one researcher from a Connecticut private higher education institution; (3) one researcher from a Connecticut public higher education institution; (4) one representative of a bioscience educational and business support network organization in the state; (5) one member in good standing of the American Association of Blood Banks, with expertise in cord blood banking and the federal Food and Drug Administration's federal safety standards for such blood banks; and (6) one individual with multiple years of experience in establishing and administering an umbilical cord blood registry.

The DPH commissioner is the committee's chairperson and can, in consultation with the Stem Cell Research Advisory Committee, expand the ad hoc committee's membership if either decides it would be useful.

Results and Recommendations

By January 5, 2007, the DPH commissioner must submit the results of the committee's examination, along with any recommendations, to the governor and Public Health Committee.

BACKGROUND

Umbilical Cord Blood

Following the birth of a baby, the umbilical cord usually is discarded along with the placenta. But blood retrieved from the umbilical cord is a rich source of stem cells. These are unspecialized stem cells that produce all other blood cells, including blood-clotting platelets and red and white blood cells. Like donated bone marrow, umbilical cord blood can be used to treat various genetic disorders that affect the blood and immune system.

Both private and public cord blood banks have developed in the last few years in response to the success of umbilical cord blood transplants in treating certain diseases. Private blood banking allows families to preserve their blood for their own use. For-profit private banks charge a fee to preserve a newborn's cord blood for possible use by the family later. Public banks, usually established at medical centers, accept donations for use by anyone in need. Connecticut does not have a public cord blood bank.

Public Act# 06-101

HB# 5438

AN ACT CONCERNING ENTERPRISE ZONE REPORTING

EFFECTIVE DATE: July 1, 2006

SUMMARY: This act revises the system for evaluating the state's 17 enterprise zones, which are areas where businesses receive tax benefits for developing facilities, acquiring machinery and equipment, and creating jobs. It sets deadlines for adopting goals and performance standards, specifies reporting requirements, requires towns and the economic and community development commissioner to evaluate the zones, and authorizes the legislature to remove a zone's designation if the commissioner recommends it.

GOALS AND PERFORMANCE STANDARDS

The act requires the commissioner to reestablish goals for each zone, review them every five years, and update them as necessary. He must begin doing this by October 1, 2006. Prior law required him to establish goals by October 1, 1993, but did not require him to update them.

The act also requires the commissioner to reestablish standards for assessing the zones' performance, review and update them as appropriate and necessary. He must begin doing this by October 1, 2006. Prior law required him to establish performance standards by January 1, 1994, but did not require him to review and update them.

ENTERPRISE ZONE REPORTING REQUIREMENTS

The act eliminates the requirement for towns to submit annual reports to the commissioner evaluating the zones based on his performance standards. Instead, it requires each business located in an enterprise zone to report specific data to the town every five years beginning July 1, 2011. The businesses must report data electronically in a format the commissioner specifies.

In preparing the report, a business must provide its name and address and the date the commissioner certified it for enterprise zone benefits. It must also provide data on the number of full- and part-time jobs it had when it applied for enterprise zone benefits and as of June 30 of each year since the commissioner certified it for those benefits. It must also provide data on the square footage of its enterprise zone property for these dates.

The business must also provide data on the following as of June 30 annually:

1. number of full- and part-time jobs held by zone residents,
2. average annual full- and part-time wage paid,
3. number of employees eligible for health benefits and the percent of average employee contribution toward the health plan,
4. amount invested in job training,
5. amount invested in the property,
6. amount invested in manufacturing machinery and equipment and other personal property, and
7. amount of real and personal property tax paid and abated.

EVALUATION REPORTS

The act requires the towns and the commissioner to evaluate the zones' performance. The towns must evaluate their zones' performance based on the commissioner's standards and report the results to him every five years beginning July 1, 2011. In doing so, they must include the data the businesses submitted to them and, to the extent available, a list of all the businesses within the zones that were certified for benefits.

The commissioner must evaluate the zones twice. He must first evaluate them by February 1, 2011 and include his findings and recommendations in the annual report he submits to the legislature. Prior law required him to complete this first evaluation by January 1, 1995.

The commissioner must evaluate the zones again by January 1, 2013 and decide whether to recommend that the legislature remove an area's enterprise zone designation. He may recommend this to the Commerce Committee if the area did not meet his performance standards. The legislature may then decide whether to accept his recommendation.

Prior law required the commissioner to complete the second evaluation by January 1, 1998 and allowed him to remove a designation under his own authority if the area failed to meet his performance standards. (The commissioner did not remove any designations.)

BACKGROUND

Enterprise Zones

The legislature enacted the enterprise zone program in 1981, when it authorized the economic development commissioner (now, the economic and community development commissioner) to designate six zones. Since then, the legislature increased the number of zones to 17. The zones encompass one or two census tracts meeting demographic and economic criteria. The towns with enterprise zones are: Bridgeport, Bristol, East Hartford, Groton, Hamden, Hartford, Meriden, Middletown, New Britain, New Haven, New London, Norwalk, Norwich, Southington, Stamford, Waterbury, and Windham.

Public Act# 06-136

HB# 5844

AN ACT CONCERNING THE ROADMAP FOR CONNECTICUT'S ECONOMIC FUTURE

EFFECTIVE DATE: July 1, 2006

SUMMARY: * *Please note that only sections of interest to DECD are referenced in this summary.*

This act:

1. authorizes \$1 billion in new Special Tax Obligation (STO) bonding for strategic transportation projects and initiatives;
2. authorizes the State Bond Commission to issue up to \$1.3 billion in bonding that would be secured through future federal transportation revenues;
3. places the Transportation Strategy Board (TSB) in the Office of Policy and Management (OPM) for administrative purposes, makes OPM responsible for staff assistance for the TSB, realigns some of the TSB's responsibilities to be performed by the OPM secretary, and makes a change in how two members of the TSB must be appointed;
4. makes the OPM secretary responsible for coordinating state and regional transportation planning with other state planning and interagency policy development;
5. permits the use of previously authorized bonding under the Urban Action Program for transit-oriented development projects in municipalities and defines "transit-oriented development";
6. authorizes the Department of Economic and Community Development (DECD) and the Connecticut Development Authority (CDA) to make grants or loans, as appropriate, to support transit-oriented development projects and encourage the development and use of port and rail freight facilities and services;

7. authorizes the DOT commissioner to make agreements with Amtrak, Massachusetts, and other entities that are necessary to provide rail commuter service on the New Haven-Hartford-Springfield rail line;
8. requires DOT to study (a) building a fuel cell power station to generate power for the New Haven Line, (b) the mobility needs of residents and businesses in eastern Connecticut, and (c) implementing commuter rail service between New London and Worcester, Massachusetts, and report back to certain legislative committees by January 1, 2008;
9. requires Connecticut, acting through the governor, to initiate ongoing formal discussions with the surrounding states regarding opportunities to enhance regional commuter and freight mobility and report any results to the legislature;
10. requires the OPM secretary to perform a regional “build out” analysis and make recommendations on performing one for the entire state; and
11. repeals several TSB and DOT report requirements, revises others, and modifies the requirement for DECD, CDA, and Connecticut Innovations, Inc. to submit project impact statements to the TSB for large traffic generating projects they assist.

Sections 1-2, 4-9 & 17- STO BONDING FOR STRATEGIC TRANSPORTATION PROJECTS

Strategic Transportation Projects and Initiatives

The act requires the DOT commissioner to implement these strategic transportation projects and initiatives:

1. restoring commuter rail service on the New Haven-Hartford-Springfield line and initiating shuttle bus service from the line to Bradley International Airport
2. implementing the New Britain-Hartford busway subject to the availability of federal funds for the project
3. rehabilitating rail passenger coaches for use on the Shore Line East and the New Haven-Hartford-Springfield lines, and the New Canaan, Danbury, and Waterbury branches of the New Haven rail line
4. developing a new commuter rail station between New Haven and Milford
5. meeting the costs of capital improvements to the New Haven line branch lines, up to \$45 million
6. meeting the capital costs of parking and rail station improvements on the New Haven line and its branches, and the Shore Line East service (including at least four stations east of New Haven), up to \$60 million
7. funding the local share of the Southeast Area Transit federal pilot project

8. completing the Norwich Intermodal Transit Hub Roadway improvements
9. conducting environmental planning and assessment for the expansion of I-95 between Branford and Rhode Island
10. funding the capital costs of the greater Hartford highway infrastructure improvements in support of **economic development**
11. completing preliminary design and engineering for widening I-84 between Waterbury and Danbury
12. funding the Commercial Vehicle Information System Network
13. completing a rail link to the port of New Haven

If the DOT is unable to implement the intermodal connection between the port and rail facilities at the port of New Haven by July 1, 2008, the commissioner must submit a report to the Transportation and Finance, Revenue and Bonding committees explaining the reasons why and describing alternative ways to facilitate intermodal shipping at the port.

The commissioner must recommend implementation of additional transportation improvement projects in consultation with the TSB. With the governor's approval and allocation by the State Bond Commission, the proceeds of the new STO bonds authorized under the act may be used to support these projects.

The act authorizes the commissioner to enter into grant and cost sharing agreements with local governments, transit districts, regional planning agencies, and councils of governments in connection with the projects described above and any additional transportation improvement projects the commissioner may implement.

The commissioner must identify obstacles to improved service on Shore Line East including, at least, increased service frequency, reverse commute service, and weekend service, and report his findings and recommendations to the legislature by January 1, 2007. He must also ensure that the state's transportation plans, including the master transportation plan, are consistent with the state transportation strategy as developed by the TSB and adopted by the legislature.

Bonding for Transportation Improvement Projects

The act authorizes the State Bond Commission to authorize issuance of up to \$1 billion in STO bonds the proceeds of which must be used to pay the transportation costs for (1) the specific strategic transportation projects identified above; (2) additional transportation improvement projects recommended by the commissioner after consulting with the TSB, and the various plans, evaluations, assessments, and studies the act authorizes; and (3) project planning pursuant to the fuel cell, eastern Connecticut mobility, and New London-Worcester rail line studies the act requires.

The act defines a "transportation improvement project" as improvements to the state's transportation system including, at least, (1) projects included in the State-wide Transportation Improvement

Program, (2) projects included in regional transportation improvement plans, and (3) projects identified § 13b-57h of the general statutes, which identifies specific projects recommended by the TSB in each of the five transportation investment areas (TIAs) established by law as part of the process for developing and implementing a state transportation strategy. These projects are transportation strategy projects that the legislature has designated as priorities for completion. These priority transportation strategy projects, some of which may overlap with some of the initiatives described above, include:

1. acquiring rail equipment to add at least 2,000 additional seats for interstate and intrastate service on the New Haven Line;
2. constructing or expanding stations in Stamford, Bridgeport, and New Haven to accommodate rail service and at least one other mode of transportation;
3. making improvements to Long Island Sound to facilitate its use for passenger and freight movement, and expanding the Bridgeport Intermodal Facility to support high speed ferry service;
4. establishing express bus services from New Haven to Bradley International Airport;
5. completing the New Britain-Hartford busway and establishing other bus rapid transit or light rail service in Hartford and surrounding towns;
6. expanding passenger rail service through Danbury to New Milford to assist commuter movement on Routes 7 and I-95;
7. upgrading or constructing maintenance and parking facilities, and upgrading feeder bus services for passenger rail service, particularly along the New Haven Line;
8. establishing commuter bus or commuter rail service as determined by the Hartford-New Haven-Springfield Implementation Study (which proposed rail service);
9. establishing rail freight service with connections to the New London port;
10. expanding bus service frequency and connections within and outside of the region, particularly in and to Norwich and New London and acquiring enough new buses to add capacity for at least 200 additional seats;
11. designing and planning for traffic mitigation in southeastern Connecticut, including planning for the extension of Route 11 from its terminus in Salem to the I-95/I-395 intersection, with appropriate greenway purchases;
12. acquiring sufficient rail equipment to add at least 1,000 seats for the Shore Line East rail service;
13. making highway and operational traffic flow improvements on I-95 and I-395;
14. expanding DOT marketing of the Deduct-a-Ride program to all eligible employers;

15. continuing to fund the Jobs Access Program;

The act determines the issuance of these bonds to be in furtherance of one or more of the purposes authorized for the use of STO bonds. It declares them to be special obligations of the state and thus payable only from the revenues pledged by law for repayment of STO bonds.

The act allows DOT to solicit bids or qualifications for equipment, materials, or services for these projects at any time in the fiscal year even if all of the required funds may not be available until later in the same or a succeeding fiscal year.

Section 3 - REQUIREMENTS FOR PLANNING COORDINATION

The act requires the OPM secretary to (1) consult with the transportation, **economic and community development**, and environmental protection commissioners to ensure the coordination of state and regional transportation planning with other state planning, including economic development and housing plans; (2) coordinate interagency policy and initiatives concerning transportation; (3) evaluate transportation initiatives and proposed expenditures in consultation with the transportation commissioner; and (4) coordinate staff and consultant services for the TSB.

Section 12 - URBAN ACTION BONDING FOR TRANSIT-ORIENTED DEVELOPMENT

The act permits the use of previously authorized general obligation bonds available under the Urban Action Program to be used with the State Bond Commission's approval for transit-oriented development projects in any municipality. It defines transit-oriented development as the development of residential, commercial, and employment centers within walking distance to public transportation facilities and services in order to facilitate and encourage use of those services.

Section 13-14 - TRANSPORTATION STRATEGY BOARD

The act puts the TSB in OPM for administrative purposes only. It allows the transportation, environmental protection, economic and community development, and public safety commissioners, as well as the OPM secretary, all of whom currently serve on the TSB, to designate someone to serve in their capacity as a board member. It makes the OPM secretary solely responsible for staff support for the TSB. Previously, the DOT, OPM, and DECD had to provide staff assistance. The act allows the OPM secretary to use staff from OPM and any other state agency, in consultation with the head of that agency. When the OPM secretary approves the hiring of consultants for the TSB, as he may already do within available appropriations, the act allows either the secretary or the DOT commissioner to procure the consultants, as the secretary determines. Previously, the DOT commissioner procured any such consultants for the TSB.

By law, one member of the 15-member TSB comes from each of the TIAs and is appointed by a different legislative leader. In each TIA, the chairpersons of the board of the local planning agencies in the TIA must nominate three qualifying individuals who live in the TIA for consideration by the appointing authority. The act specifies that if the planning agency chairpersons fail to nominate three qualifying people within 180 days of expiration of the previous appointment term, the appointing authority may appoint someone who meets the qualifications without waiting for a list of nominees to consider.

Previously, the Senate president pro tempore appointed a member of the TSB who had to come from the I-91 corridor TIA and the House majority leader appointed a member who had to come from the I-84 corridor TIA. Beginning July 1, 2006, these appointments will be reversed, that is, the Senate president pro tempore's appointment will come from the I-84 corridor TIA and the House majority leader's from the I-91 corridor TIA.

No later than January 1, 2007, and every two years thereafter, the act requires the TSB to review and, if necessary, revise the state transportation strategy. It must submit a report describing any revisions and the reasons for them to the governor and the General Assembly. The report must include a prioritized list of projects that the TSB, in consultation with the transportation commissioner, determines are necessary to implement the recommended strategy, including their estimated capital and operating costs and time frames. By January 31, 2007, the Transportation, Planning and Development, and Finance, Revenue and Bonding committees must meet with the DOT and **DECD commissioners**, the OPM secretary, the TSB chairperson, and any others they deem appropriate to consider the report.

By law, the TSB must take certain things into account when developing and revising the transportation strategy. The act adds the need to reduce congestion by encouraging greenway initiatives, safe-routes-to-school programs, and rideshare programs to the things the TSB must consider. The act eliminates several special reports or assessments the TSB or DOT must produce.

Section 18 - REQUIREMENTS FOR DOT COMMISSIONER REGARDING HARTFORD-NEW HAVEN-SPRINGFIELD RAIL SERVICE

The act requires the DOT commissioner, in consultation with the OPM secretary with the governor's approval, to (1) enter into agreements with (a) Amtrak or its successor that are necessary to operate rail passenger service on the New Haven-Hartford-Springfield line and (b) Massachusetts or any entity acting on its behalf that are necessary for participation in the New Haven-Hartford-Springfield rail service and (2) select, through a competitive process, one or more entities to operate the New Haven-Hartford-Springfield rail service.

Sections 19, 24 & 25 - DOT STUDY REQUIREMENTS

The act requires DOT to study the feasibility of building a fuel cell power station to generate power for the New Haven Line. The study must consider, at least, a plan for generating a large percentage of the line's peak power needs, as well as having the station serve as a backup in emergencies. DOT must report its findings and recommendations to the Transportation and Appropriations committees by January 1, 2008.

DOT must also study the transportation and mobility needs of residents and businesses in eastern Connecticut. This must include, at least, (1) transportation between residential and employment centers; (2) improved rail freight service; and (3) opportunities for improved public transportation services and facilities, including the feasibility of creating commuter rail lines between (a) New London and Worcester, Massachusetts and (b) Old Saybrook and Hartford. DOT must report its findings and recommendations to the Transportation and Planning and Development committees by January 1, 2008.

The act requires DOT also to develop an assessment and plan for implementing New London-Worcester commuter rail service. This must include, at least, (1) operating schedules and costs; (2) ridership; (3) fare structure and subsidies; (4) connections to other public transportation services; (5) required facilities and equipment, including trackage, sidings, signalization, stations, and parking; (6) trackage rights issues and costs, if any; (7) coordination with Massachusetts and other authorities, entities, or governments; and (8) potential **economic** and environmental impacts of any such service. DOT must submit its findings and recommendations to the Transportation, Appropriations, Planning and Development, and Finance, Revenue and Bonding committees by January 1, 2008.

Sections 22 & 23 - STATE GRANTS AND LOANS FOR TRANSIT-ORIENTED DEVELOPMENT PROJECTS AND PORT AND RAIL FREIGHT FACILITIES AND SERVICES

The act authorizes the **DECD commissioner**, in consultation with the DOT commissioner, to use available funds, including bond funds available pursuant to the Urban Action Program, to make grants or loans to (1) support transit-oriented development projects and encourage the location of residential, commercial, and employment centers near public transportation services and (2) encourage the development and use of port and rail freight facilities and services, including trackage and related infrastructure.

The act also authorizes the CDA to make loans for these purposes subject to conditions it imposes.

Section 26 - PROJECT IMPACT STATEMENTS

Previously, before **DECD**, CDA, or Connecticut Innovations, Inc. approved funding for any project that is a major traffic generator under state law, the commissioner or executive directors, as the case may be, had to submit an impact statement on the project to the TSB. This had to, among other things, describe how the project addressed the goals established by the TSB for developing the state transportation strategy. The act requires this impact statement to be submitted prior to entering into a grant, loan, or assistance agreement instead of prior to approving funding. It also requires the impact statement to describe the project and its expected impact on the transportation system instead of how it addresses the goals the TSB has set for developing the strategy.

The act eliminates the DECD commissioner's duty to make quarterly reports on its project activities to the TSB.

Section 27- PROJECT IMPLEMENTATION STATUS REPORT

The act requires the OPM secretary, after consulting with the DOT commissioner and the TSB, to submit an annual report to the governor and General Assembly on the implementation status of projects funded under this act and PA 05-4 of the June 2005 special session. (Among other things, PA 05-4 funds the acquisition of 342 new rail cars, construction of a rail car maintenance facility, and other activities that are part of the New Haven Line revitalization program.) The report must include the financial status of each project, project schedules and anticipated completion dates, an explanation of any obstacles to completing the projects, and any planned revisions to them. The first annual report must be submitted by the OPM secretary by December 1, 2007.

The act requires the Transportation, Planning and Development, and Finance, Revenue and Bonding committees to meet during December each year with the DOT and DECD commissioners, the OPM secretary, and any others they deem appropriate to consider the project implementation status report.

Section 35 - REPEAL OF CERTAIN REPORTING REQUIREMENTS

The act repeals several reporting and related requirements for the TSB and DOT. Specifically, these include requirements that:

1. any TSB project requiring expenditures of more than \$1 million be accompanied by an economic development plan that specifies its projected **economic** benefits to the TIA in which it is located and to the state and that it meets certain other criteria (CGS § 13b-57h(c));
2. the TSB coordinate preparation of a performance report on TSB projects requiring accompanying **economic development plans** that provides certain information about the projects, their relationship to the strategy, and how they address the transportation problems and needs of the TIA (CGS § 13b-57i);
3. the TSB separately monitor the planning and implementation of the TSB projects identified by law as priority strategy projects and report certain information to the governor and legislature (CGS § 13b-57j(b)); and
4. the DOT prioritize the projects and purposes specified in CGS § 13b-57h (the priority transportation strategy projects and initiatives), including associated operating and maintenance costs, and submit a report to the TSB every two years describing the priorities, which the TSB may then revise, delete, change, add a particular project or purpose, or determine the sequence and timing of projects (CGS § 13b-57p).

Public Act# 06-159

SB# 638

AN ACT ENABLING THE DEPARTMENT OF REVENUE SERVICES TO PROCESS RETURNS MORE EFFICIENTLY

EFFECTIVE DATE: Various

SUMMARY: This act:

1. allows the Department of Revenue Services (DRS) commissioner to disclose tax returns and return information to the Office of Fiscal Analysis (OFA);
2. eliminates optional group income tax returns for Connecticut partnerships, S corporations, and other pass-through entities with nonresident partners, shareholders, or members, and instead requires all such businesses to pay the income taxes their nonresident members owe on their income from the business;
3. eliminates requirements that companies claiming various tax credits attach copies of the authorizing documents to their tax returns and instead, when an agency other than the DRS authorizes

the credit, requires that agency to supply the DRS commissioner with a copy of the documents if she asks for it; and

4. eliminates requirements that liquor distributors automatically file duplicate invoices with DRS when they ship alcoholic beverages to a military reservation in Connecticut and requires distributors to file monthly alcoholic beverages tax returns under penalty of false statement instead of under oath.

The act also makes minor and technical changes and eliminates obsolete language.

Sections 3 & 4 REPORTING CERTAIN DATA TO OFA

EFFECTIVE DATE: July 1, 2006

The law already requires DRS to annually report certain tax data for the preceding fiscal year to OFA. OFA is barred from disclosing any personally identifiable taxpayer information except to other state officers and employees in the course of duty, and those state officers and employees are barred from disclosing the information. This act allows DRS to disclose tax returns or return information to OFA, subject to the same restrictions.

By law, "return information" is (1) a taxpayer's identity; (2) the nature, source or amount of his income, payments, receipts, deductions, exemptions, credits, assets, liabilities, net worth, tax liability, tax collected or withheld, under or over reportings, or tax payments; (3) whether his return is, was, or will be examined or investigated; or (4) any other data received, recorded, prepared, or collected by or furnished to the DRS commissioner regarding a return or regarding any determination of liability for a tax, penalty, interest, fine, forfeiture or other imposition or an offense.

The act also makes technical changes and removes obsolete language.

Sections 5 & 6 - INCOME TAX RETURNS FOR NONRESIDENT MEMBERS OF PASS-THROUGH BUSINESSES

EFFECTIVE DATE: Upon passage and applicable to tax years starting on or after January 1, 2006.

The act eliminates optional group income tax returns that Connecticut partnerships, S corporations, trusts or estates, or other pass-through entities may file on behalf of their nonresident partners, members, beneficiaries, or shareholders ("members") who meet certain criteria. The act instead requires all such businesses to pay income taxes at the highest marginal rate (currently 5%) on each nonresident member's share of income from the business, if the income is at least \$1,000. Under prior law, the tax payment was required only if the business did not file a group return.

By law, each pass-through business that has income derived from or connected to Connecticut sources must file an annual return containing information about its finances and its resident and nonresident members. Under the act, if the business (1) is the only source of Connecticut income for a nonresident member or a member and his spouse and (2) files the required annual return and pays the tax on their behalf as required, then the member does not have to file a separate Connecticut nonresident income tax return. If the business is not the member's only source of Connecticut income,

then he must file his own nonresident return, but is entitled to a credit for any taxes the business paid on his behalf.

By law, a pass-through business does not have to pay income taxes for any nonresident member whose Connecticut-related income from the business is less than \$1,000 for the year. The act also exempts a nonresident pass-through business member from filing an individual tax return for any year in which (1) his or (2) his own and his spouse's income derived from Connecticut sources through one or more pass-through entities totals less than \$1,000.

The act allows the DRS commissioner, at her sole discretion, to make tax deficiency tax assessments against either the business or the individual nonresident member. It limits any such assessment against an individual to his share of the deficiency. Likewise, the commissioner can refund any tax overpayment either to the business or the individual member. The commissioner must assess the deficiency or refund the overpayment, in the former case, within three years of the date the return was filed and, in the latter, within three years of the return due date or, if that date was extended, of the extended due date or the payment date, whichever is earlier. As with individual returns, the three-year time limit does not apply to deficiencies arising from false or fraudulent returns, failure to file a required return, or failure to report an abusive tax shelter on a return. Likewise, it does not apply to overpayments stemming from changes or corrections to a return by, or as a result of negotiations with, the IRS or another competent tax authority.

The act also (1) eliminates requirements for pass-through entities to file quarterly returns and pay estimated tax and (2) extends the deadline for them to inform each nonresident member of the amount of taxes paid on the member's behalf from the 15th of the third month to the 15th of the fourth month following the close of its tax year.

Sections 1 & 2, 7-11, & 19-21 - ATTACHMENTS TO TAX RETURNS OF BUSINESSES CLAIMING TAX CREDITS

EFFECTIVE DATE: Upon passage. Sections 1, 2, and 7-11 apply to tax years starting on or after January 1, 2006.

The act eliminates requirements that companies claiming certain tax credits attach eligibility documents to, or file them with, their tax returns. Unless DRS authorizes the credit, the act instead requires the agency or person determining eligibility to give DRS the eligibility documentation if DRS asks for it. The following table shows the tax credits and eligibility documents the act covers.

<i>Section</i>	<i>Tax Credit for</i>	<i>Attachment Eliminated</i>
1	Donating computers to public schools	DRS decision approving the credit application
2	Rehabilitating or contributing to cost of rehabilitating an historic home	Commission on Culture and Tourism tax credit voucher
7	• Locating a manufacturing facility (1) in an enterprise	Department of Economic and

	<p>zone or (2) in a municipality with an entertainment zone and meeting employment criteria</p> <ul style="list-style-type: none"> • Locating a service facility in a targeted investment community and hiring new employees 	Community Development (DECD) eligibility certificate
8	Rolling research and development (R&D) tax credit	DECD eligibility certificate and, for an aerospace company, memorandum of understanding with DECD
9	Employer-assisted housing	Connecticut Housing Finance Authority (CHFA) documentation
10	Property taxes on leased electronic data processing equipment	Document in which equipment lessee and lessor agree that lessor will claim the credit
11	Financial institution building a new facility and creating at least 1,200 jobs	DECD eligibility certificate
19	Neighborhood Assistance Act contributions	DRS decision approving the credit application
20	Investing in eligible urban or industrial site reinvestment projects	DECD eligibility certificate
21	Investing in eligible insurance reinvestment fund	DECD eligibility certificate and certification

Section 11 & 13 - TAX ON RAILROAD EXPRESS, TELEGRAPH, AND CABLE COMPANIES

EFFECTIVE DATE: October 1, 2006. The cable TV and satellite TV company changes apply to quarters starting on or after that date.

The act eliminates gross earnings taxes of 2% on railroad express companies and 4.5% on telegraph and undersea cable companies, along with interstate apportionment requirements and requirements for filing annual tax returns. It also deletes obsolete language relating to filing requirements for cable TV and satellite TV company gross earnings tax returns for 2003 and makes other technical and conforming changes.

Section 14 - BUSINESS ENTITY TAX DEFINITIONS

EFFECTIVE DATE: Upon passage

The act specifies that S corporations, limited liability companies, limited liability partnerships, and limited partnerships are subject to the \$250 business entity tax whether they are formed under the laws of Connecticut (“domestic”) or another jurisdiction (“foreign”). It requires such businesses to pay the tax if they are (1) domestic entities or (2) foreign entities required to register with the secretary of the state to do business here, whether or not they have actually done so. Under prior law, entities had to pay the tax if they were required to file annual reports with the secretary of the state. Since both domestic and foreign business entities must both register and file annual reports, this change makes no substantive difference.

The act also (1) specifies that such companies are liable for the tax for each year or part of a year that they meet the act's definitions, (2) repeals obsolete references to a 20% surcharge on the business entity tax for 2003, and (3) makes technical and conforming changes.

Sections 17 & 18 - ALCOHOLIC BEVERAGES DISTRIBUTOR TAX REQUIREMENTS

EFFECTIVE DATES: Upon passage for the provision on duplicate invoices. The provision concerning sworn returns takes effect October 1, 2006 and applies to returns for calendar months starting on or after that date.

The act eliminates the requirement that a distributor who ships alcoholic beverages to a military reservation in Connecticut automatically file a duplicate invoice with DRS showing the amount shipped and its classification under the alcoholic beverages tax law. Instead, the act requires the distributor to give DRS a copy of the invoice only if it asks for one.

It also eliminates a requirement that distributors file monthly alcoholic beverages tax returns under oath and instead requires the distributor's treasurer or other authorized agent to sign the return under penalty of false statement.

Sections 15 & 16 - ESTATE TAX AFFIDAVITS

EFFECTIVE DATE: Upon passage

The act eliminates references to sworn affidavits in the estate tax law. This change corresponds to the elimination of affidavit requirements for most other state taxes enacted in 2000 (PA 00-170).

BACKGROUND

Related Act

PA 06-194 (1) allows OFA to disclose information it receives from DRS under this act to a contractor providing it with revenue estimating and forecasting services, to the extent disclosure is needed for the estimating and forecasting; (2) extends the existing confidentiality requirement to cover the

contractor and the monthly sales and use tax data DRS is required to submit to OFA; (3) requires DRS to report available tax return information to OFA for each state tax, when OFA requests it and for OFA's revenue estimating and forecasting only; and (4) requires DRS to first delete names, addresses, account and registration numbers, and all but four digits of Standard Industrial Classification Manual and North American Industrial Classification System codes.

Public Act# 06-189

SB# 602

AN ACT ALLOWING PROPERTY TAX EXEMPTIONS FOR CERTAIN LATE FILERS, VALIDATING ACTIONS BY CERTAIN TOWNS, THE JOINT EXECUTIVE AND LEGISLATIVE NOMINATIONS COMMITTEE AND THE CONNECTICUT STATE UNIVERSITY SYSTEM, CLARIFYING APPROVAL PROCEDURES FOR THE PURCHASE OF STATE LAND AND THE URBAN AND INDUSTRIAL SITE REINVESTMENT PROGRAM, AND AMENDING A PROGRAM PROVIDING TAX CREDITS FOR BUSINESS EMPLOYMENT EXPANSION PROJECTS

EFFECTIVE DATE: October 1, 2006 for the provisions relating to state land sales and urban industrial site projects; upon passage for the remaining provisions. The changes in the corporation tax credit pass-through provision of **PA 06-187** apply to employment enhancement projects with commencement dates on or after September 1, 2005.

SUMMARY: This act makes changes in the legislative process for approving (1) sales or transfers of state land and (2) urban and industrial site projects that receive state tax credits totaling more than \$20 million. It includes urban and industrial site tax credits when measuring the state economic development assistance threshold that subjects a project to certain statutory accountability requirements. Prior law used only grants or loans to measure whether the project is subject to the requirements.

The act eliminates the employer-assisted housing tax credit against the corporation and other business taxes. A business could claim a credit equal to the amount, up to \$100,000 for any income year, it paid into a revolving loan fund to provide loans for housing to its low- and moderate-income employees or those of a subsidiary. Aggregate credits were limited to \$1 million annually.

The act makes several small changes to the provision of **PA 06-187** that allows certain businesses that are not corporations to pass through to their corporate general or limited partners or members any corporation tax credits for which they would qualify if they were corporations.

The act also allows several people and organizations to receive property tax exemptions for particular assessment or grand list years even though they missed application filing deadlines for the exemptions. It approves otherwise valid actions by state and local institutions and authorities that did not follow certain statutory requirements.

Finally, the act eliminates the UConn Board of Trustees' authority to charge an annual fee of up to \$300 for privately owned vehicles to park in any of up to 640 parking spaces in a parking lot immediately adjacent to the UConn Health Center.

Section 17 - LEGISLATIVE APPROVAL FOR SALES OR OTHER TRANSFERS OF STATE LAND

The act extends the time the Government Administration and Elections and the Finance, Revenue and Bonding committees have to act on a request from the public works commissioner to transfer state land from 15 days to 30 days after they receive it. It also requires the commissioner to resubmit the request if it is altered in any way, or withdrawn, after he first submits it, and gives each committee 30 days from the date of the resubmission to act on it.

As under prior law, the request is considered approved if a committee does not act within the deadline. The act extends this default approval to any resubmission on which a committee fails to act in time.

Section 18 - URBAN AND INDUSTRIAL SITES TAX CREDIT APPROVAL

By law, the Department of Economic and Community Development (DECD) commissioner must obtain legislative approval for any single urban or industrial site project that would receive more than \$20 million in tax credits. He must submit the approval request to the Finance, Revenue and Bonding Committee. The act gives the committee 30 days from the date the commissioner submits the project to act on it and expressly requires the committee to recommend whether to approve or disapprove the credits. Prior law was not clear on how long the committee had to act or what it should recommend.

The act requires the commissioner to resubmit the project if it is altered in any way, or withdrawn, after he first submits it, and gives the committee another 30 days from the resubmission date to act. It specifies that, if the committee fails to act within the required time, it is considered to have approved the investment.

The act eliminates a requirement that a project is considered approved unless the full House or Senate rejects it within 60 days after the commissioner submits it. Instead, it gives the House or Senate 30 days after the Finance Committee makes its recommendation to meet and disapprove the credits. If they do not do so, the DECD commissioner can issue the credit certificate for the project.

The act also eliminates a provision apparently requiring the commissioner to recommend to the House speaker and the Senate president pro tempore whether to approve or reject the project.

Section 19 - ACCOUNTABILITY REQUIREMENTS

By law, “threshold projects” are subject to enhanced accountability requirements when they receive state economic development assistance (see BACKGROUND). A threshold project is one that has (1) 25 or more full-time employees and receives at least \$250,000 in economic development aid or (2) 100 or more full-time employees and receives at least \$1 million in economic aid. Prior law counted only grants and loans to determine whether a project reaches the threshold. The act also counts the industrial or urban sites reinvestment tax credits a project receives.

Section 23 - EMPLOYER-ASSISTED HOUSING TAX CREDIT

The act eliminates the employer-assisted housing tax credit, which allowed employers to claim a credit of up to \$100,000 in any tax year for contributions to a revolving loan fund used for housing loans for the their low- and moderate-income employees.

Insurance companies, hospitals, medical services corporations, air carriers, railroad companies, cable and community antenna companies, utility companies, and any business that pays the corporation tax were eligible for tax credits. Companies could not get credits for activities that are part of their normal course of business. The total amount of tax credits granted annually to all businesses participating in the program was limited to \$1 million.

The Connecticut Housing Finance Authority (CHFA) administered the program. CHFA could make loans to pay (1) housing costs for a principal residence that falls within 150% of its program price guidelines and (2) security deposits and advance payments for rental housing. Businesses wishing to participate had to apply to CHFA by November 1 annually. CHFA had to select the participants randomly from qualified businesses. Businesses could carry unused credits either forward or backward for five calendar or fiscal years until they were used up.

Sections 20-22 - CORPORATION TAX CREDIT PASS-THROUGH CHANGES

The act makes three substantive changes and one technical correction in the provisions of **PA 06-187** concerning corporation tax credit pass-through authorizations. **PA 06-187** allows a sponsor of an “employment enhancement project” to, for a limited time, pass through to its corporate general or limited partners or members the benefits of any corporation tax credits the sponsor would qualify for if it was a corporation.

Under **PA 06-187**, a qualifying employment enhancement project must bring at least 400 new jobs to Connecticut. This act defines a “new job” as one that did not exist before the project commencement date established by the DECD commissioner, instead of before the sponsor's application for a pass-through credit eligibility certificate. It also allows a noncorporate project sponsor to receive pass-through credits for income years starting on or after the commencement date in its eligibility certificate rather than for each of the five income years following the one in which the commencement date falls.

Finally, the act eliminates a 30-day deadline for notifying the DECD commissioner if one of a sponsor's constituent corporations transfers a pass-through credit to another. Under **PA 06-187** and this act, both corporations must jointly notify the commissioner of any such transfer.

Sections 1 -12 - PROPERTY TAX EXEMPTION DEADLINE EXTENSIONS

The act allows several people and organizations to receive property tax exemptions for particular assessment or grand list years even though they missed their application filing deadlines.

Manufacturing Machinery and Equipment (MME) & Manufacturing and Service Facilities

The law grants a five-year, state-reimbursed property tax exemption for (1) new and newly acquired MME; (2) manufacturing and service facilities in targeted investment communities or enterprise zones; and (3) and new and newly acquired MME and service facility equipment in distressed municipalities, targeted investment communities, or enterprise zones.

Property owners must apply to local assessors for these exemptions by November 1 annually. The act waives the deadline for property owners in the towns and for the grand lists shown in Table 1, if they apply within 30 days of the act's passage and pay the statutory late fee.

Table 1: Exemption Application Deadline Waivers

<i>Act Section</i>	<i>Town</i>	<i>Grand List(s) or Assessment Year(s)</i>
2	Killingly	2003, 2005
3	Waterbury	2004
4	Watertown	2005
5	New Haven	2004
7	Bloomfield	2005
8, 9	Milford	2002,2003, 2004
10	Farmington	2003
11	Bridgeport	2004
12	Bridgeport	2004

In each case, the act requires the local assessor to refund any taxes paid on the property and requires the state to reimburse the town for the tax loss under the applicable statutes.

MME Exemption Audit

The act also extends the deadline for a Bloomfield person otherwise eligible for an MME exemption for the 2003 grand list to appeal an Office of Policy and Management secretary's audit and adjustment relating to the exemption. The person must file a proper appeal within 30 days of the act's passage. If the secretary approves the exemption, the local assessor must refund any taxes paid on the property and the state must reimburse the town for the revenue loss under the applicable statute.

Nonprofit Organizations

The law exempts real property belonging to, or held in trust for, scientific, educational, literary, historical, or charitable organizations and used exclusively for those purposes from local property taxes. It requires each exempt organization to file an exemption statement with its local assessor every four years by November 1. The act allows specified organizations to keep their exemptions for

the 2005 grand list despite missing the deadline, if they file their statements within 30 days after the act passes and pay the \$35 statutory late fee.

The act also validates East Hampton's designation as a public investment community for FY 06 instead of for FY 07.

BACKGROUND

Related Acts

PA 06-186 requires CHFA to set aside \$1 million for workforce housing within the Housing Tax Credit program. That program provides business tax credits to businesses that contribute to nonprofit organizations developing low- and moderate-income housing.

If it sponsors a qualifying “employment expansion project,” **PA 06-187** allows a partnership, limited partnership, limited liability company, or other type of pass-through business in which one or more corporations have or had an interest as general or limited partners, members, or otherwise, to pass through to these constituent corporations any corporation tax credits for which the pass-through business (“sponsor”) would qualify if it were a corporation.

Accountability Requirements for Threshold Projects

The accountability law for threshold projects requires the state entity awarding the assistance to state in writing the public policy objectives of the assistance program. It requires each business asking for funds to explain how its proposal will further that policy and whether and how it has included municipal officials and employee groups in its project planning. Agencies must consider this information in determining whether to provide assistance.

The agency must include provisions in the project assistance contract limiting the business's use of the funds to the purposes for which it was approved and establishing penalties for violating the contract. The penalties may include liquidated damages. If the business violates the contract by misusing the funds, the agency must enforce the penalties and provide no further aid until the violation is resolved.

Assistance recipients must report annually on their progress in meeting the policy objectives they agreed to. The law also allows local officials and employee groups to submit comments to the legislative committees that review the awarding agencies' biannual program reports and allows the public to obtain limited information on pending requests for assistance.

AN ACT CONCERNING THE CONVEYANCE OF CERTAIN PARCELS OF STATE LAND

EFFECTIVE DATE: Upon passage

SUMMARY: This act authorizes conveyances from the departments of Education (DOE), Environmental Protection (DEP), Public Works (DPW), and Transportation (DOT) to specified towns; authorizes property sales, conveyances, and exchanges to private parties; revises (and in one case repeals) prior conveyance provisions; conveys an easement to the Cities of East Lyme and Waterbury; authorizes a 25-year lease on property in Kent; and returns a parcel to a private individual.

The act also requires DEP to enter an agreement for the exchange of land in Morris and makes minor changes.

The act:

1. eliminates conveyances from DOT to Canaan, Farmington, and Dreamakers, LLC; DEP to Farmington; and Higher Education to New Britain;
2. adds conveyances from DPW to East Lyme; DOT to Middlefield, Wallingford, Goodwin College, and the Route 11 Greenway Commission; and DEP to Somers Sportsmen's Association, F & F Concrete Corporation, and the Morhardts;
3. requires DEP to contract with the Zibellos;
4. revises a 2002 conveyance to East Hartford;
5. expands the permissible use for a right-of-way granted to the state from Newtown to include access to other state land; and
6. makes other minor changes.

NEW CONVEYANCES***Conveyances to Towns***

The act requires the following conveyances from the agencies to the towns named for the purpose specified:

1. from DOT to New Britain for economic development purposes (three parcels totaling 0.373 acres);
2. from DOT to Windsor Locks for municipal purposes (20,000 square feet);
3. from DOT to Norwalk for economic development purposes (0.02 acre);

4. from DOT to Wallingford for municipal purposes (. 2295 acres); and
8. from DOT to Middlefield two parcels for open space (total of 1. 92 acres).

Each new conveyance is subject to the State Properties Review Board's (SPRB) approval and with two exceptions, must be made at a cost equal to the administrative cost of the conveyance. All of the property reverts to the state if the recipient uses it for any purpose other than that specified in the act.

PRIOR CONVEYANCE CHANGES

The act:

1. changes, from agricultural to municipal and economic development purposes, the authorized use for a 43-acre parcel of property conveyed by the Department of Mental Health and Addiction Services to Ledyard in 1996;
2. adds a condition for Newtown's use of 34 acres of the Fairfield Hills property that requires Newtown to grant a limited easement (on that portion of the property that facilitates agricultural use) in favor of the state or its lessee;
3. allows the state to use the 23.25 acre right-of-way it received from Newtown to access other state land;
4. With respect to an easement on 11. 4 acres conveyed in 2002 from DOT to East Hartford in favor of Pewter Pot Associates, LLC and Donald Lombardo for ingress and egress and utilities, (a) specifies that the easement is conveyed at no cost and (b) removes its width descriptions;
5. removes a condition that property conveyed to Haddam in 1998 be used for tourism purposes and deletes the reverter provision; and
6. repeals a 1999 conveyance of a half-acre of land to Meriden for its use as open space.

Public Act# 06-186

HB# 5845

AN ACT MAKING ADJUSTMENTS TO STATE EXPENDITURES AND REVENUES FOR THE BIENNIUM ENDING JUNE 30, 2007

EFFECTIVE DATES: The FY 06 budget deficiency provisions and the admissions tax exemptions are effective on passage. Other provisions are effective July 1, 2006 but some have special applicability as follows:

1. The income tax changes apply to tax years starting on or after January 1, 2006.
2. The corporation tax surcharge repeal; job creation, displaced workers, historic structures, and movie and digital media tax credits; and MME property tax exemption administrative changes apply to income years starting on or after January 1, 2006.

3. The admissions tax exemption for Nature's Art applies to admission charges on or after April 1, 2006. The exemptions for Dodd Stadium and the Arena at Harbor Yards apply starting November 1, 2006.

4. The property tax exemption for recycling equipment applies to assessment years starting on or after October 1, 2006.

(**PA 06-187** changes the effective date of \$394.5 million in appropriations from the FY 06 surplus from July 1, 2006 to upon passage.)

SUMMARY: This act adjusts FY 07 appropriations for various state agencies and programs originally approved in the FY 06-07 biennial budget in 2005. The adjustments increase the FY 07 appropriations by \$129.6 million for all funds. The act also revises some revenue estimates originally adopted in the biennial budget. The revisions apply to General Fund revenue estimates for FYs 06 and 07 and revenue estimates for three special funds for FY 07.

From the anticipated FY 06 budget surplus, the act appropriates \$27 million to cover anticipated deficiencies in state accounts and carries forward an estimated \$91 million to FY 07 for various accounts. It allocates \$394.5 million of the FY 06 surplus for several purposes, including \$245.7 million in additional state contributions to the Teachers' Retirement Fund, \$85.5 million to pay off economic recovery notes used to finance the FY 03 General Fund deficit, \$33 million for extra municipal aid, and \$11 million for hardship grants to hospitals. The act also carries forward \$50.9 million in FY 06 appropriations to FY 07.

The act increases the maximum property tax credit against the income tax from \$400 to \$500 starting January 1, 2006 and allows an income tax deduction for contributions to the state's college savings program. It eliminates the corporation tax surcharge for 2007, revises gross earnings taxes on municipal electric companies, expands the housing tax credit program for businesses, and establishes several new business tax credits. It broadens sales tax exemptions for aircraft repair and extends admissions tax exemptions to three additional venues.

The act restructures a tax credit for movie and digital media production expenses adopted in **PA 06-83**. It also extends property tax exemptions for manufacturing machinery and equipment (MME) to cover recycling equipment. It clarifies several provisions of a new MME exemption enacted in **PA 06-83**, including covering MME acquired before October 1, 2002.

Sections 1-7 - ADJUSTMENTS TO FY 07 STATE BUDGET

The act adjusts the FY 07 General Fund and special fund appropriations for state agencies and programs originally adopted in 2005, increasing the total for all funds by \$129. 6 million. Changes in FY 07 appropriations for the DECD and the Office of Policy and Management funds are as follows:

DEPARTMENT OF ECONOMIC & COMMUNITY DEVELOPMENT	\$	2006-2007
Personal Services	[6,734,347]	<u>7,104,681</u>
Other Expenses	[1,623,249]	<u>1,702,314</u>
Equipment	1,000	
Elderly Rental Registry and Counselors	617,654	
<u>Connecticut Research Institute</u>		<u>500,000</u>
<u>Research Based Technology</u>		<u>40,000</u>
<u>Small Business Incubator Program</u>		<u>1,000,000</u>
<u>Fuel Cell Economic Development Planning</u>		<u>375,000</u>
<u>CCAT</u>		<u>450,000</u>
OTHER THAN PAYMENTS TO LOCAL GOVERNMENTS		
Entrepreneurial Centers	142,500	
Subsidized Assisted Living Demonstration	1,445,400	
Congregate Facilities Operation Costs	[5,995,979]	<u>6,137,701</u>
Housing Assistance and Counseling Program	588,903	
Elderly Congregate Rent Subsidy	1,523,004	
<u>CONNSTEP</u>		<u>1,000,000</u>
<u>Micro Loans</u>		<u>50,000</u>
<u>Development Research and Economic Assistance</u>		<u>250,000</u>
<u>SAMA Bus</u>		<u>100,000</u>
AGENCY TOTAL	[18,672,036]	<u>23,028,157</u>

*OFFICE OF POLICY AND MANAGEMENT		2006-2007
	\$	
<u>Urban Youth Employment</u>		<u>4,000,000</u>
<u>Land Use Education</u>		<u>100,000</u>
<u>Office of Property Rights Ombudsman</u>		<u>200,000</u>
<u>Office of Business Advocate</u>		<u>535,000</u>
OTHER THAN PAYMENTS TO LOCAL GOVERNMENTS		
Tax Relief for Elderly Renters	16,891,590	
Regional Planning Agencies	640,000	
PAYMENTS TO LOCAL GOVERNMENTS		
Reimbursement Property Tax - Disability Exemption	576,142	
Distressed Municipalities	7,800,000	
Property Tax Relief Elderly Circuit Breaker	20,505,899	
Property Tax Relief Elderly Freeze Program	1,200,000	
P. I. L. O. T. - New Manufacturing Machinery and Equipment	[50,729,721]	<u>46,729,721</u>
Capital City Economic Development	[4,712,500]	<u>7,900,000</u>

**Chart reflects only highlights of OPM budget that are of interest to DECD*

FY 06 FUNDS CARRIED FORWARD

Funds to be used for the Same Purpose

The act carries forward the following FY 06 General Fund appropriations to be used for the same purpose in FY 07 (see Table 2).

Table 2: FY 06 Funds Carried Forward for the Same Purpose

<i>Section</i>	<i>Agency</i>	<i>Amount</i>	<i>For</i>
18 (a)	CT Commission on Culture & Tourism	Up to \$600,000	Other expenses – office consolidations and moving expenses

	(CCCT)		
18 (b)	CCCT	Unspent balance	Statewide marketing
29	OPM	Unspent balance	Plans of conservation and development
44	OPM	FY 06 funds appropriated	Neighborhood Youth Centers

Funds Carried Forward and Transferred

The act carries forward unspent FY 06 General Fund appropriations FY 07 and transfers them to other purposes.

OTHER BUDGET PROVISIONS

Section 26(b) - Program Accountability Reports

The act requires each entity receiving state funds for FY 07 for a new or expanded program to file a preliminary report with the Appropriations Committee through the Office of Fiscal Analysis (OFA) by August 1, 2007 on the program's purpose or goals and a final report by June 1, 2008 on its results or achievements in light of the purpose or goals. OFA designates the new or expanded programs in its report on the state budget.

Section 91 - REPEALED BUDGET PROVISIONS

Higher Education Reductions

The act eliminates a requirement that the higher education constituent units reduce operating expenses by specified amounts in FY 07 and that the amounts lapse and be credited to the General Fund. The mandatory lapses eliminated are: \$832,500 for UConn, \$312,500 for the UConn Health Center, \$542,500 for the community-technical colleges, and \$592,500 for Connecticut State University.

Transfer From Energy Conservation and Load Management Funds

The act eliminates a requirement that electric companies transfer \$1 million per month from August 1, 2006 through July 31, 2007 from their energy conservation and load management funds to the state General Fund. Revenue for these funds comes from assessments on electric bills.

BUSINESS TAXES

Sections 66 & 67 - Corporation Tax Surcharge

The act eliminates a 15% corporation tax surcharge for the 2007 income year. The surcharge applies to all corporations except those that owe only the \$250 minimum tax. The 20% surcharge for 2006 remains in effect.

Sections 68-73 - Municipal Electric Company Gross Earnings Tax

The act applies the same gross earnings tax rates to municipal electric utilities as to all other electric companies. Instead of paying a 4% tax on gross receipts from their residential customers and 5% on those from nonresidential customers, the act requires municipal electric companies to pay 6.8% on their gross receipts from transmitting power to residential customers and 8.5% on their nonresidential transmission revenues. Under the act, the municipal utilities' revenues from generating power are not subject to the tax.

BUSINESS TAX CREDITS

Section 65 - Housing Credit

The act doubles the amount of tax credits available under, and expands the scope of, the state Rental Housing Assistance Trust Fund Program, popularly known as the Housing Tax Credit Program. Under this program, the Connecticut Housing Finance Authority (CHFA) allocates tax credits to businesses that contribute funds to nonprofit housing organizations developing low- and moderate-income housing.

The act increases the total amount of tax credits CHFA can annually award from \$5 million to \$10 million. It increases, from \$400,000 to \$500,000, the maximum amount per fiscal year that nonprofit housing organizations may use to develop housing for low- and moderate-income people. It also increases, from \$1 million to \$2 million, the amount of tax credits that CHFA must set aside for the Supportive Housing Pilots Initiative or the Next Steps Initiative; the act adds the latter. These programs provide housing for people and families affected by psychiatric disabilities and chemical dependency who are homeless or risk homelessness, and for supervised ex-offenders with mental health needs, among others. The Next Steps Initiative was established in 2006 as phase II of the Supportive Housing Pilot.

The act also requires CHFA to set aside \$1 million of the tax credits for workforce housing and to develop written procedures defining workforce housing. CHFA is already required to adopt written procedures to implement the tax credit program.

Insurance companies, hospitals, medical services corporations, air carriers, railroad companies, cable and community antenna companies, utility companies, and any business that pays the corporation tax are eligible for tax credits.

Section 80 - Job Creation Credit

Credit. The act establishes a credit against the insurance premium, corporation, or utility company tax for companies that (1) relocate to Connecticut; (2) create at least 50 new, full-time jobs here; and (3) hire new employees for those jobs and keep them employed for at least 12 months. The credit equals up to 25% of the state income tax withheld from the new employees' wages. For each new employee, the credit applies for five consecutive years. The act limits the annual credits for all companies awarded in any one fiscal year to \$10 million. Credits must be taken in the same income year they are earned. Unused credits expire.

Companies must apply to the Department of Economic and Community Development (DECD) commissioner for the credits. The commissioner may approve full or partial credits only if the proposed company relocation (1) is not economically viable without the credits and (2) provides a net benefit to economic development and employment in the state.

Eligible Companies and Jobs. To be eligible for the credit, a company must not have been conducting business in Connecticut before applying for eligibility. The jobs to which the credit applies must (1) have not existed in Connecticut before the application, (2) require at least 35 hours of work per week and not be temporary or seasonal, and (3) be filled by newly hired employees. An employee who worked in Connecticut for a related party to the applicant within the preceding 12 months is not eligible. (See Displaced Worker Credit, below, for an explanation of “related party.”)

Application and Approval Procedure. Taxpayers seeking the credit must apply to the DECD commissioner on the commissioner's form. The application must contain enough information about the relocation to demonstrate that it is financially viable and will provide net benefits for the economy of the host municipality and the state. Applicants must provide a detailed description of the type of business, number of new jobs to be created, relocation feasibility studies or business plans, projected state and local revenue that could result, and any other information needed to evaluate the credit. The act allows the commissioner to impose an appropriate application fee.

The commissioner can approve the credit in whole or in part if he concludes that the relocation is economically viable only with the credit and that the revenue generated from the employment and economic development in the state exceeds both the act's credit and any other credits to be taken. If the commissioner rejects the application, he must explain his reasons. The commissioner must decide within 90 days of receiving an application. The commissioner can combine the credits with financial and other assistance to the business.

Procedure for Claiming Credits. When he approves an application for a credit, the DECD commissioner must issue an allocation notice. Within 30 days of the end of the taxpayer's income year, the taxpayer must give the commissioner information about the number of new jobs created during the year and the income taxes withheld from the new employees' wages for the year. The commissioner must, within 60 days after the close of the taxpayer's income year or 30 days after the taxpayer provides the required information, whichever comes first, issue an eligibility certificate that includes the taxpayer's name, number of new jobs created, and the amount of the credit for the year. Upon request, the commissioner must give the DRS commissioner a copy of the eligibility certificate.

Recapture Provision. If the number of new employees falls below that for which a taxpayer claimed credits and they are not replaced by other new employees (excluding employees transferred from another location or from a related party), the act requires the taxpayer to repay (“recapture”) the credit according to the following schedule: 90% of the credit if the company defaults after one year, 65% after two, 50% after three, and 30% after four. The commissioner must give both the taxpayer and the Department of Revenue Services (DRS) commissioner notice of the repayment amount.

Section 81 - Displaced Worker Credit

Credit Amount. The act gives a \$1,500-per-worker business tax credit to companies that, on or after January 1, 2006, hire workers who (1) were employed in Connecticut and (2) were let go by a previous employer as a direct result of a business restructuring in which at least 10 Connecticut workers were terminated by the same employer. To receive a credit, the new employer must (1) pay the workers at least 75% of their previous annual wages or salary for the first 12 months of employment; (2) not be, or at the time of termination have been, related to the old employer; and (3) not, for the same worker, claim both the act's credit and an existing credit for hiring a displaced electric utility worker.

The credit applies against the insurance premium, corporation, and utility company taxes. It is allowed for the income year during which the displaced worker completes his first 12 months of employment with the taxpayer. The credit cannot exceed the total tax due. The act allows only one credit per qualifying worker.

“Related Party” and “Related Person.” For purposes of eligibility for the job creation and displaced worker tax credits, the act considers an entity to be a related person or party to a taxpayer if (1) the taxpayer controls it, (2) it is a business or trust controlled by another person or entity that the taxpayer controls, or (3) it is a member of the same controlled group as the taxpayer. A company is considered to be “controlled” by someone if he directly or indirectly owns more than 50% of the combined voting power of all classes of its stock or more than 50% capital or profit interest in it. 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.

Section 82 - Historic Structures Credit

Credit. The act authorizes \$15 million a year in business tax credits for expenses to rehabilitate historic commercial and industrial properties for residential use. Property owners may apply for and claim the credits, which may equal up to 25% of the qualified rehabilitation costs but no more than \$2.7 million. Owners can claim the credits themselves or transfer them to others.

Credit holders may claim a credit in the tax year when the property received its certificate of occupancy. They may carry forward unused credits for the five succeeding years. For multiphase projects, credit holders may claim a part of the credit in proportion to that part of the project that received a certificate of occupancy. The act's credit is separate from a similar existing credit for rehabilitating owner-occupied historic homes.

Eligibility. Individuals, limited liability companies, nonprofit and for-profit corporations, and other business entities are eligible if they have title to the property and rehabilitate it. The property must be

(1) listed individually on the National Register of Historic Places or (2) located in a district listed in the National or State Register of Historic Places. In addition, the Connecticut Commission on Culture and Tourism (CCCT) must have certified that the property contributes to the district's historic character.

Accessing the Credits. The act establishes a two-step process for accessing the credits. An owner must ask the CCCT to reserve credits on his behalf before he starts rehabilitating the property. He must submit the construction plans and specifications, which must provide enough detail for the CCCT to determine if the work meets its standards. The act requires the CCCT to adopt standards, including those for determining if the work preserves the structure's historic character.

The owner must also provide an estimate of the project's "qualified rehabilitation expenditures," which include all costs other than the owner's personal labor; new additions not needed to comply with building and fire safety codes; and architectural, legal, and financing fees and other nonconstruction costs. CCCT can reserve credits for an owner who has already started rehabilitation, as long as he did not substantially complete the project before July 1, 2006 and the rehabilitation plan meets its standards. The CCCT may charge owners requesting credit reservations an application fee of up to \$10,000 to cover the cost of administering the credits.

An owner must notify the CCCT when he finishes rehabilitating the structure, show that he actually completed the work, and certify the costs he incurred. The CCCT must review his documents and verify whether the work complies with the rehabilitation plan. If so, the CCCT must issue a credit voucher to the owner or to the taxpayer he named as contributing to the rehabilitation (credit holder).

Using Credits. A credit holder can claim the credit by attaching the voucher to his tax return. He can use the credit against the corporation tax, similar taxes on air carriers and insurers, or the tax on railroad, express, telegraph, cable, cable TV, and utility companies. He can do so in the tax year when the substantially rehabilitated certified structure is placed in service. This happens when the qualified rehabilitation expenditures exceed 25% of the structure's assessed value and the building official issues a certificate of occupancy, which can be for the entire structure or individual dwelling units completed as part of a multiphase project.

Multiple owners of a certified structure must pass credits through to designated partners, members, or owners on either a pro rata basis or according to an agreement among them, regardless of their other tax or economic attributes. The credit holder can carry forward any unused portion of the credit for the next five years or until the full credit is used, whichever happens first.

CCCT must adopt regulations to administer the credits. Regulations must include procedures for applying, criteria for rating projects, and provisions for timely credit approval.

Section 83 - Changes in Movie and Digital Media Production Credit

The act makes several changes in the movie and digital media production tax credit adopted **in PA 06-83**.

Credits. The act eliminates the 25% production expense credit for companies that incur between \$50,000 and \$1 million of eligible costs in Connecticut. It applies the 30% credit to all such eligible

costs that exceed \$50,000, instead of only to such costs over \$1 million. It eliminates the separate 25% wage credit for compensation an eligible production company pays to an employee or independent contractor who is a Connecticut resident and who provides services to a qualified production.

Qualified Production. Under **PA 06-83**, only qualified productions are eligible for a tax credit. This act excludes initial pilots, demos, prototype presentations, or informational series programming relating to a qualified production. Trailers, pilots, video teasers, and demos for a product or qualified production are still eligible if they are created primarily to stimulate its sale, marketing, or promotion, or the exploitation of future investment in it.

PA 06-83 excludes productions containing obscene material and performances. This act changes the definition for this material from ones for which federal law requires producers to keep certain records, to the state law definition. Under state law, material or a performance is obscene if (1) taken as a whole, it appeals predominantly to prurient interest; (2) it shows or describes a sexual act in a patently offensive way; and (3) taken as a whole it lacks serious literary, artistic, educational, political, or scientific value (CGS § 53a-193).

Eligible Production Expenses. The act makes several changes in the types of production expenses eligible for a tax credit.

It makes intellectual property acquisition expenses eligible if (1) the property was produced primarily in Connecticut instead of if its holder is either a company authorized to do business here or is a Connecticut resident and (2) the cost of acquiring it is less than 35% of the production cost or expenses incurred in Connecticut, instead of less than 35% of the cash expenditures in the Connecticut production budget.

It makes direct payments to companies and individuals for compensation or purchases eligible only if they are incurred in the state rather than if they are paid to individuals or companies authorized to do business here.

It makes costs for distribution equipment eligible only if the content being distributed was created or produced in the state instead of just being distributed from within Connecticut.

Ineligible Production Costs. Instead of excluding compensation paid to Connecticut resident employees and independent contractors from eligible production costs, the act excludes talent fees for extras, principal day players, and atmosphere, as defined by the Screen Actors Guild, that exceed double scale wages under the guild's current collective bargaining agreements.

Credit Administration. The act eliminates the CCCT's express authority to allow credits for production costs not included in the act or in **PA 06-83**, although both acts still allow credits for any development, preproduction, production, or postproduction costs if they are (1) incurred in Connecticut and (2) not expressly excluded. It requires CCCT to administer a system of tax credit vouchers for eligible production companies producing a state-certified qualified production.

It requires companies to claim the credit against the corporation tax in the income year in which CCCT grants final certification to a qualified production. If a production company sells, assigns, or

otherwise transfers a production tax credit to another taxpayer, both must jointly submit a written notification to the CCCT within 30 days after the transfer. The notice must include the credit certification number, transfer date, amount of the credit transferred, credit balance before and after the transfer, transferor's and transferee's tax identification numbers, and any other information the commission requires. If the parties fail to comply with the notice requirement, the tax credit is disallowed.

The act requires CCCT to give the DRS commissioner a copy of the transfer notice if she requests it. It also requires the CCCT, rather than the DRS commissioner, to adopt regulations to implement the credit. And it requires CCCT to consult with DRS in adopting the regulations, rather than vice versa.

The act also makes other clarifying and conforming changes.

TAX EXEMPTIONS

Section 74 - Sales Tax Exemption for Aircraft Repair

The act extends existing sales tax exemptions for aircraft repair or replacement parts and aircraft repair services to all aircraft. The exemptions previously applied to aircraft (1) owned or leased by certificated air carriers or (2) with a maximum certificated takeoff weight of 6,000 pounds or more.

Section 75 - Admissions Tax Exemptions

The act exempts from the admissions tax admissions charges for events at (1) Nature's Art, an interactive earth and science nature center near Waterford, and (2) starting November 1, 2006, the Arena at Harbor Yard in Bridgeport and Dodd Stadium in Norwich.

The tax is 10% of most admission charges of \$1 or more, and 6% for movie tickets costing more than \$5. It applies to admission charges for movies, theaters, sporting events, amusement parks, and similar places and events. Many venues and types of events were already exempt.

Section 84 & 85 - Property Tax Exemption for Manufacturing Machinery And Equipment (MME)

Recycling Equipment. The act adds equipment used in recycling acquired on or after July 1, 2006 to the types of equipment covered under both the existing five-year MME property tax exemption and the new permanent exemption enacted in **PA 06-83**. It defines "recycling" as processing solid waste to reclaim material from it.

Exemption for Six-Year-Old and Older MME. The act makes it clear that the percentage tax exemption that applies during the five-year tax-exemption phase-in established in **PA 06-83** to MME that is more than five years old applies to all MME that is more than five years old in each phase-in year, instead of only to MME that is six years old in each phase-in year. It also specifies that the exemption and its phase-in covers MME acquired before October 1, 2002.

Administration. For purposes of state payments in lieu of taxes for the MME covered by the permanent exemption, the act requires towns to certify the MME's assessed value, instead of the amount of property tax due. It makes clear that the certification must cover any MME not eligible for

the existing five-year exemption program, not just MME that has passed through the five-year program. It requires towns to certify to the OPM secretary annually by March 15th starting in 2007 instead of by November 15th starting in 2006.

It requires the OPM secretary to certify amounts payable to each municipality annually by December 15th starting in 2007, instead of no later than 30 days before the tax is due to the municipality. It requires the comptroller to order the treasurer to pay the amounts within five business days after the certification instead of no later than 14 days before the tax is due. And it requires the treasurer to pay the town by December 31, instead of within five days before the tax is due.

BACKGROUND

Related Acts

PA 06-83, which this act amends, establishes a corporation tax credit for movie and digital media production costs and exempts all MME from property taxes and reimburses towns for the revenue loss after a five-year phase-in.

PA 06-187 amends this act to change the effective date of the provision appropriating \$394.5 million from the FY 06 surplus for various purposes from July 1, 2006 to upon passage.

Public Act# 06-187

HB# 5846

AN ACT CONCERNING GENERAL BUDGET AND REVENUE IMPLEMENTATION PROVISIONS

EFFECTIVE DATE: Various

SUMMARY: * *Please note that only sections of interest to DECD are referenced in this summary.*

This act makes many unrelated statutory changes, most of which implement the changes made to the state budget for FYs 06 and 07.

It creates an Office of Ombudsman for Property Rights to develop expertise in eminent domain law, assist public agencies and property owners, inform the public, mediate disputes about eminent domain and relocation assistance, and recommend changes to the legislature (§§ 3-9, 11). It also requires a public agency, before starting an eminent domain action, to (1) make a reasonable effort to negotiate with the property owner to buy the property and (2) provide the property owner with certain information (§ 10).

The act makes a number of changes regarding taxes, economic development, and jobs, including:

1. reinstating for 13 months a sales tax exemption for residential weatherization products and energy efficient heating equipment (§ 18);

2. allowing certain businesses that are not corporations to pass through to their corporate general or limited partners or members any corporation tax credits for which they would qualify if they were corporations (§ 19);
3. allowing projects redeveloping clean, uncontaminated sites in more towns to qualify for Urban and Industrial Sites Reinvestment tax credits (§ 12);
4. requiring the Office of Workforce Competitiveness (OWC) to study the feasibility of developing a center for nanoscale sciences and permitting OWC to fund nanotechnology research collaborations between academia and industry (§§ 27, 91);
5. requiring the Department of Economic and Community Development (DECD) to prepare a plan for fuel cell economic development (§§ 63-64); and
6. requiring the labor commissioner, in consultation with the education and DECD commissioners, to establish a Twenty-First Century Skills Training Program (§ 14).

Among the act's other changes, it:

1. (a) establishes a lobster trap (pot) allocation buy-back program, an economic assistance program for resident commercial lobster fishermen, and a Lobster Restoration Advisory Committee to advise the Department of Environmental Protection (DEP) on a lobster v-notch conservation program to enhance the lobster stock in Long Island Sound and (b) allows seafood dealers, wholesalers, or shippers to possess and sell lobsters less than a certain length under certain conditions (§§ 46-51);
2. requires the agriculture commissioner to implement a marketing and advertising campaign promoting the availability and advantages of purchasing Connecticut-grown farm products (§§ 65-66).

Section 1 & 2 PAYMENTS IN LIEU OF TAXES TO VOLUNTOWN AND NEW LONDON

EFFECTIVE DATE: July 1, 2006

The act entitles Voluntown to an additional \$60,000 annually to offset property tax revenue lost due to the tax-exempt status of any state-owned forest in the town. It also doubles New London's annual grant to offset lost tax revenue for the U. S. Coast Guard Academy from \$500,000 to \$1 million.

Funding for the grants must come from the annual General Fund appropriation for reimbursements to towns for taxes lost on private tax-exempt property. As is already the case for New London, the act (1) requires the state to make the payment to Voluntown by September 30th each year and (2) exempts Voluntown from the statutory requirement to file the property's assessed value with the Office of Policy and Management (OPM) as other towns must do in order to be reimbursed for lost tax revenues for state-owned real property or for hospitals and colleges.

Sections 3-9, 11 - OFFICE OF OMBUDSMAN FOR PROPERTY RIGHTS

EFFECTIVE DATE: July 1, 2006

The act creates an Office of Ombudsman for Property Rights to:

1. develop expertise in the law regarding taking private property;
2. assist public agencies in applying eminent domain law and analyzing actions with potential eminent domain implications, on request;
3. assist property owners, on request, concerning eminent domain procedures;
4. identify government actions with potential eminent domain implications and advise agencies, as appropriate;
5. inform the public about eminent domain laws and their rights;
6. mediate disputes between private property owners and public agencies concerning eminent domain or relocation assistance and hire an independent real estate appraiser to assist in mediation, within available appropriations; and
7. recommend changes in eminent domain laws to the legislature.

The office is within OPM for administrative purposes only.

The act requires public agencies to (1) comply with the office's reasonable requests for information and assistance and (2) participate in mediation if requested to do so by the office.

The act's provisions apply to a broad range of public agencies including state and local agencies with the power to acquire property by eminent domain and entities authorized to use eminent domain on their behalf.

Ombudsman and Office Employees

Under the act, the ombudsman for property rights directs the office. He is appointed by the governor with the consent of either house of the General Assembly. He is designated a department head and serves at the governor's pleasure for up to four years, unless reappointed. He must be an elector who is an attorney admitted in Connecticut with expertise or experience in real estate law or land use regulation.

The act prohibits office employees from:

1. holding a position or employment in any other public agency;

2. receiving or having the right to receive, directly or indirectly, remuneration under a compensation arrangement with respect to an eminent domain procedure; and

3. knowingly accepting employment with a public agency with eminent domain powers or entities authorized to use eminent domain on their behalf for one year after leaving the office.

Mediation

The act requires the ombudsman to adopt regulations for mediation procedures, including criteria to determine whether to accept or reject a request to mediate eminent domain or relocation assistance disputes.

The act allows the court to stay a court action related to a taking or relocation assistance if a party to the dispute asked the ombudsman for mediation and the ombudsman is either mediating the dispute or deciding whether to do so. The court must stay the action for cause and provide that the stay terminates on motion of either party or when (1) mediation resolves the dispute, (2) the time period for conducting the mediation expires, or (3) the ombudsman denies the request for mediation, whichever is sooner.

Office Account

The act allows the office to apply for and accept grants, gifts, and bequests of funds from states, federal and interstate agencies and independent authorities, private firms, individuals, and foundations to carry out its responsibilities. It creates an ombudsman for property rights account as a separate nonlapsing account in the General Fund and any funds received are credited to that account for the office's use in performing its duties.

Background—Uniform Relocation Assistance Acts

There are separate state and federal relocation assistance laws. The federal law applies to a state project if federal funding is involved. The acts provide similar benefits, for example, moving costs and, for specified periods, a payment towards the higher rent or mortgage that a relocated person must pay following relocation.

Section 10 - AGENCY NEGOTIATIONS AS A CONDITION OF CONDEMNATION

EFFECTIVE DATE: July 1, 2006

The act requires a public agency seeking to acquire property by eminent domain to make a reasonable effort to negotiate with the property owner to buy the property before starting an eminent domain action.

The agency must also provide the property owner with (1) information about the ombudsman's services and the act's mediation provisions including the ombudsman's name, address, and phone number and (2) a written statement explaining that oral representations or promises during negotiations are not binding on the agency. This information must be on a form prescribed by the ombudsman and given to the owner as early as practicable in the negotiation process but at least 14

days before filing the eminent domain action (unless the court allows a shorter period for good cause).

The act's provisions apply to a broad range of public agencies including state and local agencies with the power to acquire property by eminent domain and entities authorized to use eminent domain on their behalf.

Section 12 - URBAN AND INDUSTRIAL SITES REINVESTMENT PROGRAM

EFFECTIVE DATE: Upon passage

The act narrowly expands the conditions under which projects developing clean, uncontaminated sites qualify for urban and industrial sites reinvestment tax credits. By law, a project located in 31 designated towns qualifies for credits regardless of the site's condition. These are the state designated distressed municipalities and targeted investment communities and the five cities with populations of more than 100,000. A project located in other towns qualified for credits under prior law only if it developed or redeveloped a contaminated property.

The act exempts a project from this rule if (1) the DECD commissioner determines that it is connected to an operation relocating from another state or (2) it involves the expansion of an existing facility requiring a minimum \$50 million investment.

This investment threshold is higher than the ones the law sets for other projects. A business that invests directly in a project qualifies for tax credits if it invests at least \$5 million. But that threshold drops to \$2 million if the project seeks to preserve or redevelop a historic property. A business that invests in projects through a state registered fund manager can invest any amount as long as the fund's total asset value is at least \$60 million in the year the business claims the credit.

PA 06-184 makes identical changes to the program.

Section 14 - 21ST CENTURY SKILLS TRAINING PROGRAM

EFFECTIVE DATE: July 1, 2006

The act requires the labor commissioner, in consultation with the education and DECD commissioners, to establish a job skills training program to (1) sustain high growth occupations and economically vital industries the commissioners identify and (2) assist workers in obtaining skills to start or move up the career ladder. Employers requesting training must pay at least 50% of its cost.

The act (1) names the program the Twenty-First Century Skills Training Program, (2) requires it be established within available appropriations, and (3) prohibits using more than 5% of the appropriation for administrative expenses.

The program can include training to increase the basic skills of employees, including, but not limited to, training in written and oral communication, mathematics or science, technical and technological skills, and other training the commissioners determine is necessary to meet the needs of the employer. The act authorizes the labor commissioner to adopt implementing regulations.

Section 15 - WORKFORCE INVESTMENT ACT

The act provides that General Fund appropriations to the Labor Department for the federal Workforce Investment Act do not lapse at the end of a fiscal year.

EFFECTIVE DATE: July 1, 2006

Section 18 - SALES TAX EXEMPTION FOR RESIDENTIAL WEATHERIZATION PRODUCTS

EFFECTIVE DATE: June 1, 2006

The act exempts certain residential weatherization products and energy efficient heating equipment from the sales tax for 13 months, from June 1, 2006 through June 30, 2007. A previous exemption for these items expired on April 1, 2006.

The exemption applies to:

1. insulation, programmable thermostats, water heater blankets, window film, window and door weather strips, and caulking;
2. water heaters, gas and propane furnaces and boilers, and windows and doors that meet federal Energy Star standards;
3. oil furnaces and boilers that are at least 85% efficient; and
4. ground-based heat pumps that meet the minimum federal energy efficiency standards.

Sections 19 - CORPORATION TAX CREDIT PASS-THROUGH

EFFECTIVE DATE: Upon passage and applicable to projects with commencement dates on or after September 1, 2005.

The act allows a partnership, limited partnership, limited liability company, or other type of pass-through business in which one or more corporations have or had an interest as general or limited partners, members, or otherwise, and that sponsors a qualifying “employment expansion project,” to pass through to these constituent corporations any corporation tax credits for which the “sponsor” would qualify if it were a corporation.

Employment Expansion Project

An employment expansion project under the act is one that (1) will create at least 400 permanent, full-time jobs new to Connecticut over a maximum of five income years starting on or after a commencement date approved by the DECD commissioner in an eligibility certification; (2) needs the corporation tax credit pass-through to attract it to Connecticut; (3) will be economically viable and provide direct and indirect economic benefits to the state; and (4) is, in the commissioner's

judgment, consistent with the state's strategic economic development priorities and those of any town where the jobs are to be created.

New Jobs

Under the act, a new job is one that is full-time and that did not exist in the state before the sponsor's application for an eligibility certificate. (**PA 06-189** changes the definition to jobs that did not exist before the project commencement date.) To qualify as full-time, a job must provide at least 35 hours of work per week and not be temporary or seasonal. The job must be filled by someone hired by either the project's sponsor or one of its constituent corporations. Jobs shifted from a sponsor's or constituent corporation's other Connecticut locations, and any employees who worked for a person related to the sponsor ("related person") during the previous 12 months, do not count.

Under the act, two entities are "related persons" if (1) one controls the other, (2) one of the two is a business or trust controlled by another person or entity that the other controls, or (3) they are members of the same controlled group as the taxpayer. A corporation is considered to be "controlled" by an entity if that entity directly or indirectly owns more than 50% of the combined voting power of all classes of its stock or of its capital or profits interests. 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 it is in federal income tax law.

Annual Job Targets

To be eligible for pass-through credits in any particular year, the project must meet annual job targets. The number of new jobs the project creates must be determined at the end of each of the five full income years after its commencement date by subtracting the aggregate number of people employed on the project commencement date from the number employed at the end of the income year. New jobs at the sponsor and all its constituent corporations are counted.

Although the act requires the aggregate five-year job increase to be at least 400, the sponsor may qualify to pass through credits for any given income year if the project creates at least 90% of the annual number of new jobs called for in the DECD eligibility certificate for that year. If the project misses this target, the sponsor cannot pass through any credits attributable to its activities for that year, but is still eligible to pass through credits for prior or subsequent years for which it meets the annual targets.

By the first day of the fourth month of each income year, the sponsor must certify the aggregate number of new jobs created as of the end of the preceding year to the DECD commissioner. By the first day of the seventh month, the commissioner must review the certification and issue a continuing eligibility certificate for that year, if the sponsor has met at least 90% of its annual target.

Application Procedure

Sponsors must apply to the DECD commissioner to approve an employment expansion project. The application must have enough information about the project to show that it meets the act's requirements, as well as information about (1) where the new jobs will be located; (2) the number of new jobs the project will create in each of the five years covered by the eligibility certificate; (3) any

physical infrastructure the project might create, renovate, or expand; (4) feasibility studies or business plans; and (5) whatever other information the commissioner needs to judge the project's financial viability. The commissioner can charge an appropriate application fee. The sponsor must reimburse the commissioner for some or all of his due diligence costs of reviewing the application.

The commissioner must act on the application within 90 days of receiving it. If he rejects it, he must explain why and identify its defects. The commissioner may combine approval of the application with the exercise of his other powers, including providing other financial assistance. Upon approval, the commissioner must issue an eligibility certificate that includes a project commencement date and any other requirements he considers appropriate.

Credit Allocation Among Constituent Corporations

If the sponsor qualifies, its constituent corporations are entitled to share the corporation tax credits attributable to its activities on a pro rata basis according to their distributive shares of the sponsor's profit or loss for the income year. Pass-through credits are subject to the aggregate corporation tax credit limit of 70% of tax liability without credits. They can be used by companies joining a combined corporate return. One constituent corporation may assign its share of pass-through credits to another corporate constituent of the same sponsor. But the assignee can use the credits only in the same income year that the assigning corporation could have used them and cannot assign them further.

If a corporation assigns its credits, it and the assignee must jointly submit a written notification to the DECD commissioner within 30 days after the transaction. (PA 06-189 eliminates the 30-day deadline for notifying the commissioner.) The notice must include the credit certificate number, assignment date, amount of the credit assigned, assignor and assignee's tax identification numbers, and any other information the commissioner requires. If the parties fail to comply with the notice requirement, the tax credit is disallowed until they do. The DECD commissioner must give the Division of Revenue Services (DRS) commissioner a copy of the assignment notice if she requests it.

Each constituent corporation that claims pass-through credits for any income year must retain copies of the overall and annual continuing eligibility certificates for the project for as long as its return is subject to audit.

Sections 267 & 91 - NANOTECHNOLOGY

EFFECTIVE DATE: July 1, 2006

The act adds various nanotechnology development initiatives to the grant programs PA 05-198 required the Office of Workforce Competitiveness (OWC) to establish to promote research collaborations between academia and industry. It provides for matching grants to support students working on nanotechnology projects and university teams working with businesses to apply research and create product prototypes. All grants must be made within available appropriations.

The act calls for OWC to study the feasibility of developing a center for nanoscale sciences and development. And it requires OWC to provide technical assistance to help businesses apply for nanotechnology-related Small Business Innovation Research funds.

University-Business Collaboration Grants

As part of OWC's research funding grant program, the act establishes three types of grants that may be used to establish a Connecticut Nanotechnology Collaboration Initiative. The grants can go to colleges, universities, and technology-focused organizations.

1. Discovery grants, up to \$50,000, support graduate or post-doctoral students working with industry under faculty supervision. The grants must be matched equally by money or in-kind services from business.
2. Collaborative grants, up to \$150,000, support university research teams collaborating with industry on research focused on specific application development. These grants must be matched equally by industry funds.
3. Prototype grants, up to \$250,000, enable universities and businesses to demonstrate (a) whether a prototype is functional and can be manufactured and (b) the cost-effectiveness of the nanotechnology application. Industry must provide \$2 for each state dollar.

The act transfers \$50,000 from the FY 07 appropriation to OWC to establish a Nanotechnology Collaboration Initiative to the Department of Higher Education to identify model nanotechnology curriculum and assess its application to Connecticut colleges and universities.

Nanoscale Sciences and Development Center

As part of OWC's grant program to promote collaborative research applications between industry and academia, the act authorizes grants to colleges and universities, technology-focused organizations, and businesses to develop a Connecticut Center for Nanoscale Sciences and Development. The center is to provide (1) a shared-use laboratory to advance academic research, industry application development, and education involving the synthesis, characterization, and fabrication of nanoscale materials, intermediates, and devices and (2) related activities. The laboratory may be located in more than one site.

The act requires OWC to conduct a feasibility study and business planning model leading to the center's creation. The study must include strategies for obtaining investments from federal and private sources. OWC must report its findings to the Commerce and Higher Education committees by January 1, 2007.

Small Business Innovation Research (SBIR) Assistance

As part of OWC's grant program to promote commercialization of academic research, the act authorizes grants to colleges, universities, and businesses for specialized technical assistance to advance nanotechnology awards to businesses and the Small Business Innovation Research Program. The grants go through the state's Small Business Innovation Research Office, which is operated by the Connecticut Center for Advanced Technology. The technical assistance can include workshops, seminars, grant preparation and marketing help, services related to matching grants, and other assistance to help business make nanotechnology-related applications for SBIR funds.

SBIR is a federally funded program to assist small, technology-based business research, develop, and commercialize new products. The program has two phases. Phase one provides up to \$100,000 for a small business to determine the feasibility of an innovative technology. Phase two provides up to \$750,000 for prototype development.

Education Grants

The act authorizes OWC to make grants to higher education institutions to establish a nanotechnology post-secondary education program and clearinghouse for curriculum development, scholarships, and student outreach.

Grant Priorities

The law requires OWC to award its existing grants and the ones the act establishes in the following order. Grants must:

1. focus on key technology areas to give Connecticut a competitive advantage in the knowledge economy;
2. create certificate and degree programs to encourage talent generation;
3. promote collaboration between public and private colleges and universities;
4. involve multiple activities, enhance research capabilities, promote applied research collaboration, and find commercial uses for academic research; and
5. match funds from businesses, technology-focused organizations, or colleges and universities.

BACKGROUND

Nanotechnology

Nanotechnology is cross-disciplinary science that combines chemistry and engineering to manipulate individual atoms and molecules to produce a desired structure. It can be applied to organic and inorganic matter. Nanotechnology is potentially applicable to material, manufacturing processes, alternate energy production, electronics, and health care products and processes.

Sections 46-51 - LOBSTER RESTORATION EFFORTS

EFFECTIVE DATE: Upon passage

The act establishes a lobster trap (pot) allocation buy-back program and an economic assistance program for resident commercial lobster fishermen. It bases funding for these programs on whether the Atlantic State Marine Fisheries Commission establishes a v-notch program with equivalent conservation value to existing or future requirements for Long Island Sound by November 1, 2006.

The act establishes a Lobster Restoration Advisory Committee to advise the DEP commissioner on the development of a lobster v-notch conservation program to enhance recovery and rebuilding of lobster stock in Long Island Sound.

The act allows seafood dealers, wholesalers, or shippers to possess and sell lobsters less than a certain length under certain conditions.

Section 46 - Lobster Restoration Advisory Committee

The 11-member Lobster Restoration Advisory Committee includes:

1. the DEP and Agriculture commissioners or their designees;
2. the state's administrative, legislative, and governor-appointed commissioners, to the Atlantic States Marine Fisheries Commission; and
3. one representative each from the (a) Southern New England Fishermen's and Lobsterman's Association, (b) Connecticut Commercial Lobstermen's Association, (c) Long Island Western End Lobstermen's Association, (d) state vocational aquaculture school known as the Sound School in New Haven, (e) state vocational aquaculture school in Bridgeport, and (f) Connecticut Seafood Council.

The DEP and agriculture commissioners jointly appoint committee members, after receiving nominations from the above listed groups. They must do so no later than 30 days after the acts passage, which was May 26, 2006. The committee elects its own chairman and any other officers and adopts procedural rules, as necessary. Committee members are not compensated for their services, but are reimbursed for necessary expenses while performing their duties.

Section 47 - V-Notch Program

Under the act, if the Lobster Management Board of the Atlantic States Marine Fisheries Commission approves a lobster v-notch restoration program with conservation values equivalent to current or future requirements for Long Island Sound (known as "management Area 6") by November 1, 2006, 100% of any appropriations made for FY 2007 for lobster stock recovery and conservation goes to implement the v-notch program.

If the board does not approve a lobster restoration program by November 1, 2006, 60% of the appropriation goes to implement the lobster pot buy-back program and 40% to fund the economic assistance program for resident commercial lobster fishermen, both of which the act establishes. (Connecticut's v-notch program, under PA 05-281, requires the tails of mature female lobsters that licensed commercial fishermen land be marked with a V-shaped notch and then released in order to increase lobster egg production. As of June 2006, it was unfunded and had not been implemented.)

Sections 48-49 - Lobster Pot Allocation Buy-Back Program

The act requires the DEP commissioner to establish a lobster pot allocation buy-back program, within available appropriations, to permanently retire lobster pots from the lobster fishery. It also requires the program to provide a \$15 payment for each lobster pot allocation permanently retired.

By law, to conserve and manage American lobster populations, the DEP commissioner must adopt regulations governing (1) lobster taking in state waters and (2) lobster possession in the state regardless of where taken. The act additionally allows the commissioner to adopt regulations by April 1, 2007, to implement the lobster pot allocation buy-back program.

The regulations must include provisions for the \$15 lobster pot buy-back. They must stipulate that the buy-back program is limited to the buy-back of lobster pots of resident commercial lobster fishermen holding lobster trap allocations issued by the commissioner who (1) reported lobster landings between January 1, 1999 and December 31, 2005, as determined by the commissioner, based on required reports or (2) received license transfers with trap allocations. The act stipulates that the buy-back program is voluntary.

Section 50 - Economic Assistance Program

Under the act, the DEP commissioner must establish an economic assistance program for resident commercial lobster fishermen. She may adopt regulations by April 1, 2007 to implement the program. The program is for any resident commercial lobster fisherman who (1) held a Connecticut license to take lobsters in 2006 and a lobster trap allocation issued by the commissioner or (2) received a license transfer with a trap allocation, and who, not later than January 24, 2006, reported the landing of lobsters between January 1, 2004, and December 31, 2005, as determined by the commissioner, based on reports the law required.

The regulations must include provisions for direct payment to such lobstermen based on the contribution his lobster catch made to the total qualifying catch of all qualifying lobster fishermen from Long Island Sound with any gear between January 1, 2004, and December 31, 2005. In cases in which more than one fisherman has reported on the same catch report form, catches must be attributed and payments made to the lead license holder indicated on the form.

Section 51- Possessing Lobster Below Certain Size

Prior law prohibited anyone from buying, selling, giving away, offering for sale, or possessing, regardless of where taken, any lobster with a body shell (carapace) length less than 3 and 9/32 inches. Under the act, a seafood dealer, wholesaler, or shipper may possess and sell lobsters less than the Atlantic States Marine Fisheries Commission's American Lobster Fishery Management Plan for Long Island Sound minimum legal length, as defined in regulation, provided:

1. the lobsters are not taken from Long Island Sound waters or landed in this state, regardless of where such lobsters were taken;
2. the lobsters are (a) not less than the minimum legal length in effect in the waters of the Lobster Management Area or nation of origin where taken and not less than three and one-quarter inches carapace length regardless of where taken, and (b) not bartered, exchanged, sold, or offered for sale to retail consumers in this state; and
3. the seafood dealer, wholesaler, or shipper in possession of such lobsters possesses written documentation identifying the state, Lobster Management Area, or nation of origin, as applicable,

where such lobsters were received; the number of such lobsters received that are less than Long Island Sound minimum legal length; and the date such lobsters were received.

The seafood dealer, wholesaler, or shipper must keep this documentation for a period of six months from the date the lobsters were received and must make it available to law enforcement officers upon request.

Section 63 - CONNECTICUT HYDROGEN-FUEL CELL COALITION

EFFECTIVE DATE: Upon passage

The act requires DECD to establish a Connecticut Hydrogen-Fuel Cell Coalition. DECD must do this in consultation with the Connecticut Center for Advanced Technology, a federally funded nonprofit organization focused on developing the next generation of technological systems for military and civilian applications.

Section 64 - FUEL CELL ECONOMY PLAN

EFFECTIVE DATE: Upon passage

The act requires DECD to contract with the Connecticut Center for Advanced Technology to prepare a plan for fuel cell economic development. DECD must do this in consultation with the Connecticut Hydrogen-Fuel Cell Coalition, the Renewable Energy Investment Fund, and other appropriate state agencies.

Plan Elements

The plan must include a strategy to:

1. help commercialize fuel cells and hydrogen-based technologies;
2. enhance energy reliability and security;
3. promote ways to make transportation and electric generation systems more efficient, reduce their effects on the environment, and increase their use of renewable and sustainable fuels;
4. facilitate the installation of infrastructure for hydrogen production, storage, transportation, and fueling capability;
5. disseminate information about the benefits of hydrogen-based technologies and fuel cells; and
6. develop ways to retain and expand the state's hydrogen and fuel cell industries.

The strategy must also identify how hydrogen-based and fuel cell technologies could benefit the state's transportation and electric and natural gas distribution systems. DECD must consult with the

Department of Transportation to identify areas where the state could integrate hydrogen or natural gas and hydrogen mixture refueling stations with mass transit and fleet locations.

Lastly, the strategy must identify areas in the electric and natural gas distribution system where hydrogen and fuel cell technology could be used to generate energy distribution. The strategy must show how the technology could reliably be used to control voltage, secure the grid, make the system more reliable, or provide uninterrupted service at customer sites. DECD must develop this part of the strategy in consultation with electric and natural gas service providers.

Report

DECD must report to the Commerce Committee about the plan. It must submit a progress report to the committee by January 1, 2007 and a final report by January 1, 2008.

BACKGROUND

Connecticut Center for Advanced Technology

Universities, businesses, and state and federal agencies established the center in 2002 with a \$1.5 million grant from the U. S. Air Force. The center focuses on developing the next generation of technological systems for military and civilian applications. Its initiatives include creating a center to (1) develop and deploy advanced technologies; (2) help entrepreneurs launch new, technology-based businesses; and (3) encourage colleges and universities to train students for advanced technology fields.

BACKGROUND

Renewable Energy Investment Fund

The quasi-public Connecticut Innovations, Inc. administers the fund, whose purpose is to promote investments in renewable energy resources, stimulate demand for them, and encourage their deployment.

Sections 65-66 PROMOTION OF CONNECTICUT AGRICULTURE

EFFECTIVE DATE: July 1, 2006

By law, the agriculture commissioner must establish and administer a program to market farm products grown and produced in Connecticut to encourage state agricultural development. The commissioner may provide grants to anyone who promotes and markets these farm products, provided the words "Connecticut-Grown" are clearly incorporated in such promotional and marketing activities. The act allows use of "CT-Grown."

Under the act, the commissioner must also design, plan, and implement a multiyear, statewide marketing and advertising campaign, which must include television and radio advertisements promoting the availability and advantages of purchasing Connecticut-grown farm products.

Website

The act requires the commissioner to establish and continuously update a website connected with the advertising campaign. It must include a comprehensive listing of Connecticut farmers' markets, pick-your-own farms, roadside and farm markets, farm wineries, garden centers, and nurseries selling predominantly Connecticut-grown horticultural products, and agri-tourism events and attractions.

Additional Duties

Under the act, the commissioner must promote business relationships and interaction between farmers and restaurants, grocery stores, institutional cafeterias, and other potential institutional purchasers of Connecticut-grown farm products. This includes (1) linking farmers and potential purchasers through a separate feature of the web site the act establishes and (2) inviting farmers and potential institutional customers to participate in statewide or regional events promoting Connecticut-grown farm products.

The commissioner must, to the best of his ability, solicit cooperation and participation from the farm, corporate, retail, wholesale, and grocery communities in advertising, Internet-related, and event planning efforts, including soliciting private-sector matching funds.

Funding

Under the act, the agriculture commissioner must annually use \$100,000 for marketing from the funds collected from the \$30 document-recording fee established by PA 05-228. Under prior law, the commissioner had to use those funds to encourage the sale of Connecticut-Grown food to schools, restaurants, retailers, and other state businesses and institutions.

The act requires the commissioner to deposit the money into the expand and grow Connecticut agriculture account. It is a separate, nonlapsing account within the General Fund already funded from 75% of an annual fee of 40 cents per linear foot the commissioner imposes on the owner of certain facilities that cross any grounds of the Sound within Connecticut's jurisdiction.

Under prior law, the commissioner could make payments from the expand and grow Connecticut agriculture account for programs that certify that grocery stores, schools, and restaurants use certain percentages of Connecticut-grown or produced farm products. Under the act, the commissioner must make payments from the account to fund these programs and the act's marketing, advertising campaign, and other requirements. He also must seek private matching funds.

Report

The act requires the commissioner to report annually to the Environment Committee with respect to the act's requirements, including the amount of private matching funds received and expended by the department. By law, the commissioner may adopt regulations as necessary to carry out the Connecticut-Grown program.

BACKGROUND

Connecticut -Grown

By law, only farm products grown and eggs produced in Connecticut can be advertised or sold in Connecticut as “Connecticut-Grown.” Farm products grown and eggs produced in Connecticut may also be advertised or sold in Connecticut as “Native,” “Native-Grown,” “Local,” or “Locally-Grown” (CGS § 22-38).

Section 78 - START-UP FINANCING

EFFECTIVE DATE: July 1, 2006

The act makes a technical change to the criteria a company must meet to receive start-up financing from the quasi-public Connecticut Innovations, Inc.

Section 79 - REGULATIONS IMPLEMENTING TAX CREDITS FOR MOVIE AND DIGITAL MEDIA PRODUCTION

EFFECTIVE DATE: July 1, 2006

PA 06-83 authorizes corporate tax credits for eligible companies that produce qualified films and other types of television, video, or digital entertainment in Connecticut, and requires the Connecticut Commission on Culture and Tourism (CCCT) to administer them. In doing so, it allows CCCT to adopt implementing regulations after consulting with the revenue services commissioner.

This act duplicates a change already made in § 83 of the budget act (**PA 06-186**), which shifts the responsibility for administering the credits from CCCT to the commissioner. As part of that shift, both acts require the revenue services commissioner, in consultation with CCCT, to adopt implementing regulations.

Section 80 - SALES TAX EXEMPTION FOR SERVICES PROVIDED BY PARTICIPANTS IN CERTAIN JOINT VENTURES

EFFECTIVE DATE: Upon passage

The act expands eligibility for, and extends the duration of, a sales tax exemption for specified business services rendered between participants in certain kinds of joint ventures under a joint venture agreement. The exemption applies to personnel; commercial or industrial marketing, development, testing, and research; and business analysis and management services. To qualify, (1) a joint venture's purpose must relate directly to producing or developing new or experimental products or systems and supporting and marketing them and (2) one of its corporate participants must have been actively engaged in business in Connecticut for at least 10 years. The company providing the service must own at least 25% of the joint venture.

Under prior law, to be tax-exempt, the entity receiving services had to be either a corporation or partnership and the one giving services had to be its corporate shareholder or partner, respectively. The act also allows a limited liability company to receive exempt services from a corporate member.

In addition, the act extends the exemption's duration from 10 to 20 consecutive years and specifies that it starts from the date the joint venture is formed, incorporated, or organized. An existing 30-year exemption term for aircraft industry joint ventures that existed before January 1, 1986 remains unchanged.

Sections 81-82 - SALES TAX EXEMPTIONS

EFFECTIVE DATE: July 1, 2006

Connecticut Center for Science and Exploration

The act extends to the Connecticut Center for Science and Exploration an existing sales and use tax exemption for items or service used, incorporated into, or otherwise consumed in building the Hartford convention center, Rentschler Field, and related parking facilities and infrastructure improvements.

Section 83 - ADRIAEN'S LANDING SCIENCE CENTER FACILITY

EFFECTIVE DATE: July 1, 2006

The act specifies that the Connecticut Center for Science and Exploration refers to the science center facility constructed and operated in the Adriaen's Landing site. PA 98-179 authorized up to \$300 million in bonds for the Adriaen's Landing project. The science center addresses that element of the original plan that called for a major but unspecified attraction.

Section 88 - SUMMER YOUTH EMPLOYMENT FUNDING

EFFECTIVE DATE: July 1, 2006

The act transfers \$4 million to the Labor Department for distribution to the state's five workforce investment boards. The funds come from OPM's FY 06 urban youth employment appropriation.

The act requires each board to allocate at least 75% of the amount it receives to at least one distressed municipality in its region and the rest to other towns in the region for summer youth employment programs. It allows the boards to allocate up to 25% of their appropriation, or any unspent money allocated for summer youth employment, for year-round workforce development programs for 14- to 19-year-olds whose family incomes make them eligible for free or reduced-price school meals.

The act requires the Labor Department to distribute the following amounts: \$1.3 million to Capital Workforce Partners; \$900,000 to the Workforce Alliance; \$900,000 to the Northwest Regional Workforce Investment Board, Inc.; \$500,000 to The Workplace, Inc.; and \$400,000 to the Eastern CT Workforce Investment Board.

Section 89 - CONNECTICUT UNITED FOR RESEARCH EXCELLENCE BIOBUS

EFFECTIVE DATE: July 1, 2006

The act requires Connecticut Innovations, Inc. to pay Connecticut United for Research Excellence \$1.5 million for the operation of its BioBus. The amount must be paid over five years from available appropriations beginning July 1, 2006. **PA 06-196** eliminates this provision.

Public Act# 06-83

SB# 702

AN ACT CONCERNING JOBS FOR THE TWENTY-FIRST CENTURY

EFFECTIVE DATE: July 1, 2006. The new MME exemption and state payment applies to assessment years starting on or after October 1, 2006. The movie and digital media production tax credits apply to tax years starting on or after January 1, 2006.

SUMMARY: This act exempts all manufacturing machinery and equipment (MME) from property taxes and reimburses towns for the revenue loss after a five-year phase-in. It does so by simultaneously phasing out the existing, limited exemption and phasing in the new one, under which the state must reimburse towns for the entire revenue loss.

The act establishes corporation tax credits for producing films and digital media in Connecticut. It allows credits for (1) qualified film and digital media production, preproduction, and postproduction expenses incurred in the state (“production credit”) and (2) compensation paid to Connecticut residents for services on qualified productions (“wage credit”). (HB 5845 later eliminated the separate wage credit.) The production credit can be sold or transferred; the wage credit cannot. The Connecticut Commission on Culture and Tourism (CCCT) administers the credits.

The act establishes several new programs designed to encourage and support innovation, including (1) a faculty recruitment and entrepreneurial center at the University of Connecticut, (2) operational funds for small business incubators, and (3) new programs at Connecticut Innovations, Inc. (CII) to finance early stage ventures and match federal research assistance.

It also establishes a Business Advocate Office to help small businesses identify and access public and private business assistance programs.

The act requires the State Department of Education (SDE) to establish three pilot grant programs related to math and science and creates two grant programs administered by the Department of Higher Education (DHE) to repay student loans for (1) eligible people with doctoral degrees in economically valuable fields and (2) engineers.

Finally, the act requires regional workforce development boards to administer any funds appropriated to the Labor Department for incumbent worker training.

Sections 1& 2 - UCONN PROGRAMS

Eminent Faculty Recruitment Program

The act requires UConn's trustees to establish a program for recruiting eminent faculty and their research staffs. The program must target faculty who have demonstrated excellence in their research fields, want to work collaboratively with other UConn scientists, and are interested in finding ways to commercialize their research.

The program must facilitate the recruitment process, with the aim of accelerating applied research and development in a way that supports the state's economic development and promotes core competency areas. It must do so by supplementing faculty's compensation and related personnel and materials costs. The program may spend funds only if industry or other sources will match those funds.

Center for Entrepreneurship

The act requires UConn to establish a center for training the next generation of entrepreneurs in an experiential manner that would help the state's businesses. The center must:

1. train faculty and student inventors in commercialization and issues that generate business opportunities,
2. allow faculty and students to help technology-based programs find real-time solutions to their business problems, and
3. establish an intellectual property law clinic.

The center must perform some of these tasks in conjunction with other entities. It must help technology-based companies through the business school's accelerator program and must establish the clinic in conjunction with the law school. The center must leverage other resources by collocating the accelerator program and the clinic with the nonprofit Connecticut Center for Advanced Technology (CCAT).

Sections 3 & 4 - EARLY STAGE VENTURE CAPITAL

The act establishes a program to provide venture capital to newly established or expanding businesses in the early stages of developing new products and processes. CII must administer the program, which must offer the following types of financing:

1. preseed, for researching and formulating a concept;
2. seed, for assessing the viability of a concept and qualifying it for start-up financing;
3. start-up, to help emerging or newly formed companies with recently developed and commercially viable products;

4. early or first-stage, to help companies with fully developed and tested products mass produce and sell them; and
5. expansion, to help companies expand their markets or improve their fiscal position before they sell stock or offer themselves for sale to other companies.

The act requires CII to apportion program funds as follows:

1. at least 5% for preseed financing;
2. at least 10% for seed financing;
3. at least 10% for start-up financing;
4. at least 15% for early or first-stage financing; and
5. at least 40%, but no more than 60%, for expansion financing.

CII must run the program, adopt procedures to implement it, develop a plan to market it, and establish criteria for providing each type of financing it offers. Its board must review and approve each application for financing. CII may use up to 3% of the program's funds to cover administrative and marketing expenses.

Section 5 - SMALL BUSINESS INCUBATOR PROGRAM

The act authorizes the economic and community development (DECD) commissioner to award grants to entities operating incubator facilities. An “incubator facility” provides research and other services to help small technology-based companies. The entities can use the grants to provide operating funds and related services, including preparing business plans, acquiring financing, and providing management counseling. An entity qualifies for a grant if its incubator facility houses small technology-based companies and provides research and other services to them.

An entity may apply for a grant by submitting an application to the DECD commissioner, who must adopt regulations prescribing when and how they may do so. The regulations must also:

1. describe the entities eligible for the grants,
2. describe how they must use the grant funds,
3. define the types of businesses entities can support with the grants,
4. specify the form and content of grant applications,
5. specify the schedule for awarding the grants,

6. specify the standards the commissioner will use to award the grants, and
7. include any other provisions needed to implement the program.

The regulatory standards for awarding grants must include priorities based on the type of services an incubator facility provides. They must also include criteria for judging an applicant's background, experience, and the services the applicant offers. Lastly, the standards may include limits on the grant amount an entity may receive during a funding round.

The act establishes a separate, nonlapsing General Fund account to fund the grants. The account must contain any money the law requires to be deposited in it, and its investment earnings must be credited to it.

Sections 6 & 7 - MATCHING GRANTS FOR MICRO BUSINESSES

The act requires CII to provide matching financial assistance for micro businesses that receive federal funds under the Phase II Small Business Innovation Research or Business Technology Transfer programs. A business qualifies for matching assistance if it, and any of its affiliates, is independently owned and operated and (1) employs fewer than 50 full-time employees or (2) has gross annual sales under \$5 million. The micro business must use the CII matching assistance for the same purposes for which it must use the federal assistance.

A micro business must apply for the matching assistance in the same manner small businesses apply for similar assistance under the Connecticut Technology Partnership, which the act renames the Connecticut Development Research and Economic Assistance Matching Grant Program. Those applications must:

1. indicate the applicant's principal place of business,
2. explain how it intends to use the matching assistance,
3. explain the potential market demand for the technology project's end product and marketing strategy, and
4. provide any other information CII requires.

Section 8 - OFFICE OF BUSINESS ADVOCATE

Purpose

The act establishes this office within the Office of Policy and Management (OPM) for administrative purposes only. The office must serve as an information clearinghouse on public and private business assistance programs. It must identify micro businesses and contact micro and small businesses that could benefit from these programs. In contacting these businesses, the office must identify their needs, provide information about the programs that could address them, and help the businesses access those programs.

Business Advocate

The governor must appoint the advocate, with the legislature's approval. The advocate serves a four-year term, and the governor may reappoint him to additional four-year terms. Otherwise, he serves until his successor is appointed and qualified or until removed by law. The advocate must know about businesses, their needs, and the range of public and private organizations that can address those needs. He must also have the background needed to run the office.

Staffing and Reporting

The advocate can appoint necessary staff within available funds and may delegate his powers and duties to the staff as long as he supervises them. The legislature may annually appropriate funds to cover their salaries and the office's expenses. The advocate must submit annual reports to the governor and the chairmen of the Finance, Revenue and Bonding and Commerce committees. The reports must analyze the office's work and must include a list of the businesses the office served and the services it provided to them.

Sections 9-14 - PROPERTY TAX EXEMPTION FOR MANUFACTURING MACHINERY AND EQUIPMENT (MME)

Exemption and Exemption Phase-In

The act exempts all manufacturing machinery and equipment (MME) from local property taxes after a five-year phase-in, with the full exemption taking effect in the assessment year beginning October 1, 2011. New and newly acquired MME is already exempt from property taxes for the first five years after it is acquired.

The act continues the existing five-year exemption program until the assessment year beginning October 1, 2011. Until then, that program will continue to cover MME acquired between October 1, 2002 and October 1, 2006. At the same time, the act gradually exempts MME that is six years old or older from property tax as well. It phases in the additional exemption over five years. Between assessment years beginning October 1, 2006 and October 1, 2011, the act increases the exemption for this older property by 20% per year. The exemption phase-in applies to MME that (1) is already six years old or older in the October 1, 2006 assessment year or (2) becomes six years old between the October 1, 2006 and the October 1, 2011 assessment years.

State Payments in Lieu of Taxes (PILOT) and New Payment Phase-In

By law, the state is required to reimburse towns for 80% of the revenue loss from the five-year property tax exemption for new and newly acquired MME. But under prior law, the 80% state PILOT grant had to be proportionately reduced in any year when the state appropriation for the grant was not sufficient to pay the full amount to every town. The act eliminates the authorization for the proportionate reductions, thus requiring the state to pay the full 80% PILOT for MME exempted under the five-year program. The full 80% PILOT applies to MME acquired in the October 1, 2000 through October 1, 2009 assessment years.

In addition to the 80% PILOT for MME that is exempt under the existing program, the act requires the state to provide a second payment to towns for the revenue they lose from the phased-in exemptions for older MME not covered by the existing program. The percentage exemptions for older MME increase during the phase-in by 20% per year. As they do, the act requires the state payment for those exemptions to increase correspondingly. The owner of the older MME continues to pay any property tax not covered by the state payment during the phase-in.

The table below shows the act's exemption phase-in for MME of various ages on town grand lists as of October 1, 2006. Shaded areas show the years in which MME is exempt under the existing MME exemption with an 80% state PILOT. White areas show the percentage exemption applicable to older MME in each year until October 1, 2010, and the corresponding state payment for that exemption.

**PROPERTY TAX EXEMPTION PHASE-IN FOR
MANUFACTURING MACHINERY AND EQUIPMENT (MME)**

Exemption for Assessment Year Starting	EXEMPTIONS FOR MME ON GRAND LISTS AS OF 10/1/06				
	(Note: In shaded years, although MME is 100% exempt, state PILOT is 80% of lost revenue)				
	MME Acquired before 10/1/02	MME acquired during the 10/1/02 assessment year	MME acquired during the 10/1/03 assessment year	MME acquired during the 10/1/04 assessment year	MME acquired during the 10/1/05 assessment year
10/1/06	20%	100%	100%	100%	100%
10/1/07	40%	40%	100%	100%	100%
10/1/08	60%	60%	60%	100%	100%
10/1/09	80%	80%	80%	80%	100%
10/1/10	100%	100%	100%	100%	100%

Exemptions and Payments as of October 1, 2011

The act permanently exempts all MME from property tax and closes out the existing five-year MME exemption program at the beginning of the October 1, 2011 assessment year. Starting with the fiscal year beginning July 1, 2013, the act freezes the state's annual MME payment to each town at 100% of the property taxes the town would have received in the October 1, 2011 assessment year if MME were not tax-exempt. Each town's payment remains fixed at that amount for each fiscal year thereafter, regardless of fluctuations in the value of MME on a town's annual grand list. The OPM secretary must determine the amount of each town's flat payment by January 1, 2013.

MME Depreciation Schedule

The law allows towns to adopt several statutory depreciation schedules for various types of business personal property. In the assessment years beginning October 1, 2006 through October 1, 2011, the act requires local assessors to use the same depreciation methods to determine MME valuations that they used for valuing the same or similar property in the October 1, 2005 assessment year.

For the October 1, 2006 through October 1, 2011 assessment years, the act requires taxpayers to file with town assessors supplements to their annual personal property declarations. In the supplements, taxpayers must provide the following information for MME eligible for the existing PILOT or the additional state grant:

1. the assessment year it was acquired and installed;
2. its original cost, including costs for transportation and installation;
3. its depreciated value according to depreciation schedules the local assessor provides; and
4. the total original acquisition cost and depreciated value for all the taxpayer's MME property eligible for tax exemptions.

It requires each assessor to give a personal property declaration and the supplement to the owner of each manufacturing and biotechnology facility. It bars the supplements for the October 1, 2006 through October 1, 2011 assessment years from reflecting any change in depreciation schedules applicable to the property that would increase its assessment over its previous year's assessment.

Administration

The act requires towns to certify the amount of property tax due on MME no longer eligible for the 80% PILOT payment under the five-year exemption program to the OPM secretary annually by November 15th starting in 2006. The secretary must certify the amount payable to a town to the comptroller within 30 days before the tax is due, the comptroller must order the treasurer to pay the amount within 14 days before that date, and the treasurer must pay the town within five days before. Any needed adjustments to the tax due must be accounted for in the next payment. (HB 5845 revises this certification and payment schedule.)

The act applies all existing valuation and enforcement procedures to exempt MME and allows taxpayers to appeal assessments of the property to local boards of assessment appeals according to existing laws.

Machinery and Equipment Covered

Under both prior law and the act, the MME exemption covers machinery and equipment used in biotechnology or installed in a manufacturing facility and used predominantly for or in:

1. manufacturing, processing, or fabricating;

2. manufacturing-related research and development, including experimental or laboratory research and development;
3. manufacturing-related design or engineering;
4. significant servicing, overhauling, or rebuilding of machinery and equipment for industrial use;
5. significant overhauling or rebuilding of other products on a factory basis;
6. measuring, testing, or metal finishing; or
7. production of movies or video or sound recordings.

(HB 5845 adds recycling equipment to the list of exempt MME.)

No one may receive a property tax exemption for the same machinery or equipment under both the act and either of two existing exemptions for (1) machinery and equipment in a manufacturing facility located in a distressed municipality, targeted investment community, or enterprise zone and (2) machinery and equipment acquired as part of a technological upgrading of a manufacturing process.

Sections 15-16 - “ENGINEERING CONNECTICUT” AND “YOU BELONG” STUDENT LOAN REIMBURSEMENT PROGRAMS

The act establishes two programs to repay student loans, one for certain engineers and the other for certain people with doctoral degrees. Candidates for the engineers' program (“Engineering Connecticut”) must have an undergraduate or graduate degree in engineering from any college or university and have started working as an engineer in Connecticut after December 31, 2005. Candidates for the doctoral degrees program (“You Belong”) must (1) hold a doctorate from any college or university, (2) have started working in Connecticut in an “economically valuable field” after December 31, 2005, and (3) be employed by a company or university registered with or qualified by DECD. The DECD commissioner determines the economically valuable fields.

DHE must develop eligibility requirements for reimbursement recipients, consulting with DECD on those for the doctoral degree program. The requirements can include income guidelines. DHE must also prescribe application dates and procedures and determine the annual reimbursements for qualifying student loan payments. A recipient can receive reimbursement grants only for loan payments he or she makes while employed in Connecticut as (1) an engineer or (2) if holding a doctoral degree, in an economically valuable field by a qualifying company or by a college or university in a research capacity in such a field.

The programs must operate within available appropriations. Unspent program appropriations do not lapse and must be carried forward to the next fiscal year. DHE can use up to 2% of the grant appropriations for administration, promotion, and recruitment activities.

Sections 17-19 - SDE PROGRAMS

The act requires SDE to establish, within available appropriations, three pilot grant programs: (1) a high school Math and Science Challenge Pilot Program, (2) a high school “Generation Next” Program, and (3) a Future Scholars Program.

The Math and Science Challenge Program must use results from the math and science portion of the 10th grade mastery test to design and implement math and science curricula for 11th grade public school students. Grantees must use the money to develop and implement a math and science program for students who did not perform at least at the proficient level on the 10th grade test. They must evaluate the program, including analyzing student testing performance before and after participating in the program.

The “Generation Next” pilot program must provide (1) business-sponsored job shadowing for high school students and (2) externship experiences for public school teachers. The act does not define “externship” but such programs are typically experience-based learning opportunities similar to internships but of shorter duration. Grant recipients must use the funds to develop and implement a coordinated high school teacher externship and student job shadowing program in the areas of math or science or with technology-related businesses in the state.

The “Future Scholars” pilot matching grant program is for public schools participating in externally funded programs that provide supplemental math and science instruction to students in grades eight through 10 who scored above the basic but below the proficient level on the mastery test in the previous year. School boards and vo-tech schools awarded grants under the program must use the money to develop and implement an interdisciplinary math, science, and technology curriculum. The curriculum must include the establishment and staffing of math and science labs in middle and high schools that have demonstrated support from math, science, or technology-related businesses in the state.

The education commissioner may award any of the grants to boards of education and the vo-tech schools for demonstration projects. The commissioner prescribes the time and manner of application. For the first two programs, she must select a demographically diverse group of participating schools and vo-tech schools. For the Future Scholars Program, she must select participants based on the quality of proposed programs and evidence of commitment by businesses supporting the project.

Section 20 - TAX CREDITS FOR MOVIE AND DIGITAL MEDIA PRODUCTION

Credits

The act establishes two corporation tax credits for eligible companies that produce qualified films or other types of television, video, or digital media entertainment content in Connecticut. It gives a production credit equal to 25% or 30% of the eligible production costs such a company incurs in Connecticut. The 25% credit is available to companies that incur between \$50,000 and \$1 million in eligible costs and the 30% credit to companies that incur more than \$1 million in such costs. (HB 5845 subsequently eliminated the 25% credit and extended the 30% credit to all eligible productions costs over \$50,000.)

The act also gives a wage credit equal to 25% of the compensation a company pays to any employee or independent contractor who is a Connecticut resident and who provides services in connection with the production. It limits to \$1 million the amount of compensation paid to a single employee or independent contractor that is eligible for a wage credit. (HB 5845 eliminated the wage credit.)

Companies may sell or otherwise transfer the production credit, but not the wage credit. Both credits can be carried forward for up to three years, but cannot be used to reduce a company's tax liability to less than zero.

Eligible Production Companies

A production company eligible for the credit can be a corporation, partnership, limited liability company, or any other type of business entity in the business of making one or more qualified productions (see below). The company must be authorized by the secretary of the state to do business in Connecticut.

Qualified Productions and State-Certified Qualified Productions

Only qualified productions are eligible for tax credits. With specified exceptions, these can be any type of entertainment production or content, including movies; documentaries; long-form, specials, mini-series, series, music videos, or interstitials television programming; interactive television or games; videogames; commercials or infomercials; or any digital media format created primarily for public viewing or distribution. (The act does not define "interstitials," but they are typically brief programs that appear during longer ones or that serve as bridges between longer programs.) Trailers, pilots, video teasers, and demos for a product or qualified production are also eligible if they are created primarily to stimulate its sale, marketing, or promotion, or the exploitation of future investment in it. The trailers, pilots, video teasers, and demos can use any means and be in any digital media format or on film or videotape, as long they meet all the underlying criteria for a qualified production. Initial pilots, demos, prototype presentations, or informational series programming relating to qualified productions are also eligible. (HB 5845 removes eligibility for initial pilots, demos, prototype presentations, or informational series programming relating to qualified productions.)

A production is not qualified to receive tax credits if it (1) is an ongoing program created primarily as news, weather, or financial market reports or (2) contains obscene material or performances for which, by federal law, producers must keep certain records. (HB 5845 changes the definition of obscene material and performances to the state law definition.) Federal law requires producers to keep records on performers in productions made after November 1, 1990 that (1) include visual depictions of actual, as opposed to simulated, sexually explicit conduct and (2) are either themselves shipped or transported in interstate commerce or made with material so shipped or transported (18 USC 2257).

A state-certified qualified production is one produced by a company that (1) the CCCT has approved for a production tax credit under the act, (2) complies with any regulations the Department of Revenue Services (DRS) adopts for the program (HB 5845 changes this to CCCT's regulations), and (3) is authorized to do business in Connecticut.

Eligible Production Expenses

The act's production credit is based on a percentage of eligible development and production costs for a qualified production. Eligible costs are all cash expenditures clearly and demonstrably incurred in Connecticut for development, pre-production, production, and post-production work on a qualified production. (HB 5845 eliminates references to “cash” when referring to expenditures.) They include the following types of costs and any others as determined by the CCCT. (HB 5845 eliminates CCCT's authority to designate other eligible costs.)

Purchase of Intellectual Property Rights

Costs for optioning or buying intellectual property, such as a book, script, music, or trademark related to developing or buying a script, screenplay, or format are eligible if (1) the holder is either a company authorized to do business in Connecticut or a person who is a Connecticut resident (HB 5845 changes this to make it a condition that the property was produced primarily in Connecticut), (2) 75% of the qualified production based on the intellectual property is produced in Connecticut, and (3) the cost of optioning or buying the intellectual property is less than 35% of the cash expenditure in the budget for production in Connecticut (HB 5845 changes this to require that the acquisition cost be less than 35% of the production's Connecticut costs and expenses). Eligible intellectual property purchase costs include all expenses generally associated with such transactions, including option money and agents' and attorneys' fees, but not deferrals, deferments, royalties, profit participation, or recourse or nonrecourse loans the company may negotiate to get the intellectual property rights.

Direct Payments

Eligible costs include direct payments to individuals or to companies authorized to do business in Connecticut for purchasing such things as (1) production and post-production work, equipment, and software; (2) set design and construction; (3) props, lighting, wardrobe, makeup, and makeup accessories; (4) special, visual, and audio effects; (5) film processing; (6) music, sound mixing, and editing; (7) location fees; and (8) soundstages. Eligible costs also include direct compensation to such people or companies for these types of things, excluding compensation to Connecticut employees and independent contractors for providing services on qualified productions (see below). **(HB 5845** makes direct payments eligible only if incurred in Connecticut. It also eliminates this act's exclusion for compensation paid to Connecticut employees and independent contractors for providing services on qualified productions, thus allowing such compensation to be considered for a tax credit unless it exceeds certain amounts.)

Distribution Costs

Eligible costs include expenses for distribution, such as production or pre- or post-production costs for creating trailers, marketing videos, commercials, point-of-purchase videos, and any other content on film or digital media. Distribution expenses include those for (1) duplicating films, videos, DVDs, CDs, or any other digital files that exist or are yet to be created for mass consumption and (2) a Connecticut company's purchase of equipment related to duplication or mass market distribution of content from within Connecticut by any digital media format that exists or is yet to be created. **(HB**

5845 makes distribution costs eligible only if the content being distributed was created or produced in Connecticut.)

Ineligible Production Costs

As mentioned above, eligible costs exclude compensation to Connecticut employees or independent contractors for services provided on qualified productions. (HB 5845 limits excluded payments to talent fees for extras, principal day players, and atmosphere, as defined by the Screen Actors Guild, that exceed double scale wages under the guild's current collective bargaining agreement.) They also exclude (1) costs for media buys, promotional events, gifts, or public relations associated with promoting or marketing a production; (2) deferred, leveraged, or profit participation costs for people associated with a production, such as producer, director, talent, and writer fees; (3) the cost of transferring the act's tax credits; and (4) amounts paid to people or businesses because of their profit participation in the production.

Credit Application and Approval Procedure

Eligible production companies seeking credits must apply to CCCT for an eligibility certificate within 90 days of incurring their first production expenses or costs on the qualified production and provide any information CCCT requires to determine eligibility. Within 90 days of incurring its last production expenses or costs, the company must apply to CCCT for a production or wage credit certificate and provide information CCCT requires about its production costs. If CCCT determines the company is eligible for a production or wage credit, it must enter the expense and credit amounts on the certificate. CCCT must provide a copy of the certificate to the revenue services commissioner on request. (HB 5845 substantially revises and clarifies these provisions.)

The act allows DRS, in consultation with CCCT, to adopt regulations to administer the credits. (**HB 5845** makes the regulations mandatory and reverses the roles of the two agencies, requiring CCCT to adopt the regulations after consulting with DRS, instead of vice versa. **HB 5846** contains the same change (Section 79)).

Section 21 - INCUMBENT WORKER TRAINING FUNDS

The act requires that any funds appropriated to the Labor Department for incumbent worker training programs be administered by regional workforce development boards. The act does not define "incumbent worker training programs," but such programs typically provide training to a company's existing workers to improve their skills.

Related Acts

HB 5845 substantially revises this act's provisions regarding the movie and digital media production tax credits. That act also adds recycling equipment to the tax-exempt manufacturing machinery and equipment and revises this act's certification and payment schedule for the state PILOTs for exempt MME.

HB 5797 requires the CCCT to implement the film and digital media tax credits in this act and expands the commission and its role in promoting movie and digital media production and post-production in the state.

HB 5846 requires the CCCT instead of DRS to adopt regulations to administer the movie and digital media production credits, a provision that duplicates a provision in HB 5845.

HB 5820 makes technical corrections to the provisions of this act concerning personal property declarations and supplements required for MME exemptions and PILOTs.

Public Act# 06-104

SB# 410

AN ACT CONCERNING CLAIMS FOR UNINSURED OR UNDERINSURED MOTORIST BENEFITS AND INSURANCE RATE FILING REQUIREMENTS

EFFECTIVE DATE: October 1, 2006, except the property and casualty insurance rate provisions are effective July 1, 2006 until July 1, 2009.

SUMMARY: This act:

1. permits insurers, under certain conditions, to file and use new rates for personal lines (e. g. , home, auto, marine, umbrella) without the insurance department's prior approval if the rates increase or decrease by no more than 6%;
2. requires a claimant for uninsured or underinsured motorist benefits (e. g. , following a car accident involving an uninsured or insufficiently insured vehicle) to make reasonable efforts to determine what liability coverage exists for the owner and operator of the alleged uninsured or underinsured vehicle; and
3. prohibits an automobile insurer from requiring a claimant, in order to be eligible for a benefit payment, to provide affidavits or written statements from the owner or operator regarding his uninsured or underinsured status at the time of the accident.

FILE AND USE 6% RATE BAND

The act permits, from July 1, 2006 to July 1, 2009, property and casualty insurers to file new premium rates for personal lines with the Insurance Department and use them immediately without receiving prior approval if they result in a statewide rate increase or decrease of no more than 6% for all products included in the filing. The new rate cannot apply on an individual basis. The provisions do not apply to rates for the residual market.

The act provides that an insurer may submit more than one rate filing using the 6% band to the department in any 12-month period if all rate filings submitted within the 12 months, in combination, do not result in a statewide rate change of plus or minus 6% for all products included in the filing.

Under the act, an insurer can apply a rate increase within the 6% band only on or after a policy renewal and after notifying the insured. (The notification specifies the effective date of the increase.)

Rate filings requesting to increase or decrease rates by more than 6% must follow existing rate filing requirements (i.e., insurers must receive approval from the Insurance Department before using such new rates).

The act specifies that any filings made pursuant to the 6% band requirements are deemed to comply with the existing rating laws, except that the commissioner is authorized to determine whether they are inadequate or unfairly discriminatory.

The act requires the commissioner to order the insurer to stop using a rate change within the 6% band on a specified future date if she determines it is inadequate or unfairly discriminatory. The order must be in writing and detail why the rate is inadequate or unfairly discriminatory. If the order is issued more than 30 days after the filing is submitted to the department, it applies prospectively only and does not affect any contract issued before the order's effective date.

UNINSURED AND UNDERINSURED MOTORIST BENEFITS

The act requires a person, when making a claim to his automobile insurance company for uninsured or underinsured motorist benefits, to make reasonable efforts to determine what liability coverage exists for both the owner and operator of the alleged uninsured or underinsured vehicle. For a motor vehicle accident occurring after September 30, 2006, it prohibits an insurance company from requiring a claimant, in order to be eligible for a benefit payment, to provide affidavits or written statements from the owner or operator regarding their uninsured or underinsured status at the time of the accident.

The act specifies that it does not “relieve any person seeking to secure any coverage under an automobile insurance policy of any duty or obligation imposed by contract or law.” (It is unclear what this provision means. It could mean that a person looking to purchase automobile insurance still must meet any contractual or legal duty. However, if he has not yet purchased coverage, it is not clear what contract or law he looks to for any duty or obligation owed. Alternatively, the provision could mean that a person seeking to use the coverage he has under an existing policy must look to the applicable contract and law for any imposed duty or obligation, in which case the contractual terms would supersede the bill; thus, an insurer could require, as a matter of contract, that an insured obtain written statements or affidavits from the owner and the operator of an alleged uninsured or underinsured vehicle regarding their insurance policies, if any.)

Public Act# 06-145

SB# 378

AN ACT CONCERNING TAX CREDITS FOR DONATIONS OF COMPUTER EQUIPMENT TO NONPUBLIC SCHOOLS

EFFECTIVE DATE: July 1, 2006 and applicable to income years starting on or after January 1, 2006

SUMMARY: This act extends an existing business tax credit for businesses that donate new or used computers to public schools to cover computer donations to private schools. By law, the maximum

credit is 50% of the computer's fair market value when donated. Used computers may be no more than two years old. The credit applies against the corporation tax and the insurance premium, air carrier, railroad company, cable and satellite TV, and utility company taxes.

Public Act# 06-166

HB# 5493

AN ACT ESTABLISHING A PILOT MICROLOAN PROGRAM FOR MICROENTERPRISES

EFFECTIVE DATE: July 1, 2006

SUMMARY: This act establishes a pilot program to help new and existing very small businesses (i.e., microenterprises) grow and develop. It does this by requiring the economic and community development commissioner to make a grant to the nonprofit Community Economic Development Fund (CEDF), which must disperse the grant funds to other organizations (i.e., microloan generating organizations). These organizations must help microenterprises prepare business plans, complete loan applications, and obtain financial and technical assistance from public and private sources. The commissioner must report to the Commerce Committee by June 30, 2007 on the program's status and accomplishments.

ELIGIBILITY

Microloan Generating Organizations

Under the act, CEDF must allocate the grant funds to microloan generating organizations. In doing so, CEDF must consider:

1. where an organization receives its operating funds and whether they are sufficient to implement the pilot program,
2. the organization's ability to provide the services the act requires, and
3. the extent to which the organization has helped businesses secure loans and other economic assistance from programs similar to the pilot program.

Assistance

Microloan generating organizations must help microenterprises obtain business loans (i. e. , microloan applicants). In doing so, they must use the grant funds to:

1. identify appropriate microloan applicants throughout the state;
2. evaluate the need for the product or service in the community where the applicant does business or proposes to do business;
3. evaluate the extent to which the community supports that business;

4. work with other public and private organizations, including CEDF, to help the applicant prepare and complete its business plan;
5. help prospective applicants identify and access technical and financial assistance from other organizations;
6. track the services provided to clients and measure the results;
7. promote microenterprises; and
8. coordinate the way other organizations deliver services to microenterprises.

Eligible Businesses

Microloan generating organizations may use the grants to assist only microenterprises, which are new or existing businesses employing 10 or fewer people and grossing less than \$500,000 a year. These enterprises include those based in homes and those operated by the owner.

BACKGROUND

CEDF

Established by law in 1993, CEDF helps economically distressed neighborhoods develop businesses and create jobs. It does this by making and guaranteeing loans to small businesses, including microenterprises.

Public Act# 06-172

HB# 5797

AN ACT CONCERNING DIGITAL MEDIA AND MOTION PICTURE DEVELOPMENT IN THE STATE

EFFECTIVE DATE: October 1, 2006

SUMMARY: The act requires the Connecticut Commission on Culture and Tourism (CCCT) to implement new state film and digital media tax credits. It broadens CCCT's charge to include promoting movie and digital media production and post-production in the state, rather than just film locations, and expands the commission's existing film responsibilities to all types of digital media. It requires CCCT to report to the General Assembly every two years on its digital media and movie production promotion activities, the economic impact of all productions, and the impact of each state-assisted production.

The act adds six new CCCT members, all of whom must have digital media or movie production experience. The six new members are appointed by legislative leaders. It also requires one of the governor's appointees to the CCCT, who was formerly required to know about, have experience in, or be interested in film, to instead have direct experience in digital media or movie production.

Finally, the act exempts the CCCT's director of digital media and motion picture activities from the state classified service and requires state agencies and institutions that contract for media productions to send copies of their requests for proposals to CCCT.

Sections 1-3 - CCCT ADDITIONAL DUTIES

The act requires CCCT to implement the state film and digital media tax credits. It eliminates its responsibility to develop criteria for the Department of Economic and Community Development, the Connecticut Development Authority, Connecticut Innovations, Inc. , and other state agencies to use in awarding financial assistance for producing films and other media products in the state.

The act requires CCCT, by January 15, 2008 and every two years thereafter, to report to the General Assembly on its movie and digital media promotion activities and the estimated direct and indirect economic impact of all production activities in the state. The report must also analyze the state impact of each “qualified production,” which is a production that qualifies for tax credits.

The act broadens CCCT's charge to include promoting Connecticut as a place for producing movies and digital media instead of just for filming movies. It expands the CCCT's film-related responsibilities to cover digital media and motion pictures and requires it to:

1. promote use of Connecticut structures as well as locations, facilities, and services for post-production, as well as production, of media products;
2. help digital media and movie producers to secure state and local permits for all their activities, not just for location activities;
3. expand its resource library of sites appropriate for filming and taping to cover sites for all types of media production;
4. expand its production manual of available film, video, and media production facilities and services in Connecticut to include digital media;
5. formulate and propose guidelines for state agencies for a one-stop permitting process for using state facilities for production activities, instead of for standardized state agency permits that were “as close as possible” to a one-stop process;
6. recommend model municipal forms as well as ordinances to assist media production activities; and
7. add an explanation of the tax credits for movie and digital media production to its explanatory guide for producers.

Section 2 - ADDITIONAL CCCT MEMBERS

The act adds six commissioners to the CCCT, increasing its total membership from 29 to 35. The six new members must be appointed by the legislative leaders and all must have experience in digital media or movie production. The act increases the number of the House speaker's, Senate president

pro tempore's, and House and Senate minority leaders' appointments from three to four each and the House and Senate majority leaders' appointments from two to three each. It also requires one of the governor's eight appointees to have direct experience in movie or digital media production, instead of knowledge of, or experience or an interest in, films.

Section 4 - DIRECTOR FOR DIGITAL MEDIA AND MOTION PICTURE ACTIVITIES

The act exempts the CCCT's director for digital media and motion picture activities from the state classified service, but does not establish any alternative method for employing the person.

Section 5 - STATE AGENCY PRODUCTIONS

The act requires any state agency or institution that issues a request for proposals for film, media, or related production activity to send a copy to the CCCT. The CCCT must notify state agency executive heads of the requirement.

BACKGROUND

Related Acts

PA 06-83 establishes corporation tax credits for producing films and digital media in Connecticut and defines the types of productions and production expenses that qualify for a credit.

PA 06-186 substantially revises the movie and digital media production tax credits, including the credit amounts and definitions of qualified productions and eligible expenses.

Both **PA 06-186** and **PA 06-187** require the CCCT instead of the Department of Revenue Services to adopt regulations to administer the movie and digital media production credits.

Public Act# 06-61

SB# 287

AN ACT CONCERNING REVISIONS TO THE DRY CLEANING REMEDIATION ACCOUNT PROVISIONS

EFFECTIVE DATE: Upon passage

SUMMARY: This act makes several changes to the Dry Cleaning Remediation Fund program.

By law, program applicants may apply to the Department of Economic and Community Development (DECD) for grants from the dry cleaning establishment remediation account to mitigate pollution from dry cleaning chemicals. The act allows, instead of requires, the DECD commissioner to provide grants and specifies that applicants must be "eligible."

Under prior law, to receive a grant, an applicant had to provide DECD with documentation that the remediation services for which he was seeking payment had been completed. Under the act, an eligible applicant must show the services have been or will be completed.

The act allows applicants to receive grants of up to \$300,000 per eligible dry cleaning establishment, instead of capping at \$300,000 the total amount an applicant may receive per year.

It also makes minor, conforming, and technical changes.

GRANT APPLICANTS

For the purposes of the remediation program, the law defines an “eligible dry cleaning establishment” as any business that (1) cleans clothes or other fabrics using tetrachlorethylene, Stoddard solvent, or other chemicals or (2) accepts clothing or other fabrics to be cleaned by another establishment using such chemicals. The act defines an “eligible applicant” as a (1) business owner or operator of an eligible dry cleaning establishment or (2) property owner that owns property an eligible dry cleaning establishment occupies.

Under prior law, to qualify for a grant an applicant had to demonstrate to the DECD commissioner's satisfaction that:

1. the dry cleaning establishment was using, or had previously used, tetrachlorethylene, Stoddard solvent, or other chemicals for cleaning clothes or other fabrics;
2. he had been doing business and had maintained the business' principal office and place of business at the site for at least one year before the application submission or approval date; and
3. he was up to date on all state and local taxes.

The act eliminates the requirement that the applicant maintained his principal office and place of business at the site. The act specifies that eligible dry cleaning establishments, in addition to eligible applicants, must be up to date on all required tax payments to qualify, including the dry cleaning tax imposed to fund the program. Under prior law, a dry cleaning establishment and the applicant had to be been in business at the site for at least one year to be eligible. The act eliminates the requirement for the applicant.

Prior law allowed DECD to use funds from the dry cleaning establishment remediation account, which funds the remediation program, for owners or operators of dry cleaning establishments or owners of property where such facilities exist when (1) the facility was in operation for at least a year before application approval and (2) a facility existed on the site at the time funds were released. The act eliminates this latter requirement.

ANNUAL REPORT

By law, the DECD commissioner must report annually on the account and grant program to the Environment Committee. The act requires him to do so on or after February 1, 2007, as part of DECD's consolidated report established under PA 05-191, instead of as a separate report.

BACKGROUND

Dry Cleaning Establishment Remediation Account

The legislature created the account (PA 94-4, May Special Session) to provide grants to owners and operators of dry cleaning businesses for the containment and clean-up of pollution resulting from the discharge of chemicals or hazardous waste from their sites. The account is funded through a 1% surcharge on dry cleaning gross receipts.

Public Act#06-76

SB#285

AN ACT CONCERNING PERSONAL WATERCRAFT AND CHILDREN, REVISIONS TO ENVIRONMENTAL PROTECTION STATUTES, LAKE PATROLMEN AND THE APPOINTMENT OF SPECIAL CONSERVATION OFFICERS

EFFECTIVE DATE: October 1, 2006, except for the (1) penalties for violating the mercury reduction laws, which take effect October 1, 2007, and (2) provisions concerning special conservation officers, which take effect upon passage.

SUMMARY: This act makes a number of changes in the Hazardous Waste Transfer Act and other environmental laws, including laws affecting solid waste facility permitting; the sale, labeling, and collection of mercury and mercury-containing products; and toxics in packaging.

Specifically, it:

1. exempts from the Transfer Act, which regulates conveyances of businesses that handle hazardous waste, (a) certain properties or businesses that deal solely with universal waste (e. g. , batteries and pesticides) and (b) transfers of condominiums and similar residential communities that meet certain conditions;
2. in certain instances, allows sale or transfer of a remediated portion of land subject to the Transfer Act before the entire site is cleaned up, if notice of the sale or transfer is provided to the Department of Environmental Protection (DEP) commissioner within 30 days; and
3. authorizes the DEP to issue general permits for certain industrial wastewater discharges.

Sections 11-15 THE HAZARDOUS WASTE TRANSFER ACT

Sections 11 & 14 UNIVERSAL WASTE EXEMPTION

The Transfer Act governs the sale or other conveyance of certain property where hazardous waste was generated, used or stored. It requires such property to be investigated and pollution properly remediated. It also regulates “establishments,” which include certain businesses, and property where (1) more than 100 kilograms (220 pounds) of hazardous waste was generated in a calendar month or

(2) hazardous waste was recycled, reclaimed, reused, stored, handled, treated, transported, or disposed of.

This act exempts from the Transfer Act, under certain conditions, real property or business operations that (1) generate more than 100 kilograms of universal waste in a calendar month; (2) store, handle, or transport universal waste generated elsewhere; or (3) undertake activities at a universal waste transfer facility. Under the act, universal waste includes batteries, pesticides, thermostats, lamps, and used electronics as defined by state regulation and federal law. Universal waste transfer facilities are any facilities related to transportation, including loading docks, and parking and storage areas where universal waste shipments are held in the normal course of transport for up to 10 days.

To be exempt, (1) this property or business must not generate, store, handle, or transport any hazardous waste other than universal waste or otherwise be subject to the Transfer Act; (2) there must not have been a discharge or spill of universal waste or a hazardous substance; and (3) the business or property must not recycle, treat, or dispose of universal waste, except as federal law allows for batteries and thermostats.

Sections 11 & 12 - Condominium Exemption

The act exempts from the Transfer Act the conveyance of units in condominiums, cooperatives, and other planned communities (“residential common interest communities”) that meet certain conditions. To be exempt, the declarant for the community of which the unit is a part must (1) be a certifying party for the purposes of remediating an establishment within the community and (2) provide the commissioner a surety bond or other form of financial assurance she finds acceptable. (A declarant, typically a project developer, creates and records the documents for a common interest community.)

The surety bond or other form of financial assurance must (1) identify both the DEP and unit owners association as beneficiaries, (2) be in an amount and form the commissioner approves, and (3) be sufficient, at all times when the property comprising the common interest community is an establishment, to remediate the subject property. The amount of the bond or other form of financial assurance may be reduced as remediation work progresses. It may exclude costs of (1) improvement not related to remediation, and (2) remediation (a) already completed and (b) on parcels that may be added to the community through the exercise of development rights.

To be exempt from the act, the seller of a unit in a residential common interest community that qualifies as an establishment also must provide the buyer with notice that summarizes (1) the community's environmental condition, (2) investigation or remediation activities, and (3) environmental land use restrictions. The notice requirement applies to all conveyances, including those exempt from public offering statement or resale certificate requirements.

Sections 13 & 15 - TRANSFER ACT FORMS AND REMEDIATING AND TRANSFERRING A PORTION OF AN ESTABLISHMENT

The law requires anyone transferring an establishment to complete one or more of four different forms, depending on the presence of hazardous waste or hazardous substances, and the status of investigations and remediation.

Generally speaking, a transferor files a Form I if: (1) there has not been a release of a hazardous waste or a hazardous substance or (2) a hazardous substance spill has been properly cleaned up, and the remediation is (a) approved in writing by the DEP commissioner, or (b) verified by a licensed environmental professional (LEP).

A transferor files a Form II when, among other things, a hazardous waste or hazardous substance spill has taken place, cleanup has been completed and either the DEP commissioner has approved the cleanup in writing or an LEP has verified in writing that it has been properly performed.

By law, a certifying party files a Form III when (1) a hazardous waste or hazardous substance leak has occurred, but has not been fully remediated, or (2) he does not know the environmental conditions at the establishment. The certifying party agrees to properly investigate and remediate the parcel. A certifying party files a Form IV when there has been a leak, and all remediation actions have been completed except for post-remediation monitoring or the recording of an environmental land use restriction.

Section 13 - Changes in Forms I and II

The act requires, for a Form I, that an LEP's verification be in writing. It requires, for both a Form I and a Form II, that the transferor certify that there has not been a leak of a hazardous waste or hazardous substance at any portion of the establishment since the commissioner's determination or the LEP's verification that the establishment, or any portion of it, was properly remediated.

Section 15 - Certifying Parties and Forms III and IV

By law, a certifying party is, in the case of a Form III or Form IV, a person associated with the transfer of an establishment who agrees to investigate a parcel (a tract of land that is an establishment or where there is a business that is an establishment) according to prevailing standards, and to properly remediate pollution. The commissioner may (1) review and approve the remediation or (2) accept an LEP's verification that the remediation has been properly performed.

Under prior law, if the commissioner informs a certifying party that an LEP may verify the remediation, the certifying party must submit a schedule for investigating and remediating the establishment. The act (1) specifies that this schedule is for investigating the parcel and remediating the establishment and (2) requires the certifying party to investigate and remediate the parcel according to the proposed schedule or a schedule the commissioner specifies.

Under prior law, the certifying party submitted to the commissioner an LEP's independent verification that the establishment has been properly remediated, and as applicable, a Form IV verification. The act instead requires the certifying party to submit to the commissioner a final LEP verification when the entire site has been remediated. Such a final verification may include and rely on an LEP's verification that a portion of the establishment had been previously remediated (see below).

Section 15 - Remediating and Transferring a Portion of an Establishment

The act allows the sale or transfer of a portion of an establishment before the entire establishment is remediated if certain conditions are met.

Under the act, a certifying party may satisfy his Form III or Form IV requirements by submitting an LEP verification for any portion of an establishment for which the certifying party has completed remediation. If (1) a certifying party submits such a verification; (2) the balance of the establishment is not otherwise subject to the transfer act; and (3) the verified portion is transferred, conveyed, or changes ownership before the entire establishment is remediated, the certifying party must notify the commissioner of the transfer, conveyance, or change in ownership within 30 days of its occurrence.

In cases where the commissioner must review and approve a site investigation and remediation, the act allows a certifying party to ask the commissioner to find that the certifying party has properly cleaned up a portion of the establishment according to plans and schedules the commissioner has approved. It authorizes the commissioner, when determining whether the entire site has been properly remediated, to rely on her prior finding. As with LEP verification, above, a remediated portion of an establishment can be sold or transferred before the entire establishment is remediated if the establishment is not otherwise subject to the Transfer Act and the certifying party notifies the commissioner within 30 days of the sale or transfer of the remediated portion.

Public Act#06-184

HB# 5685

AN ACT CONCERNING BROWNFIELDS

EFFECTIVE DATE: July 1, 2006 except for the provisions (1) affecting the Transfer Act exemptions and Urban and Industrial Sites Reinvestment Program, which take effect upon passage, and (2) extending clean-up funds to the owners of existing facilities, which take effect October 1, 2006.

SUMMARY: The act establishes an office to help towns identify, clean up, and redevelop environmentally contaminated sites (i.e., brownfields) by implementing the pilot program the act creates. It places the office within the Department of Economic and Community Development (DECD) for administrative purposes. It also creates a task force to develop long-term solutions for cleaning up and redeveloping brownfields.

The act provides various regulatory and financial incentives for parties that clean up contaminated properties. It sets conditions exempting them from the Transfer Act and protects them from liability if they acquire a contaminated site from a town or an economic development agency and clean it up according to Department of Environmental Protection (DEP) standards. The act also sets conditions under which the owners of existing manufacturing facilities qualify for funds to clean up contaminated properties.

DECD and DEP must administer the act's provisions within available funds and may use funds allocated to other programs for the act's purposes. These include the funds allocated to the Urban Act and Special Contaminated Property Remediation programs. The act also allows the agencies to use

Urban and Industrial Sites Reinvestment Program funds, but this program provides only corporate tax credits to businesses that develop property.

The act extends these credits to businesses redeveloping uncontaminated sites in more towns if the project meets the narrow criteria the act establishes.

BROWNFIELD INITIATIVES

Sections 1, 5, 6, 12 - Office of Brownfield Remediation and Development

This office must expedite the process for identifying, cleaning up, and redeveloping contaminated properties. It must do this by:

1. developing procedures and policies for streamlining the clean-up process;
2. identifying funding sources and creating new ones for cleaning up brownfields and developing ways to expedite the process through which towns and economic development agencies can obtain these funds;
3. establishing a place where towns and economic development agencies can make it easier to comply with federal and state clean-up standards and qualify for state funds;
4. identifying and ranking opportunities for cleaning up and redeveloping brownfields;
5. analyzing how New Jersey, Pennsylvania, and other states encourage parties to clean up brownfields and address the potential liability for doing so; and
6. educating property owners and developers about state policies and procedures for cleaning up brownfields.

The act allows the office to obtain help from state agencies and other organizations. DEP and the Connecticut Development Authority (CDA) must designate a member of their respective staffs to serve as a liaison to the office. The office can ask other state agencies for reports, information, and technical assistance it needs to carry out its duties, and the act directs the employees of these agencies to cooperate with the office.

The act also requires the office to develop and recruit two volunteers from the private sector to help it carry out its duties. One must be a representative of the Connecticut Chapter of the National Brownfield Association experienced in cleaning up and redeveloping contaminated properties. The DEP and CDA liaisons and the private-sector volunteers must help the office achieve its goals and serve as its response team.

The act creates a source to fund the office. It entitles the office to 80% of the proceeds from the sale of any property towns or their development agencies cleaned up. (As discussed below, the act protects parties from liability when they acquire property from a town and clean it up according to DEP's standards.) The office must deposit the proceeds in the General Fund account. The towns or

the development agencies keep the remaining 20%, which they may use for capital improvements for economic development.

The act establishes a separate, nonlapsing General Fund account in which the office can deposit any funds it receives. Any investment earnings the account generates must be credited to the account and any year-end balances must be carried forward to the next fiscal year. The office can use the fund to clean up and restore contaminated sites under the pilot program.

The office must consider two factors before it can award funds for cleaning up a site: (1) the remediated site's potential for economic development and (2) the extent to which the redeveloped site will contribute to the town's tax base.

Sections 1,2,4,7 - Pilot Program

The office must establish a pilot program to identify opportunities for cleaning up and redeveloping contaminated properties. It must designate four towns where contaminated properties hinder economic development and fund projects that could significantly benefit them. One town must have between 25,000 and 50,000 people, one between 50,000 and 100,000 people, and two more than 100,000 people.

DEP must give priority review status to the sites the pilot program identifies. A developer who acquires these sites must investigate and clean them up according to DEP's regulatory standards. DEP must supervise the clean-up or allow the developer to do it himself under a voluntary remediation agreement. In either case, DEP must find that the clean-up was fully implemented if it receives a report from a licensed environmental professional verifying that this action occurred.

DEP must notify the town and its development agency within 90 days after receiving the report about the site's status and whether more clean up is needed. In doing so, the DEP commissioner may indicate that the clean up meets all of the regulatory standards and that no further work is necessary except monitoring the site and recording environmental land use restrictions.

The act designates towns and economic development agencies innocent parties and protects them from liability to DEP for clean-up costs. A town or agency receives these benefits if it received funds under the pilot program and did not cause, contribute to, or exacerbate the contamination and complies with DEP's reporting requirements for significant environmental hazards. The law protects innocent parties from liability for clean-up costs if the property was already contaminated when they acquired it or it subsequently became contaminated due to an act of God or the activities of certain third parties (CGS § 22a-452d).

The act bans parties that contaminated any properties from acquiring properties that were cleaned up under the pilot program. This ban applies to anyone who (1) is liable or responsible for contaminating soil and water, (2) is related or affiliated with a party that caused the contamination, (3) owned or leased the land, or (4) operated on it. Parties that seek to acquire a property that was cleaned up under the pilot program must reimburse the state, the town, and its development agency for the clean up costs plus 18% interest.

The act requires DECD to describe the office's activities in its annual report to the legislature. In doing so, DECD must track the funds that were allocated or passed through the office.

Section 3 - Transfer Act Exemptions

The act exempts towns from the Transfer Act when they acquire a tax delinquent property that they intend to sell for back taxes (i. e. , tax warrant sale). The Transfer Act allows a potentially contaminated property to be sold only after the owner indicates its environmental condition and, if the property is contaminated, a party agrees to clean it up. The law already exempted them from the act when they foreclosed on the property's tax lien.

The act also exempts towns from the Transfer Act when they convey property they acquired through a tax warrant sale or foreclosure of tax lien and cleaned up under the pilot program.

Section 6 - Protections from Liability

The act protects parties from liability when they acquire property that a town or its development agency cleaned up according to DEP standards. The protection applies to orders the DEP commissioner may issue regarding sources of water and ground pollution and the cost of investigating and remediating contaminated property. The party enjoys the protection only if DEP approved the clean-up and the party did not contaminate the property or is not related or affiliated with the party that did.

In addition, DEP must provide the party a covenant not to sue without charging the statutory fee, which is equal to 3% of the property's value. The covenant is an agreement between DEP and the party that protects the party from liability to the state for any contamination that occurred before the covenant was signed.

Section 9 - Remediation Assistance for Current Owners of Contaminated Properties

The act sets conditions under which owners of manufacturing facilities qualify for state clean-up funds. An owner qualifies if DEP designated his facility as a site where actual or potential hazardous substances, pollutants, or contaminants complicates efforts to expand, redevelop, or reuse it (i. e. , the federal definition of brownfield). In addition, the owner must either show that he (1) did not cause hazardous substances or petroleum to be released on the property or (2) did not knowingly cause injury to human health or the environment by disposing of the substances or petroleum and he was never found guilty of knowingly or willfully violating environmental law.

In deciding whether to fund the clean-up, the funding source must consider whether the owner can pay some or all of the clean up cost. It must give preference to those owners who can cover only some of the costs. The funding source may require the owner to:

1. keep the property for up to 10 years,
2. reimburse the state if the owner gets clean-up funds from another source, and
3. continue to employ state residents for at least 10 years.

Section 11 - Brownfields Task Force

The act establishes a nine-member task force to develop long-term solutions for cleaning up brownfields. The task force consists of a DEP representative appointed by the commissioner and two members appointed by the governor. Each of the top six legislative leaders also appoints a member. All of the members must have expertise in environmental law, engineering, finance, development, consulting, insurance, or in other relevant areas. Members may include legislators. And at least one member must be an employee. All of the members must be appointed by July 31, 2006. Any vacancy must be filled by the appointing authority.

The House speaker and the Senate president pro tempore must select the chairpersons from among the task force members. The task force must hold its first meeting by August 31.

The task force must report its findings and recommendations to the Environment and Commerce committees by January 1, 2007. The task force terminates on the date it submits its report or January 1, 2007, whichever is later.

Section 10 - URBAN AND INDUSTRIAL SITES REINVESTMENT PROGRAM

The act narrowly expands the conditions under which projects developing clean, uncontaminated sites qualify for urban and industrial sites reinvestment tax credits. By law a project located in 31 designated towns qualifies for credits regardless of the site's condition. These are the state designated distressed municipalities and targeted investment communities and the five cities with populations of more than 100,000 people. A project located in the other towns qualified for credits under prior law only if it developed or redeveloped a contaminated property.

The act exempts a project from this rule if (1) the DECD commissioner determines that it is connected to an operation relocating from another state or (2) it involves the expansion of an existing facility requiring a minimum \$50 million investment.

This investment threshold is higher than the ones the law sets for other projects. A business that invests directly in a project qualifies for tax credits if it invests at least \$5 million. But that threshold drops to \$2 million if the project seeks to preserve or redevelop a historic property. A business that invests in a project through a state registered fund manager can invest any amount as long as the fund's total asset value is at least \$60 million in the year the business claims the credit.

(PA 06-187 makes the same changes to the Urban and Industrial Site Reinvestment Program.)

Public Act#06-7

SB#336

AN ACT CONCERNING RENTAL ASSISTANCE FOR SUPPORTIVE HOUSING DEVELOPMENTS

EFFECTIVE DATE: Upon passage

SUMMARY: This act allows the Department of Social Services (DSS) commissioner to designate a portion of DSS's Rental Assistance Program (RAP) rental assistance, rather than rental assistance

certificates, for tenant- and project-based supportive housing units. Eliminating references to “certificates” from the RAP supportive housing component makes it clear that DSS does not have to use certificates for project-based supportive housing rental assistance under RAP. Tenant-based rental assistance takes the form of certificates that go to individuals who secure private housing; but project-based assistance goes to property owners participating in government-sponsored housing development programs.

BACKGROUND

DSS RAP Program

The state-funded RAP program helps families with incomes up to 50% of the area median income afford private rental housing. People apply through their local public housing authority (PHA). Families pay 40% of their monthly income for rent and utilities, but elderly and disabled families pay 30%.

Supportive Housing Projects

PA 05-280 (§§ 32-34) requires the Department of Mental Health and Addiction Services commissioner to provide for up to 500 units of affordable, supportive housing for people with mental illness. These units are the second phase of the Supportive Housing Initiative. The first phase was instituted in 2001 to create 650 units. The initiative is funded through mortgages, tax credits, and grants from the Connecticut Housing Finance Authority and the Department of Economic and Community Development; DSS RAP rent subsidies; and various state grants for support services.

Public Act# 06-47

SB# 437

AN ACT INCREASING THE CONNECTICUT HOUSING FINANCE AUTHORITY’S UNINSURED PERMANENT MORTGAGE CAP

EFFECTIVE DATE: October 1, 2006

SUMMARY: This act increases, from \$750 million to \$1 billion, the maximum amount of uninsured mortgages and mortgage interests that the Connecticut Housing Finance Authority (CHFA) may, at any one time, use as security for direct loans or buy, sell, or service.

CHFA is a quasi-public agency that provides financing for developers of low- and moderate-income housing projects and low- and moderate-income first-time home buyers. Uninsured mortgages are those not directly or indirectly guaranteed or insured by any public agency or by any mortgage insurance company licensed to do business in Connecticut.

AN ACT CONCERNING HOUSING PRESERVATION

EFFECTIVE DATE: July 1, 2006

SUMMARY: By law, the owners of federally subsidized multifamily housing projects must notify tenants and other parties at least one year before they prepay the project's mortgage; prepayment could remove the restrictions that make the project affordable to low- and moderate-income people. Owners must comply with this requirement if their projects received subsidies under one or more of several specified federal programs.

This act subjects more projects to the one-year notification requirement and adds to the types of events that trigger it. It also requires 90-day notice in certain cases and makes minor related changes.

NOTIFICATION REQUIREMENT

The law, unchanged by the act, ties the notification requirement to (1) the federal program under which a project was subsidized and (2) a specified event that could remove federal restrictions that make the project affordable to low- and moderate-income people. Prior law limited (1) the programs to those that insure mortgages for developing low- and moderate-income rental housing, and (2) the event to an owner's decision to prepay the mortgage.

In these cases, the owner had to give written notice to the project's tenants, the chief executive officer of the town where the project was located, and the economic and community development commissioner at least one year before prepaying the mortgage.

The act expands the range of federal programs and events under which the owner must notify these parties. It keeps the minimum one-year written notice requirement but requires the owner to give these parties at least 90-days written notice if the project:

1. was not subject to the prior law's notice requirement before July 1, 2006 and
2. has less than one year left before an event ends or reduces the federal subsidy or requirements that make the project affordable to low- and moderate-income people.

By law, the notice requirements do not affect the owner's ability to prepay a mortgage, limit his contractual rights, or interfere with any existing contract. The act extends this assurance to programs and events it subjects to that requirement.

FEDERAL PROJECTS AFFECTED

Prior law required an owner to give notice if the project's mortgage was guaranteed under any of the following programs:

1. Below Market Interest Rate Program (12 USC § 1715l);
2. rental and cooperative housing for lower-income families (12 USC 1715z-1); and
3. housing and related facilities for elderly, handicapped, low- and moderate-income people and families, or other low-income people and families in rural areas (42 USC § 1485).

The act extends the notice requirement to owners whose projects are subsidized under any of the following programs:

1. project-based subsidies under Section 8 of the 1937 U. S. Housing Act (42 USC § 1437f *et seq.*),
2. supportive housing for the elderly (12 USC § 1701q),
3. rent supplement programs for qualified lower-income families (12 USC § 1701s),
4. rural rental assistance payments (42 USC 1490a),
5. Low Income Housing Tax Credit Program (26 USC § 42), and
6. Supportive Housing for Persons with Disabilities (42 USC 8013).

EVENTS REQUIRING NOTIFICATION

Prior law required an owner to give at least one year's notice only before prepaying a federally subsidized mortgage. Under the act, he must also give notice before any of the following events if they will end or reduce the federal restrictions that make units affordable to low- and moderate-income people:

1. the owner decides to sell or lease the project or transfer its title,
2. the owner plans or proposes to end the federal subsidy,
3. the owner plans to prepay a contract,
4. the subsidy expires or the federal agency running the program plans or proposes to end the subsidy,
or
5. the mortgage matures.

POSTING AND DISSEMINATING THE NOTICE

The act requires the economic and community development commissioner to post the one-year or 90-day notice on the department's web site within 10 days after receiving it and send it electronically to anyone who requested to be notified in this manner. To receive the notice, a party must request it in writing and provide its current electronic mail address.

AN ACT CONCERNING TECHNICAL AMENDMENTS TO CERTAIN HOUSING STATUTES AND THE REPEAL OF OBSOLETE HOUSING STATUTES

EFFECTIVE DATE: October 1, 2006, except for the elimination of the requirement for window repair and replacement regulations, which is effective upon passage

SUMMARY: The act eliminates (1) two Department of Economic and Community Development (DECD) housing programs and (2) requirements that the DECD commissioner adopt regulations for two other programs.

Specifically, the act eliminates the Single Room Occupancy (SRO) Pilot Program and the Consolidated Housing Program. It also eliminates the requirements for the DECD commissioner to adopt regulations for (1) a demonstration program to repair and replace wooden windows in eligible two- to six-family buildings built before 1950 and (2) administrative oversight charges payable to the department.

The act adds affordable housing projects to the purposes for which DECD may use general obligation (GO) bonds. It also adds bond repayments for these housing projects to the funds that should be deposited in the Housing Repayment and Revolving Loan Fund, which conforms with DECD practice.

For a pilot program in Norwich's congregate housing facility, the act defines "frail elderly" as people who have temporary or periodic difficulties with one or more daily living essential activity, as determined by the DECD commissioner. Prior law referenced the same definition under the Consolidated Housing Program's provisions, which the act eliminates.

It makes minor, conforming, and technical changes.

SRO PILOT

The act repeals the law (CGS § 8-361) that requires the DECD commissioner to develop a pilot program to help nonprofit corporations acquire and rehabilitate abandoned property in municipalities with enterprise zones (i.e., targeted investment communities in 17 towns). Under prior law, the assistance had to be used to convert properties into SRO housing for homeless people. The assistance could take the form of grants, loans, or deferred loans to nonprofit housing corporations. A corporation had to begin paying all or part of the interest on a deferred loan immediately, but could delay principal repayment.

Prior law required the commissioner to adopt regulations to implement the program, including a method to calculate the minimum standard area rent. DECD never implemented the program or adopted regulations.

CONSOLIDATED HOUSING PROGRAM

The act repeals the statutory consolidated construction, acquisition, and rehabilitation program in DECD. Prior law specified who could participate in the program, the types of housing eligible for assistance, eligible costs, the types of assistance DECD could provide, funding procedures, the elimination of applications under certain programs once regulations were adopted for the consolidated program (the regulations were never implemented), and the terms and conditions DECD could impose on its funding (CGS §§ 8-430 *et seq.*).

The program covered housing authority rehabilitation and social services, moderate rental housing, elderly housing, low-income housing, limited equity cooperatives, homelessness, and transitional housing programs. (The consolidation program, proposed by the former Department of Housing and enacted in 1993, was never implemented and has been superseded by the FLEX program.)

BACKGROUND

FLEX Program (PA 01-7, June 30 Special Session)

The FLEX program (CGS § 8-37pp) is DECD's primary housing production program, which is funded from sale proceeds of the state's GO bonds. Its affordable housing goals are to (1) provide quality, affordable housing for Connecticut residents; (2) preserve existing affordable housing; (3) promote and support homeownership and mixed income developments; and (4) revitalize inner cities. Eligible applicants for the program include municipalities, nonprofit organizations, local housing authorities, and for-profit developers.

Eligible uses for the affordable housing funds are:

1. acquisition,
2. rehabilitation,
3. new construction,
4. demolition,
5. homeownership,
6. multi-family rental housing,
7. adaptive re-use of historic structures,
8. special needs housing,
9. redevelopment of vacant properties,

10. infrastructure improvements, and

11. housing for individuals or families with incomes up to 100% of area median income.

Public Act# 06-97

HB# 5707

AN ACT CONCERNING SUBDIVISIONS FOR AFFORDABLE HOUSING DEVELOPMENTS

EFFECTIVE DATE: October 1, 2006

SUMMARY: This act allows a municipality's legislative body to adopt an ordinance exempting from the municipality's subdivision regulations a landowner's first subdivision of land so long as the lot created is for affordable housing developed by the municipality or a nonprofit organization. (Subdivision regulations routinely impose requirements on developers for such things as streets, sewers, and open space.) The ordinance must provide that this exemption is in addition to any other exemption provided under the law governing subdivisions and may not be construed as exercising any right under any other exemption. The ordinance must also provide that any further subdivision of the lot created for affordable housing is subject to subdivision regulations.

By law, a "subdivision" is the division of a parcel into three or more lots. As a result, a property owner can divide one lot from his previously un-subdivided parcel without being subject to the subdivision regulations.

Public Act# 06-185

SB# 389

AN ACT AUTHORIZING MUNICIPALITIES TO ESTABLISH A SPECIAL ASSESSMENT ON BLIGHTED HOUSING, INCREASING THE FINES FOR VIOLATIONS OF MUNICIPAL ORDINANCES AND CONCERNING MUNICIPAL LIENS FOR ACCRUED FINES AND CODE VIOLATIONS

EFFECTIVE DATE: July 1, 2006 for the blight provisions, October 1, 2006 for the remaining provisions.

SUMMARY: This act allows municipalities that meet certain conditions to impose a special assessment on blighted housing and specifies the conditions under which they may do so. Any unpaid special assessment a municipality imposes is a lien on the real estate against which it was imposed, running from the date of the fine. The lien may be continued, recorded, enforced, and released like a property tax lien.

The act makes certain municipal housing and health related fines, expenses, charges, and penalties that remain unpaid for 60 days after they are due a lien on the violator's property if the municipality records a violation notice on its land records within 30 days after the fine, expense, service charge, and penalty are imposed. The lien takes precedence over subsequently recorded transfers and encumbrances. The act requires that a current record of all properties for which fines, expenses,

charges, and penalties remain unpaid be kept in the enforcing agency's office and available for public inspection.

It requires a municipality to notify a lienholder of any notice or order to a property owner under local or state law to dispose of the real estate or make it safe and sanitary. It also requires municipalities to make reasonable efforts to send a copy of the notice by first class mail to lienholders of the property at their current or last-known address. It allows a municipality to recover its costs in making a property sanitary in the same way it can recover its costs in making it safe or secure, including making these costs a lien on the property. It adds the municipality's costs of making a property safe, secure, or sanitary to the taxes due on the property.

The act increases fines that municipalities may impose for violations of local laws, but decreases the daily maximum fine that they may impose for housing code and tenement or lodging house safety and health code violations. It allows violations of certain local laws to be handled as infractions.

BLIGHTED HOUSING

Conditions Under Which Municipality May Impose Assessment

In order to impose a blight assessment (1) the municipality must have adopted housing blight regulations, as authorized by existing law, and (2) its legislative body must adopt an ordinance, upon the recommendation of its board of finance or equivalent body, authorizing the assessment on housing that is blighted, as defined in the regulations.

Contents of the Ordinance

The ordinance must at least include:

1. standards for determining if a special assessment should be imposed on a property;
2. the amount of the assessment, which must be reasonable and based on an analysis of the costs to the municipality for health, housing and safety code inspection and enforcement, including police and fire costs;
3. procedures for notifying the property owner of imposition of the special assessment, which must tell him (a) how long he has to remedy the violation of the code before the assessment goes into effect and (b) how he may appeal an assessment; and
4. the appointment of a board consisting of the finance director, tax assessor, and municipal code enforcement official to determine when the special assessment should be imposed on a specific property.

The legislative body must annually review the amount of the assessment and can revise this amount.

Steps the Municipality Must Take Before Implementing the Assessment

Before the legislative body can initially approve the plan for implementing the assessment, the municipality's executive authority must appoint a committee to study the issue. The committee must consist of (1) at least six taxpayers, one of whom must be a landlord; (2) the tax assessor; and (3) representatives of the municipality's zoning, health, housing, fire, and other safety code compliance agencies.

Within 60 days of its appointment, the committee must complete a study and investigation concerning the special assessment and report to the board of finance or equivalent body in the municipality. The report must at least include:

1. a statement describing the assessment's effect on municipal revenue;
2. an identification of properties that may be subject to the assessment;
3. the amount of property taxes the properties generate and the municipality's costs for code enforcement on such properties, including costs for police and fire personnel;
4. recommendations regarding the form and extent of any assessment; and
5. standards for imposing the assessment.

In establishing the standards, the committee must consider (1) the number of outstanding health, housing, and safety code violations for the property; (2) the number of times municipal health, housing, and safety personnel have had to inspect the property; and (3) the municipality's cost to enforce code compliance on the property.

After the legislative body initially approves the special assessment, it may vote to amend the plan, on the recommendation of its board of finance or equivalent body, without following these procedures.

A municipality must deposit any money it receives from a special assessment into a special fund or account. The fund or account must be dedicated for the municipality's expenses related to enforcing the blight regulations and state and local health, housing, and safety codes and regulations, including police expenses.

LIENS

Tenement, Lodging, or Boarding Houses

By law, when (1) any building or structure is dangerous or detrimental to life or health or (2) a tenement, lodging, or boarding house violates the law requiring houses to have adequate heat, the board of health or other enforcing agency may declare that it is a public nuisance. The board or enforcing agency may order the nuisance removed or otherwise remedied. If the owner does not comply with the order within five days after it is served, the board or agency can execute the order. Municipalities must collect the expense of executing such orders, including an amount up to 5% of the expense as a service charge and 10% of the expense as a penalty.

The act makes any expense of executing such an order, including the service charge and penalty, that is unpaid for 60 days after its due date a lien on the real estate against which the expense was imposed, so long as the municipality (1) records a violation notice on its land records within 30 days after the fine, expense, service charge, and penalty are imposed and (2) indexes it in the property owner's name. The lien takes precedence over subsequently recorded transfers and encumbrances.

The notice of violation is effective from the time it is recorded on the land records. The lien may be foreclosed like a mortgage and may be discharged or dissolved like a mechanic's lien.

Housing Codes and Health and Safety Standards in Tenement and Boarding Houses

By law, any enforcing agency may issue a notice of violation to anyone who violates any provision of state law regarding health and safety standards in tenement and boarding houses or a provision of a local housing code. The notice must specify each violation and specify the last day by which it must be corrected. Anyone who fails to correct a violation before this date is subject to a cumulative civil penalty of \$5 a day for each violation from the date set for correction in the violation notice to the date it is corrected.

The act makes any such penalty remaining unpaid for 60 days after its due date a lien on the real property against which the penalty was imposed, subject to the provisions described above.

RECOVERY OF COSTS OF MAKING BUILDINGS SAFE, SECURE, AND SANITARY

The act allows a municipality to recover its costs in making a property sanitary in the same way it can recover its costs in making it safe or secure. By law, municipalities that incur costs for inspecting, repairing, demolishing, removing, or otherwise disposing of real estate in order to secure it or make it safe can recover their expenses against the property's owner. The owner's interest in the property is subject to a lien, which takes priority over other encumbrances, other than municipal taxes. The owner's interest in any insurance proceeds on the property is also subject to the municipality's lien. These provisions do not apply to one and two-family homes.

The act extends these provisions to the municipality's costs in making in making a property sanitary. It specifies that the existing and new provisions apply to costs the municipality incurs under any provision of the statutes or any municipal building, health, housing, or safety codes or regulations.

Additionally, the act allows the municipality's costs in making a property safe, secure, or sanitary under state or local law to be assessed against the property for which the costs were incurred if the municipality does not file a lien on the property. Upon certification by the municipal agency incurring these costs that are reasonably related to the municipality's actual cost, the tax collector must add the unpaid costs to the taxes due on the property and the added amount becomes a part of the taxes to be collected at the same time, in the same way, and at the same interest rate as delinquent taxes. The added amount is a lien on the property from the date such amount was due. The lien may be continued, recorded, released, and enforced in the same way as a property tax lien. The act requires a municipality to make reasonable efforts to mail a copy of the lien certificate to existing lienholders by first class mail to their current or last-known addresses.

FINES

The act increases, from \$100 to \$250, the maximum penalty municipalities may prescribe for violations of regulations and ordinances they adopt in furtherance of the general powers conferred on them by state law.

The act decreases, from \$500 to \$100, the daily maximum penalty for violations of housing codes and health and safety standards in tenement and boarding houses.

TREATING VIOLATIONS OF LOCAL LAWS AS INFRACTIONS

The act authorizes violations of local laws for which the penalty is between \$90 and \$250 to be handled as an infraction, except (1) violations of health and building codes and (2) other violations if the municipality has established a payment and hearing procedure as authorized by law. Thus, an accused violator does not have to appear in court if he pays his fine and any applicable additional fees or costs by mail. The payment is considered a no contest plea and is inadmissible in any civil or criminal proceeding to establish his conduct.

BACKGROUND

Tenement, Lodging, and Boarding House

A “tenement house” means any house or building, or portion of it, rented to be occupied, or arranged or designed to be occupied, or occupied, as the home or residence of three or more families, living independently, and doing their cooking upon the premises, and having a common right in the halls, stairways, or yards. A “lodging house” or “boarding house” means any house or building or portion of it, in which six or more people stay, or any building or part of it, used as a sleeping place or lodging for six or more persons not members of the family living there (CGS § 47a-50(1)).