

# CONNECTICUT GENERAL ASSEMBLY

## BUSINESS-RELATED LEGISLATION

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### Introduction

Connecticut's business community faced many challenges in the 2011 legislative session. Most significant of these was the new two-year state spending and tax package, which the administration and lawmakers continued to deal with in a Special Session after a proposed state employee wage and benefits concessions package failed.

This year, while legislators passed some harmful measures, many others were stopped. What's more, lawmakers approved several proposals that will begin to generate economic development in Connecticut. And the Governor will call lawmakers back into session this fall to focus on job creation.

CBIA is grateful for the participation and support of its members, as well as of our friends in other associations and groups. The business community was very active in the debates on many key issues and in fact made a significant difference in the ultimate outcomes of legislation both approved and rejected.

We continue to look forward to working with the administration and leaders in both parties to help shape an agenda that will address business concerns and get Connecticut back on track.

In subsequent emails and other communications, we will provide updates on legislative and regulatory activities this summer. Please also look for news on our website, [cbia.com](http://cbia.com).

### State Spending: Budget Changes as Concessions Fail

The new state budget (**Public Act 11-6** and subsequent budget-implementing bills) approved by lawmakers in May included significant increases in taxes, an increase in spending, and several reforms. It also hit a major snag: about \$1.6 billion in savings counted on from proposed state employee wage and benefit concessions failed to win unions' approval.

To address the failed concessions attempt, lawmakers were called in for a special

session on June 30 to work on plugging the gap. During the session, legislators passed legislation to give the Governor, for a limited time, expanded rescission-making authority; it also reduced appropriations for all three branches of government which is expected to be accomplished by reductions in staff.

Under the budget lawmakers approved, state spending will increase by \$857.4 million in the first year of the new biennium

*Continued on Page 5*

### Index

▶ State Spending	1
▶ State Taxes	1
▶ Business Law & Liability	7
▶ Economic Development	8
▶ Education	10
▶ Energy & Environment	12
▶ Government Admin. & Elections	13
▶ Healthcare	14
▶ Labor	15
▶ Transportation	17

### State Taxes: Big Increases, Significant Changes

At the start of the session, policymakers faced the tall task of closing a budget deficit of more than \$3 billion in each of the next two fiscal years amid a struggling economy. Governor Malloy recommended some spending cuts, significant tax increases and unprecedented state employee union concessions to close the budget gap.

By session's end, lawmakers passed the biggest tax hike in Connecticut history — \$2.1 billion in the first year and \$1.9 in the second year of the budget. Increases

*Continued on Page 2*

## State Taxes

Continued from Page 1

in the personal income tax and sales tax, among other tax hikes included in the new \$40.5 billion state budget, will impact all sectors of Connecticut's economy.

Fortunately this year, lawmakers backed away from other harmful tax changes. Rejected was a "throwback" provision that would have cost Connecticut-based exporters approximately \$20 million a year—hitting small and midsize Connecticut manufacturers the hardest.

Also discarded was an entirely new corporate tax system—called mandatory unitary reporting. Mandatory unitary aimed directly at companies with multiple locations, such as manufacturing, R&D, and headquarters companies that employ tens of thousands of our residents.

While lawmakers rejected municipal property tax-reclassification schemes, they approved two revisionary proposals. One will delay property revaluation in several cities and towns; the other makes special property tax changes for the city of Hartford.

Here is a review of tax legislation this year.

### PA 11-1 (HB 6292) AAC The Payment of Personal Property Taxes by Certain Telecommunication Companies

Changes how municipal tax collectors can bill telecommunication companies by permitting the tax collectors to bill the companies for half of the personal property taxes due in 2011, before they would otherwise be due. Similar to real property, this measure allows tax collectors to bill in two installments (the first prior to the July 1, 2011, due date and the second on or after that date). The first installment will equal half the company's 2010 assessment multiplied by the municipality's mill rate for FY 11. The second installment will equal the other half of the 2010 assessment multiplied by the municipality's FY 12 mill rate. The payments are due 30 days after receiving the tax bill.

These changes apply to assessment years beginning on or after Oct. 1, 2010.

Effective: April 16, 2011

### PA 11-6 (SB 1239) AAC The Budget for the Biennium Ending June 30, 2013, and Other Provisions Relating to Revenue—As amended by HB 6652 (PA 11-61)

Makes numerous changes to the personal income tax, sales tax, corporate tax and other

taxes.

**Personal Income Tax:** Numerous changes include increasing the top rate to 6.7% and phasing out the marginal rates for many taxpayers under a plan referred to as "recapture." The legislation also implements an earned income tax credit and reduces the property tax credit from \$500 to \$300.

Effective: Rate changes are effective retroactively to Jan. 1, 2011. New withholding tables are effective Aug. 1, 2011

**Sales and Use Tax:** Increases the state sales and use tax rate from 6% to 6.35%; eliminates certain exemptions and newly imposes the tax on certain services. Exemptions eliminated include clothing and footwear of less than \$50 as well as nonprescription drugs and medicine. Services to be taxed include motor vehicle towing, pet grooming, spa services, and more.

Effective: July 1, 2011.

**Luxury Sales and Use Tax:** Beginning July 1, 2011, all luxury items (passenger cars, boats, jewelry, clothing, and footwear valued at more than certain amounts) will be subject to a 7% sales and use tax on the full sales price.

Effective: July 1, 2011.

**Remote Sellers/Internet Sales:** The tax package also makes certain remote sellers, including online retailers, subject to the sales and use tax. The requirement applies to out-of-state retailers who pay commissions to people located in Connecticut and who refer customers to them.

Effective: June 10, 2011

**Hotel Tax:** The hotel room tax rate increases from 12% to 15% on July 1, 2011.

Effective: July 1, 2011.

**Hospital Tax:** Repeals the gross earnings tax on hospitals and imposes a new tax on net patient revenue, which is set at the maximum rate allowable under federal law.

Effective: July 1, 2011, and applicable to calendar quarters starting on or after that date.

**Electric Generation Tax:** An electric generation facilities tax will be imposed at the rate of ¼ of a cent per net kilowatt hour of electricity generated and uploaded into the regional bulk power grid at Connecticut facilities. The tax applies to all electricity except that generated by a resources-recovery facility, by customer-side distributed resources, or through use of a fuel cell or alternative energy system (such as solar or wind system).

Effective: May 4, 2011 and applicable for fiscal years 2011 and 2012, expiring June 30, 2013.

**Corporation Tax Surcharge:** A corporation tax surcharge of 20% is imposed for the 2012 and 2013 income years under the tax package.

Effective: May 4, 2011 and applicable for income years 2012 and 2013.

**Tax Credit Cap:** Instead of an increase in premium taxes, as was initially proposed by the Governor, insurance companies will see their tax credits capped at 30% (down from 70%), for income years 2011 and 2012.

Effective: May 4, 2011 and applicable for income years 2011 and 2012.

**Estate and Gift Taxes:** The estate and gift tax threshold is lowered from \$3.5 million to \$2 million. In addition, the existing 7.2% estate-tax rate is extended to estates and gifts valued at between \$2 million and \$3.5 million.

Effective: May 4, 2011 and retroactive to deaths occurring on or after Jan. 1, 2011.

**Diesel Fuel Tax:** The base tax on diesel fuel increases from 26 cents to 29 cents per gallon. This measure also imposes an inventory tax of 3 cents on each gallon a licensed seller has in stock as of the close of business or 11:59, whichever is earlier, on June 30, 2011.

Effective: The inventory tax is effective on May 4, 2011 and the rate per gallon increase is effective on July 1, 2011.

**Excise Tax:** The excise tax on alcoholic beverages is increased by 20%. Also imposes an additional inventory tax on product in stock on inventories as of July 1, 2011 or the opening of business, whichever date is earlier.

Effective: The inventory tax is effective on May 4, 2011 and the rate per gallon increase is effective on July 1, 2011.

**Tobacco Taxes:** A variety of tobacco taxes were increased. The cigarette tax increases from \$3 to \$3.40 per pack, the tax on snuff tobacco from 55 cents to \$1 per ounce, and the tax on other tobacco products from 27.5% to 50% of the wholesale price. However, a tax cap is placed on cigars at 50 cents each.

Effective: Sales occurring on or after July 1, 2011.

**Cabaret Tax:** PA 11-6 imposed a 3% tax on merchandise, services, food and beverages sold at numerous entertainment establishments. This measure was repealed in PA 11-62 and therefore is no longer applicable.

Effective: This measure initially was to go into effect on July 1, 2011, but was repealed prior to the effective date of the tax.

**Real Estate Conveyance Tax:** The state real estate conveyance tax is increased from 0.5% to 0.75%; and makes permanent the 0.25% base municipal real estate conveyance tax, which was set to expire on July 1, 2011.

Effective: For conveyances occurring on or after July 1, 2011.

### PA 11-61 (HB 6652) An Act Implementing the Revenue Items in the Budget and Making Budget Adjustments, Deficiency Appropriations, Certain Revisions to Bills of the Current Session and Miscellaneous Changes to the General Statutes

Makes numerous changes to various state tax and other laws. Many of the provisions of this measure modify some aspect of the recently adopted budget and tax package, PA 11-6. Here are the provisions that concern taxes.

Continued on Page 3

# State Taxes

Continued from Page 2

**Property Tax Exemptions and PILOTS for MME and Commercial Trucks:** Eliminates the Payment in Lieu of Taxes (PILOTS) payments for commercial trucks and manufacturing machinery and equipment (MME) for assessment years beginning on or after Oct. 1, 2011. It also repeals statutes associated with the phase out of the property tax on MME.

As the Office of Policy and Management (OPM) will no longer be making PILOT payments to towns, this measure transfers from OPM to municipal assessors the task of determining the documentation to support an application, as well as the authority to request it and the applicable federal tax returns and accompanying documentation, for a five-year MME exemption.

Eliminated for assessment years 2006 through 2011 are the requirements that MME owners file a supplement to their personal property declaration regarding the acquisition, costs and depreciated value of MME; and that the town assessors determine the MME's depreciated value, using the 2005 assessment year method.

Retained is the existing state-reimbursed property tax exemption for eligible MME in enterprise zones, targeted investment communities, and the Bradley Airport Development Zone (BADZ).

*Effective: Although these sections of the bill are in effect as of July 1, 2011, the repeal of the MME and commercial truck PILOT, the property tax exemption and PILOT for older MME, five-year MME depreciation schedule, and state grant payment to replace the MME PILOT beginning in FY 14 are effective for assessment years starting on or after Oct. 1, 2011.*

**Municipal Transition Grants for MME PILOT Loss:** Modifies and builds off of a provision in the budget and tax package (PA 11-6) by removing enterprise zone PILOTS from the basis for the manufacturing transition grants, specifying the dollar amount each town is to receive, mandating quarterly grant payments by OPM, and specifying other permissible adjustments to the grants.

*Effective: July 1, 2011*

**Collection of Sales and Use Tax by Remote Sellers:** The budget (PA 11-6) requires certain remote sellers with no physical presence in Connecticut to impose and collect sales tax on their taxable sales in the state. The act presumes a seller is a retailer with sales tax nexus here if it annually sells more than \$2,000 worth of taxable items or services in Connecticut through certain agreements with Connecticut residents. PA 11-6 also allowed remote sellers to rebut the presumption that they were responsible for collecting Connecticut sales tax.

This measure (PA 11-61) changes a number of these aspects of the budget bill (PA 11-6):

- Repeals the rebuttable presumption.
- Changes the Connecticut residency require-

ment to the business making the referrals being located in the state.

- Specifies that an entity is "engaged in business in this state" if selling taxable items or services as specified above, thereby making it liable for the collection of Connecticut sales tax.
- Applies the remote seller liability for the collection of sales tax retroactively to sales occurring on or after May 4, 2011 (instead of on or after July 1, 2011 as specified in PA 11-6).

*Effective: June 21, 2011, and applicable to sales occurring on or after May 4, 2011.*

**Other Sales Tax Changes:** Numerous changes were made to the sales tax in PA 11-6 including making certain intrastate transportation services subject to the sales tax. This measure modifies PA 11-06 and the application of the sales tax by Medicaid nonemergency medical transportation, certain paratransit services, and dial-a-ride services.

Other changes to the sales tax provisions in PA 11-6 include restoring the exemptions for services provided by a person selling clothing and footwear on consignment and property or services used in operating solid waste-to-energy facilities. The measure also extends the sales tax to taxable services that are billed to customers for any period that includes July 1, 2011.

*Effective: Various dates*

**Economic Nexus for Corporation Tax:** Modifies the state's current economic nexus provisions by requiring companies to both have a "substantial economic presence" in Connecticut AND derive income from sources in Connecticut.

The act also codifies DRS policy which exempts from the tax companies that under the Internal Revenue Code are treated as foreign corporations and don't have income "effectively connected" with a U. S. trade or business.

*Effective: June 21, 2011, and applicable to income years starting on or after January 1, 2011.*

**Corporation Tax Overpayments:** Codifies the current DRS practice of allowing companies that overpay their estimated corporation taxes for a given year the ability to apply the overpayment to the following year's estimated tax payments.

*Effective: Oct. 1, 2011, and applicable to payments for income years starting on or after Jan. 1, 2012.*

**Cap on Tax Credits Applied to the Premium Tax Liability:** Modifies the cap on tax credits applied to the premium tax liability in several ways:

- Places insurance premium tax credits into three groups: digital animation credits, insurance reinvestment fund credits, and all other credits.
- Specifies the order in which the credits must be used to offset premium tax liability.
- States that digital animation credits do not fall under the 30% cap (originally 70%) on use of tax credits to reduce a company's annual insurance premium tax liability.

- Sets the maximum premium tax liability an insurer can offset in 2011 and 2012. However, it doesn't state a maximum percentage reduction in premium tax liability for companies using digital animation or insurance reinvestment credits only, nor in combination with any of the other credits.

*Effective: June 21, 2011*

**Nonadmitted Insurers, Insurance Policies and Premium Taxes:** Sections 33 through 36 make numerous changes regarding "nonadmitted" insurance policies and/or insurers. These changes were made as a result of 2010 federal Nonadmitted and Reinsurance Reform Act (NRRRA). Changes include:

- Limiting the policies subject to the premium tax
- Changing how policy holders and brokers pay the tax
- Excusing some commercial purchasers from specified filing mandates
- Permitting the commissioners of insurance and revenue services to enter into an agreement with other states concerning the allotment of premium taxes between the states in where a policy covers more than one state.

The measure also changes the penalty and interest due on unpaid tax payments.

To comply with NRRRA provisions, the measure limits the premium tax to any nonadmitted insurance policy acquired from the insurer or through a licensed broker where Connecticut is the insured's principal place of business or residence. Individuals and brokers under this measure must file quarterly tax returns and pay the tax to DRS and DOI by the 15th day of these months.

For late payments, this measure sets the interest rate at 1% for both brokers and individuals who obtain the policy directly from the insured. The \$75 minimum penalty for directly procured policies was repealed. This measure also allows the commissioner to request, and the attorney general to recover, interest and penalties owed on directly procured policies. The ability to request recovery of taxes already exists.

Provisions of this measure also allow the commissioners of the revenue services and insurance departments to enter into reciprocal agreements with other states to allocate premium taxes. They are also permitted to enter into agreements with others for the purpose of collecting and processing such taxes.

*Effective: June 21, 2011 and applicable to nonadmitted insurance coverage in effect on or after July 1, 2011.*

**Film Credit Transfers:** Section 37 of this measure modifies PA 11-6 by limiting the maximum transfer of film production tax credits allowed. In 2011 the limit will be 50% of the credit in any single income year. In 2012 and after, the limit will be 25% of the credit in any one income year. In addition to the already Exempt Corporation and/or insurance premium taxpay-

Continued on Page 4

## State Taxes

Continued from Page 3

er, this measure exempts entities that own, directly or indirectly, at least 50% of another entity liable for the business entity tax.

Effective: July 1, 2011

**Cigar Tax:** Section 38 of this measure caps the recently increased tobacco tax as it relates to cigars. PA 11-6 increased the tax on most tobacco products from 27.5% to 50% of the wholesale price. This measure caps the tax at 50 cents on each cigar.

Effective: Applicable to all sales on or after July 1, 2011.

**Hospital Net Patient Revenue Tax:** Modifies the initial hospital net patient revenue tax imposed under PA 11-6 and PA 11-44, by changing who determines the revenue periods from a calendar quarterly basis to whatever the DSS commissioner establishes as the revenue period.

Effective: July 1, 2011 and applicable to calendar quarters beginning on and after that date.

**Validation of Estate Tax Lien Release Certificates Issued Prior to Effective of New Tax Law:** Because the estate tax threshold was lowered retroactively by the new budget and tax package, (PA 11-6), this measure validates probate court lien release certificates issued and recorded in town records prior to May 4, 2011, for estates of those who passed away on or after Jan. 1, 2011.

Effective: June 21, 2011

**Exemption from Generation Tax:** This provision exempts electricity generated by a facility using processes that reclaim material or energy values from solid waste from the new electric generation tax.

Effective: July 1, 2011

**Electronic Funds Transfer Requirements for Withholding:** Allows the DRS, in most cases, to expand the mandatory electronic funds transfer of withholding taxes. Under this measure, the DRS commissioner is required to notify the payer of the electronic payment requirement.

Effective: July 1, 2011, and applicable to tax periods ending on or after that date.

**Successor Liability for Withholding Taxes:** Changes some of the laws regarding successor liability for withholding taxes. First, it mandates a successor who purchases a business or its entire stock from an employer to withhold enough funds from the purchase price to cover the withholding tax due. The monies may be released when the original employer provides a DRS receipt for the tax payment or a certificate that no taxes are due. The DRS commissioner must issue the certificate that no taxes are due or mail the buyer a tax deficiency assessment notice.

Effective: July 1, 2011, and applicable to sales

of businesses and stock occurring on or after that date.

**Deficiency Assessment Notices:** Changes the time by which DRS must send deficiency assessment notices.

Effective: June 21, 2011 and applicable to tax years starting on or after Jan. 1, 2011.

### Penalty for Failing to Pay Taxes

**Electronically:** Sets a cap on penalties for failing to pay taxes electronically, when so required. For first time offenders, the penalty is capped at 10% or \$2,500, whichever is less. Subsequent offenses remain at the existing 10% penalty with no maximum.

Effective: June 21, 2011 and applicable to tax periods starting on or after January 1, 2012.

### Tax Security Requirements for Nonresident

**Contractors:** Explains who a nonresident contractor is and sets forth what DRS must verify related to a nonresident contractor or subcontractor. It also changes tax security requirements for nonresident contractors in several ways. First, it clarifies that the bond requirement is only for nonresident general or prime contractors, and the hold-back obligation is only on nonresident subcontractors that aren't DRS verified. It also changes the hold-back provisions so that general contractors, not customers, are required to hold back funds from their unverified subcontractors. Last, customers that contract with unverified general or prime contractors are required get proof that the contractors posted the required bond.

This Act limits customer tax liability only to those people that do business with an unverified prime or general contractor and fail to get proof that the contractor has posted the required bond. The customer's liability is capped at 5% of the contract price and only of the contract in question.

In addition to the limitations existing prior to the adoption of this measure, this Act states it only applies to contracts of \$ 250,000 or more.

The Act splits nonresident contractors into two groups—"prime or general;" and subcontractors—and requires every unverified prime or general contractor with a contract in Connecticut priced at more than \$ 250,000 to post a bond with DRS equal to 5% of the contract price. It also imposes hold back provisions on any resident (or verified or unverified nonresident) general or prime contractor doing business with an unverified subcontractor. It also specifies how bonds and hold backs must be released. The measure also addresses certificates of compliance and certain DRS disclosure requirements.

Effective: Oct. 1, 2011

### Energy Conservation and Load

**Management Fund:** Repeals the state treasurer's authority to issue economic recovery revenue bonds and bars the use of any competitive transition assessment charge to secure and pay the bonds. Furthermore, this measure stops the diversion of revenue from the Energy Conservation and Load Management Fund.

Effective: June 21, 2011

**Cabaret Tax Repeal:** Repeals the cabaret tax established in PA 11-6 and requires the state to give back any monies already collected to the town where the sale happened.

Effective: June 21, 2011

### Aerospace and Defense Plant Tax

**Incentives:** Limits the current aerospace and defense plant tax incentives for improving property, acquiring machinery and equipment, and creating jobs, to facilities that are vacant on or after June 21, 2011 and which employed at least 800 people.

Effective: June 21, 2011

### Reciprocal Agreements Concerning Tax

**Refunds from Other States:** Repeals certain notice and certification requirements when the DRS withholds a taxpayer's Connecticut tax refund for another state where the taxpayer owes taxes.

Effective: June 21, 2011

### Transportation Strategy Board Eliminated:

Provisions of this measure eliminate the Transportation Strategy Board (TSB) but retains its projects account, enumerated projects, and the requirement that the governor identify projects to implement the transportation strategy that the TSB originally proposed as well as a plan to finance them.

Effective: July 1, 2011

### Additional Dedicated Funds for the Special

**Transportation Fund:** Identifies additional funds that are to be dedicated to the Special Transportation Fund, along with some minor changes.

Effective: July 1, 2011

**Water Company Bills:** Section six of this measure requires any water company rate adjustment resulting from an infrastructure project be identified separately on customer bills.

Effective: June 21, 2011

### Regional Performance Incentive Grant

**Program:** Expands the kinds of entities eligible to receive a Regional Performance Incentive Grant. In addition to municipalities' respective regional planning organizations, regional council of elected officials, or regional councils of governments, an eligible entity includes two or more municipalities and regional economic development districts.

Provisions of this measure also modify the application deadline, selection process and reporting requirements of the grant program. Furthermore it creates a new nonlapsing account with dedicated funding for the grant program.

Effective: July 1, 2011

Continued on Page 5

## State Taxes

Continued from Page 4

### PA 11-78 (SB 1216) AAC The Urban Reinvestment Act and the Federal New Markets Tax Credit Program and Correcting an Effective Date

Synchronizes the requirements for the state Urban Industrial Sites Reinvestment (UISR) tax credits with federal New Market tax credits for certain business development projects getting investments qualifying for both credits. The measure establishes a separate group of community development entities (CDEs) through which investors may claim UISR and New Markets credits for the same investment. CDEs remain "contractually-bound" and qualify for UISR credits if they have entered into an allocation agreement with the Community Development Financial Institutions Fund for a share of New Markets tax credits and their respective service areas in the allocation agreement include Connecticut. This measure mandates that these projects meet the state and federal eligibility requirements and subjects them to the federal rules for recapturing credits.

The measure also corrects an inconsistency in **Public Act 10-98**, which created the Bradley Airport Development Zone, by making the tax credits in that act applicable to income years beginning on or after Jan. 1, 2012 instead of Jan. 1, 2013 as originally written.

Effective: July 1, 2011

### PA 11-145 (HB 6561) AAC A Waiver from Required Electronic Reporting and Payment of Taxes

Allows taxpayers, including employers, that are required to pay taxes by electronic funds transfer to seek a hardship waiver from the Department of Revenue Services (DRS). It also permits the DRS to waive the electronic filing or payment requirement. The waiver must be requested in writing at least 30 days prior to the filing or payment due date. DRS must promptly inform the taxpayer of its decision, which is final and not subject to review or appeal.

If granted, a waiver is effective for 12 months from the date the DRS grants it. The taxpayer then is allowed to file a signed paper return or make payments other than by electronic funds transfer.

Preparers of tax returns are not eligible for the waivers.

Effective: Oct. 1, 2011, and applicable to tax periods starting on or after that date

### PA 11-212 (HB 6559) AAC The Municipal Option to Adopt Assessment Rates Limiting Property Tax Increases on Residential Properties

Changes the maximum permitted property tax increases for Hartford taxpayers and ties the increases to municipal spending. For residential

properties, the increases are limited to anywhere from 3.5% to 5%. For apartment properties, the assessment rate will increase to 50% as of Oct. 1, 2012, and to 70% as of Oct. 1, 2015. In addition, the legislation includes the requirement that Hartford hold a referendum on its budget under certain conditions.

Effective: July 13, 2011, and applicable to assessment years commencing on or after Oct. 1, 2011

### PA 11-239 (SB 1162) AAC The Filing Deadline for Certain Property Tax Exemptions

This proposal started simply as a measure to extend the filing deadlines for certain property tax exemptions for some Connecticut employers in Bloomfield, Franklin, Hartford, Sprague, Seymour, New Haven, Windsor, and Danbury. However, the bill expanded significantly to permit several municipalities (Cromwell, East Windsor, Farmington, Orange, Stamford and Windham) to delay property revaluation until the assessment year beginning Oct. 1, 2012.

Effective: July 13, 2011 for all of the aspects of the measure mentioned above.

For more information, contact CBIA's Bonnie Stewart at 860.244.1925 or [bonnie.stewart@cbia.com](mailto:bonnie.stewart@cbia.com).

## State Spending

Continued from Page 1

(2011-2012), 4.45% higher than estimated spending for this fiscal year ending June 30. In the second year of the new budget (2012-2013), spending will be \$1.16 billion higher than in fiscal year 2011, an additional increase of 1.29%. Total state spending will be approximately \$20.14 billion in the first year of the biennium and \$20.4 billion in the second.

Also approved in PA 11-6 were efforts to make the state more efficient—including the consolidation of many state agencies, and several reforms in the areas of corrections, healthcare and government administration, as recommended by the bipartisan Commission on Enhancing Agency Outcomes.

Unfortunately, while the administration made moving state finances to Generally Accepted Accounting Principles (GAAP) a priority, a budget-implementer bill (PA 11-61) will delay the move by two years.

Here is a review of the state budget, as amended by implementing legislation, as

well as the modifications made during the June 30 special session.

### PA 11-1 (HB 6701) AAC The Budget for the Biennium Ending June 30, 2013

#### Revisions to the FY 2012 and FY 2013 Budgets:

Modifies the appropriations to the General Fund by first reducing monies for staff in all three branches of government, but increasing General Fund appropriations by nearly \$126 million for FY 2012 and 2013.

Effective: July 1, 2011

**Reductions to the Special Transportation Fund (STF):** Requires an additional reduction in the STF of \$62,221,648 in FY 2012 and \$63,663,881 in FY 2013.

Effective: July 1, 2011

**Earned Income Tax Credit (EITC):** Reduces the EITC from 30% to 25% of the federal credit.

Effective: July 1, 2011 and applicable to tax years starting on or after Jan. 1, 2011.

#### Gubernatorial Rescission Authority:

Increases the Governor's rescission authority for three months, raising it from 3% for any fund in a financial crisis and 5% for any appropriation to 10%. The Governor is required to file a report with the Finance Committee explaining the basis for his decision.

Effective: July 1, 2011

**Transfer of Funds Between Agencies:** Grants the Governor authority for three months to transfer funds between state agencies with the Financial Advisory Committee's approval.

Effective: July 1, 2011

**Debt Service Carry Forward:** This measure carries forward up to \$23,266,835 of unspent debt service funds and makes those monies available for debt service in FY 2012 and 2013.

Effective: July 1, 2011

**Changes to SEBAC Approval:** Because the initial date for approving the May 2011 SEBAC agreement wasn't met, and it is not clear whether that agreement will be revisited, this measure makes several changes to the SEBAC language contained in PA 11-61.

First, while it still refers to a SEBAC agreement, no particular agreement is specified. Second, it delays the deadline by which then legislature must vote to approve or reject such an agreement. The initial date of June 30, 2011 has been pushed back to Aug. 31, 2011.

The measure also makes numerous other changes for employees not covered by SEBAC where longevity payments and wages are concerned.

Effective: July 1, 2011

**Reporting Requirements and Legislative Action on Recommended Spending Reductions:** No later than July 15, 2011, the

Continued on Page 6

# State Spending

*Continued from Page 5*

executive and judicial branches must submit to the Speaker of the House and the Senate president their reports on spending reductions. It permits the legislature to call itself into session by Aug. 31, 2011, to modify the 2012–2013 budget. It also permits the legislature to replace the savings identified by the executive and judicial branches with an alternate savings scheme provided it is of equal value.

*Effective: July 1, 2011*

**Potential Repeal of Certain Aspects of HB 6701:** Certain sections of this measure would be repealed should a SEBAC agreement be approved by the legislature. The sections in question include:

- Sections 1 and 2 of this bill concerning General and Special Transportation Fund Appropriations.
- Sections 67 and 68 of PA 11-61 which made certain budget adjustments to the primary budget as set forth in PA 11-06.
- Reduction of the Earned Income Tax Credit from 30% to 25% of the federal credit.
- The rescission and transferring funds between state agencies authority granted to the Governor under this measure.
- The authority granted to the Governor to reduce expenditures, carry debt service forward and change or move agency appropriations.
- The mandate that the Governor report to the legislative leaders concerning budget fits (rescissions and reductions) and actions the General Assembly could take.

*Effective: July 1, 2011*

**Repeal of cost Reductions as a Result of Union Concessions:** Section 15 of this measure repeals the portion of the primary budget bill (PA 11-06) concerning what the Legislature, Governor and the Office of Policy and Management (OPM) were to do regarding the May 27, 2011 SEBAC agreement.

*Effective: July 1, 2011*

## **PA 11-6 (SB 1239) as amended by PA 11-48, PA 11-51, PA 11-62, and HB 6701; AAC the Budget for the Biennium Ending June 30, 2013, and Other Provisions Relating to Revenue**

The primary measure (PA 11-6, as amended by Public Acts 11-48, 52, 62, and HB 6701) for fiscal years (FY) 2012 and 2013 totaled \$40.547 billion. State agencies were appropriated \$20.1408 billion in FY 12, and \$20.3999 billion in FY 13. This represents an increase in spending from the previous state budget (FY 2011 to FY 2012) of 4.46%; and from FY 12 to FY 13, an additional increase of 1.29%.

*Effective: Various dates*

## **State Employee Bargaining Agent Coalition (SEVBAC) Labor Concessions and Delay of Approval:**

Initially, PA 11-6 budgeted \$2 billion in savings from anticipated wage and benefit concessions from state employees. Following negotiations with the State Employees Bargaining Agent Coalition (SEBAC), lawmakers amended PA 11-62 to change the anticipated savings to \$1.6 billion. However, after passage of PA 11-62 and the close of the 2011 regular legislative session, the unions voted down the concessions. As a result, the \$1.6 billion in budgeted savings (per PA 11-62) is no longer applicable, therefore they were repealed in HB 6701. Still, legislators are hopeful that, given some additional time, SEBAC may be able to reach an agreement its members approve. Therefore, HB 6701 contains language to repeal specified provisions of HB 6701 in the event a SEBAC agreement is approved. Furthermore, HB 6701 eliminates the references to the May 27, 2011 SEBAC agreement and simply references a SEBAC agreement. It also pushes back from June 30 to August 31, 2011, the date by which the legislature must vote on a SEBAC agreement.

*Effective: July 13, 2011*

## **Generally Accepted Accounting Principles (GAAP):**

Compliance with GAAP was delayed by an additional two years. Under this measure, it will now begin in FY 2014. The measure also calls for the state comptroller to determine the liabilities and expenses of implementing GAAP as of June 30, 2013, and to amortize them over a 15-year period. The GAAP provisions also mandate that the monies needed to fund the yearly payments be reserved from any General Fund surplus occurring in FY 2014 and subsequently, prior to any other uses of those funds.

*Effective: July 1, 2011*

**Agency Consolidations:** Under the new budget, 28 state agencies are consolidated and five new agencies are created. Reducing state government from 81 to 58 state agencies is supposed to save the state \$19.6 million.

*Effective: July 1, 2011; however, agency consolidations began prior to that date.*

## **Specific Revenues Allocated to Municipalities:**

The budget package directs specific monies from increased taxes to be dedicated to the Municipal Revenue Sharing Account. These taxes include portions of the sales and luxury taxes, and the state conveyance tax. Funds are to be used for manufacturing transition grants as well as replacing the payment in lieu of taxes (PILOT) revenues for eligible commercial vehicles, manufacturing machinery and equipment, and certain real property in enterprise zones.

After the OPM secretary has distributed those funds, remaining dollars will be divided among municipalities—half the funds to towns on a per capita basis, and the other half based on a town's population adjusted equalized net grand list per capita, and per capita income of town residents.

The budget package also grants additional monies to certain towns from the Regional

Performance Incentive Account (RPIA). A specified percentage of monies from the hotel tax and rental car surcharge must be directed into the RPIA and distributed quarterly.

*Effective: July 1, 2011*

**Earned Income Tax Credit:** The Act creates a refundable state earned income tax credit (EITC). This credit is equal to 25% of the federal EITC. Anyone receiving the federal EITC would be eligible for the newly created state EITC.

*Effective: July 1, 2011 and impacting tax years starting on or after Jan. 1, 2011.*

**Streamlining State Government:** A number of the recommendations of the bipartisan Commission on Enhancing Agency Outcomes (as originally contained in SB-1059, which failed) were incorporated into the overall budget bill. (Since not all of the commission's reforms were kept, their projected overall net savings of up to \$288 million will not be entirely realized.)

These reforms included certain changes to long-term healthcare, including:

- Accelerated efforts to help more people use home-based care versus institutionalization
- Creation of a long-term care planning committee to accelerate the rebalancing of healthcare in Connecticut

*Effective: July 1, 2011*

Other reforms included in PA 11-6 related to the commission's recommendations include technology improvements in government through electronic employee payroll changes and e-payments; and help to state agencies in identifying and implementing ways to save energy.

More reforms suggested by the commission are contained in one of the budget's implementer bills, HB-6651 (PA 11-48). These reforms include numerous changes to the state's corrections system (one of the most significant components of state spending, and an area in which reforms can also improve outcomes). The corrections reforms also incorporate several recommendations made by the Connecticut Regional Institute for the 21st Century, including:

- Efforts to improve the re-entry process for incarcerated offenders and improve the oversight of probation
- More discretion in post-sentencing options, depending on an inmate's behavior
- Alternatives to incarceration for DUI offenders

*Effective: July 1, 2011*

**For more information,** contact CBIa's Bonnie Stewart at 860.244.1925 or [bonnie.stewart@cbia.com](mailto:bonnie.stewart@cbia.com).

# Business Law and Liability

Few changes were made in the realm of corporate law this year. Most important, businesses were able to make a significant modification to a measure that would have opened employers up to indefinite liability costs in asbestos-related cases.

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## PA 11-61 (HB 6652) AA Implementing the Revenue Items in the Budget and Making Budget Adjustments, Deficiency Appropriations, Certain Revisions to Bills of the Current Session and Miscellaneous Changes to the General Statute

**Conversion of Certain Stock Corporations:** Allows certain stock corporations organized before Jan. 1, 1920, to convert into nonstock corporations under the nonstock corporations law. (Section 152 Pre-1920 Stock Corporation Conversion)

*Effective: June 21, 2011*

**Whistleblower Protection:** Sec. 119 creates whistleblower protections for employees, contractors, or agents who experience adverse job actions and/or discrimination as a result of lawful testifying, participating in or taking steps to end illegal Medicare activities. Also adds "associated others" to protected groups.

*Effective: July 1, 2011*

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## PA 11-77 (SB 1207) AAC Offers of Compromise

Changes the timing and eliminates plaintiff's obligation, in medical malpractice actions, to provide the defendant with certain information before filing an offer of compromise. Currently, plaintiffs must disclose this information at least 60 days prior to filing an offer to compromise, and certify with the court that they have provided defendants with all documentations supporting the damages claim. Under the bill, the offer to compromise cannot be filed less than 365 days after the suit was filed. It also will be considered rejected if not accepted within 60 days and before the jury renders a verdict or the court issues an award.

*Effective: Oct. 1, 2011*

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## PA 11-108 (HB 6274) AAC Amendments to Article 9 of the Uniform Commercial Code Concerning Secured Transactions

Makes numerous changes to Article 9 of the Uniform Commercial Code (UCC), which deals with a creditor's contractual lien interest in a debtor's personal property that secures payment or other performance by the debtor, as well as

sales of accounts, chattel paper, payment intangibles, promissory notes, and similar transactions.

Also establishes and further clarifies the circumstances under which a creditor's interest in secured property attaches when a debtor relocates to another jurisdiction, and makes other technical changes to these secured transactions.

*Effective: July 1, 2013*

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## PA 11-141 (HB 6526) AAC Brownfield Remediation and Development As An Economic Driver

Includes a broad range of changes to existing DEP cleanup programs, especially regarding brownfields, and provides an entirely new option for brownfield developers designed to attract private investment in these properties.

The new program protects developers, including municipalities, from liability associated with the migration of pollution off-site and from possible on-site pollution once the site has been cleaned up consistent with state requirements. This protection extends to the immediate prior and subsequent owners of the property provided they did not cause or contribute to the contamination. The DECD commissioner will select brownfields eligible for the program based on applications up to a maximum of eight properties per calendar quarter. [Note: SB 1242 allocates \$25 million in each of the next two years to the Regional Brownfield Redevelopment Loan Fund.]

Participants are exempt from the burdensome Connecticut Transfer Act when they sell the property, and they are still eligible for state funding.

However, the bill imposes fees on parties accepted into the program and on those that subsequently acquire the properties. It exempts municipalities and economic development agencies from the application fees, but requires them to collect and remit the fees to DEP when they transfer the property. (A significant portion of the fee can be waived by the DEP, under certain circumstances.)

Other sections of the bill are also designed to foster more brownfield redevelopment in Connecticut. These include:

- Bolstering the role of the Office of Brownfield Remediation and Development within DECD and transforming the current municipal brownfield pilot program into a permanent "Municipal Brownfield Grant Program"
- Exempting certifying parties under the Transfer Act from investigating and remediating contamination that occurs after they remediate the property
- Broadening the definition of brownfields to include more types of properties
- Exempting state, municipal, and private organizations from paying DEP fees when clean-

ing up brownfields

- Expanding the range of benefits and eligible entities and properties under the existing "Abandoned Brownfield Cleanup Program"—to properties that have been abandoned or significantly underutilized for at least five years

*Effective dates: Various*

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## PA 11-145 (HB 6561) AAC A Waiver from Required Electronic Reporting and Payment of Taxes

Allows taxpayers, including employers, that are required to pay taxes by electronic funds transfer to seek a hardship waiver from the Department of Revenue Services (DRS). It also permits the DRS to waive the electronic filing or payment requirement. The waiver must be requested in writing at least 30 days prior to the filing or payment due date. DRS must promptly inform the taxpayer of its decision, which is final and not subject to review or appeal.

If granted, a waiver is effective for 12 months from the date the DRS grants it. The taxpayer then is allowed to file a signed paper return or make payments other than by electronic funds transfer.

Preparers of tax returns are not eligible for the waivers.

*Effective: Oct. 1, 2011, and applicable to tax periods starting on or after that date*

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## PA 11-146 (HB 6565) AAC Business Entity Filings

Makes several changes regarding business entity filings with the Secretary of the State. Among other things, domestic and out-of-state stock and non-stock corporations, limited partnerships, limited liability companies (LLCs), and limited liability partnerships (LLPs), must file annual reports with the secretary electronically unless granted an exemption. The secretary may also require or permit any document required by law or regulation governing the particular entity to be filed by electronic transmission or new technology. The bill also adds and changes definitions related to documents for several entities, makes changes for certain documents from LLCs and statutory trusts, and makes technical and conforming changes.

*Effective: Jan. 1, 2012*

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## PA 11-147 (HB 6590) AAC The Connecticut Business Corporation Act

Promotes uniformity with other states by amending the Connecticut Business Corporation Act to align it with the Model Business Corporation Act in the areas of remote

*Continued on Page 8*

## Business Law & Liability

Continued from Page 7

participation in shareholder meetings, bifurcated record dates and electronic technology.

Effective: Oct. 1, 2011

### PA 11-149 (HB 6598) AAC Offers of Compromise in Construction Contract Arbitration Proceedings, Mediation and Arbitration of Construction Contracts, and Ethical Violations Concerning Bidding and State Contracts

Creates a procedure for parties in arbitration proceedings related to certain construction contracts to send the opposing party an offer of compromise as an offering to settle the underlying claim for a specified amount. (The procedures are similar to those in existing law for offers of compromise in civil actions.) The bill also accords contractors, potential contractors, and consultants due process before they are prohibited from bidding on state contracts because of alleged past unethical bidding practices.

Effective: Oct. 1, 2011

### PA 11-200 (HB 6341) AAC The Statute of Repose for Asbestos-Related Product Liability Claims

Increases, from 60 to 80 years after a person's last contact with or exposure to asbestos, the period during which a lawsuit may be initiated for personal injury or death caused by the contact or exposure. (The period for lawsuits relating to asbestos-related property damage remains at 30 years after the last contact or exposure.) Generally, product liability lawsuits must be brought within a certain period of the date the injury or damage was first sustained or discovered (or should have been discovered in exercising reasonable care). While this legislation was amended to increase the time for bringing an asbestos-related personal injury or death action from 60 to 80 years, the original draft would have completely eliminated the 60- and 30-year limits for asbestos-related actions for personal injury and property damage, respectively.

The legislation will result in increased insurance costs for those employers in industries prone to asbestos-related claims for the life of any current or former employee who may bring a possible claim for asbestos-related personal injury or death.

Effective: July 13, 2011, and applicable to any cause of action arising from contact with or exposure to asbestos occurring before, on, or after passage.

For more information, contact CBIA's Kia Murrell at 860.244.1931 or [kia.murrell@cbia.com](mailto:kia.murrell@cbia.com).

## Economic Development

In a year in which reopening Connecticut for business was raised as a priority, state legislators took some incremental steps to advance economic development. Lawmakers approved the creation of a one-stop business portal, the establishment of a manufacturers' reinvestment account option at financial institutions, UConn Health Center expansion projects, and a job-creation incentive program.

The business-portal proposal (contained in PA 11-48) took a necessary, but only preliminary step in the right direction by making it easier for companies to navigate the state bureaucracy. Similarly, the manufacturers' investment account was limited to a pilot program instead of a statewide rollout as originally proposed.

### PA 11-48 (HB 6651) AA Implementing Provisions of the Budget Concerning General Government

Takes an important first step (in Section 29) toward creating a Connecticut business "con-cierge," a concept that other states seeking to become more business-friendly are adopting. Requires the Secretary of the State to create an electronic business portal to serve as a single point of entry for businesses to help them register, determine permitting and licensing requirements, and find available state financial incentives and programs.

Also requires the DECD, rather than the Commission on Culture and Tourism, to station a full-time year-round supervisor and a part-time assistant supervisor at the Danbury, Darien, North Stonington, and West Willington visitor welcome centers. The bill eliminates these positions at the West Willington center.

Effective: July 1, 2011

### PA 11-57 (SB 1242) AA Authorizing Bonds of the State for Capital Improvements Authorizing Special Tax Obligation Bonds of the State for Transportation Purposes and Authorizing State Grant Commitments for School Building Projects

The UConn Technology Park bill provides \$172.5 million in bonding for construction of a 125,000 square-foot technology center to include laboratories, clean-rooms, and specialized equipment. Coupled with the "Innovation

Partners Eminent Faculty Program" contained in the Governor's budget, the center aims to attract top scientists and draw private investment dollars.

Effective: July 1, 2011

### PA 11-61 (HB 6652) An Act Implementing the Revenue Items in the Budget and Making Budget Adjustments, Deficiency Appropriations, Certain Revisions to Bills of the Current Session and Miscellaneous Changes to the General Statutes

**Film production tax credits:** Limits the maximum transfer of film production tax credits allowed in 2011 to 50% of the credit in any one income year, and in 2012 and beyond to 25% of the credit in any one income year. The act exempts from these transfer restrictions any entities subject to the corporation or insurance premium tax. The bill extends this exemption to entities that are not subject to these taxes if they own, directly or indirectly, at least 50% of another entity subject to the business entity tax.

Credits issued for any production that the DECD commissioner determines is created in whole or significant part in a "qualified production facility" are not bound by the transfer restrictions.

Effective: July 1, 2011

**Grant program:** Also, the bill requires the DECD commissioner to establish a single grant program for funding specified existing and new high technology, business development, and technology diffusion programs and specifies how she must do so. It repeals separate laws authorizing the existing programs as well as an obsolete law.

The bill requires the commissioner to fund new programs:

- Promoting, retaining, and expanding the state's hydrogen and fuel cell industries;
- Promoting research innovation and nanotechnology;
- Providing technical assistance to small business owners;
- Training small businesses in high performance work practices; and
- Developing marine science, maritime, and homeland security defense industries.

The bill funds the latter by redirecting a \$1 million Manufacturing Assistance Act bond authorization for the Connecticut Center for Advanced Technologies (CCAT) to develop a supply chain integration center.

Continued on Page 9



# Economic Development

Continued from Page 8

The bill also requires the commissioner to fund several already authorized programs under the new consolidated grant program and makes conforming technical changes. These programs are:

- Promoting supply chain integration and encouraging businesses to adopt digital manufacturing and information technologies, which CCAT performs under current law, and
- Developing incubators for small technology-based businesses.

The bill repeals the current small business incubator program and its advisory board, but retains the General Fund account for funding incubator facilities and CCAT's supply chain integration and digital manufacturing and information technologies program. It also eliminates the manufacturing extension service program, which helps small manufacturers adopt cost-cutting technologies and techniques.

The bill requires the commissioner to specify how entities may apply for grants under the program and the application process to include a request for proposals or a competitive award process. (The bill appears to limit the grants for developing marine, maritime science, and homeland security defense industries to CCAT.) The bill allows the commissioner to administer the programs directly or under a personal services agreement with a person, firm, corporation, or other entity.

*Effective: July 1, 2011, except for the provisions creating the new programs and repealing the existing programs and an obsolete law, which take effect July 1, 2012.*

## PA 11-75 (SB 1152) AAC The University of Connecticut Health Center

Expands and renovates the UConn Health Center (UChC) in Farmington to increase bioscience research capacity and productivity, increase the number of clinical and translational scientists, and expand incubator facilities to foster new business start-ups. Authorizes \$262.9 million in new bonding under the UConn 2000 infrastructure program, increases by \$75 million and \$187.9 million the authorizations for two enumerated UChC projects, and eliminates the requirement that UConn obtain \$100 million in federal, private, or other non-state money before bonds are issued and work begins on new construction. The expanded project will create construction jobs of a finite duration.

*Effective: July 8, 2011*

## PA 11-86 (SB 1001) AAC Creating The First Five Program

Creates the Governor's "First Five" program to provide incentives to companies (already in Connecticut and those that would locate here)

that create at least 200 jobs in the state. The bill waives requirements for legislative oversight in the provision of significant financial assistance to no more than five companies.

*Effective: July 1, 2011*

## PA 11-103 (HB 6221) AAC The Elimination of Certain Sunset Dates

Eliminates the July 1, 2012, sunset dates for two Connecticut Development Authority (CDA) programs that provide bond financing for large-scale development projects. These programs are now permanent.

*Effective: July 1, 2011*

## PA 11-140 (HB 6525) An Act Concerning the Continuance of the Majority Leaders' Job Growth Roundtable

The Majority Leaders' bill expands the Innovation Network statutes to promote technology-based economic development; creates a "Learn Here, Live Here" program to encourage graduates of public higher education in Connecticut to invest in a first-time home buyer's account; and creates a Manufacturing Reinvestment Account. Among other things, this legislation also makes changes to the Connecticut Development Authority, extends student loan reimbursements, gives businesses greater latitude in the use of certain existing tax credits, and makes changes to the Neighborhood Assistance Act.

**The Innovation Network:** The Network is restructured by this legislation, making the economic development commissioner solely responsible for the network and changing its focus.

PA 11-140 eliminates the requirement that the Innovation Network include endowed chairs and instead allows it to: convene leaders of technology-focused economic development organizations, create a networking system for entrepreneurs and others, develop benchmarks based on the best programs that promote innovation in economic development, develop a statewide innovation database, assess current programs and recommend changes benefiting the state's innovation competitiveness, investigate issued patents, and pursue other initiatives the commissioner deems appropriate to maintain the state's innovative competitiveness.

In running the innovation network, the bill allows the commissioner to tap other organizations' resources, including the Labor Department, the Connecticut State University System, other higher education institutions, and federally funded research centers.

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

*Effective: July 1, 2011*

**Learn Here, Live Here:** This program aims to reduce Connecticut's "brain drain" by encouraging graduates of the state's institutions of

higher learning to live and work in Connecticut. The program is open to graduates of public colleges or universities in Connecticut who qualified as in-state students and paid the in-state tuition rate and to graduates of regional vocational-technical schools. On or after January 1, 2014, the DRS Commissioner segregates eligible graduates' income tax payments, upon their request, into a Connecticut first-time homebuyers account that the bill establishes, for up to ten years after graduation. The annual maximum of segregated tax payments for a graduate is \$ 2,500, and the annual total for all program participants is \$ 1 million. Participants can withdraw the segregated amounts to buy a first home in the state within 10 years after they graduated, with the DECD commissioner issuing payments to participants accordingly.

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

*Effective: July 1, 2011*

**Manufacturing Reinvestment Account:** In its original form, the reinvestment account concept would have allowed manufacturers to deduct from yearly gross income monies being saved for investment in facilities, equipment, machinery, or workforce development. But because the fiscal impact of foregone tax revenue was forecast to be significant, the idea was modified so that eligible manufacturers would be limited to fifty companies of fifty employees or less to be chosen by the state.

The bill requires the DECD commissioner to establish criteria and guidelines for selecting up to 50 manufacturers, which include any business that changes the form, composition, quality, or character of tangible personal property for retail sale or making a product for such sale.

A manufacturer may establish a manufacturing reinvestment account only in a Connecticut bank, which can act as the account's trustee or custodian. The bank must close the account five years after the manufacturer established it and return the balance to the manufacturer. The manufacturer may deposit up to \$ 50,000 annually, or 100% of their domestic gross receipts, whichever is less, on a corporation tax-deferred basis for up to five years, if they use the funds for these purposes. The manufacturer may deduct the deposits from its corporation business taxes until it withdraws the money. It must pay taxes on each withdrawal, but at a reduced rate of 3.5%, regardless of its corporate or business structure.

Any balance remaining after five years is taxed at the full rate, currently 7.5% plus a new 20% surcharge in effect as of May 4, 2011,

Continued on Page 10

## Economic Development

*Continued from Page 9*

applicable for income years 2012 and 2013. Under the bill, the bank must return the balance to the manufacturer, which then has up to 60 days to pay the taxes on this amount.

A manufacturer may withdraw funds from the account to train its workers or purchase machinery, equipment, or manufacturing facilities. Machinery includes the basic machine and its component parts plus equipment and devices used or needed to control, regulate, or operate it. Equipment includes separate devices needed to manufacture, process, or fabricate things. The bill requires the banking commissioner to annually report on banks acting as trustees or custodians for manufacturers establishing reinvestment accounts. He must include this information in the annual report he submits to the Banks Committee under current law.

*Effective: July 1, 2011 and applicable to income years on or after January 1, 2011.*

**Connecticut Development Authority:** PA 11-140 also allows the CDA to satisfy its statutorily mandated reporting requirements without publically disclosing information exempted under the Freedom of Information Act (FOIA). It also makes the Commissioner of the Department of Economic and Community Development (DECD) chairperson of the CDA Board of Directors.

*Effective: July 1, 2011*

### **Student Loan Reimbursements:**

Reimbursements for student loans and training grants for Connecticut residents with educational backgrounds and jobs related to green technology, life science, or health information technology are expanded under PA 11-140 to include degrees in biomedical engineering and the manufacture of medical devices.

*Effective: June 21, 2011*

### **Insurance Reinvestment Tax Credits:**

Business taxpayers who receive tax credits under the state-certified insurance reinvestment fund may now transfer those credits to an affiliated business or entity.

*Effective: June 21, 2011*

### **Neighborhood Assistance Act (NAA):**

PA 11-140 extends NAA tax credit eligibility to companies subject to the state's business entity tax and doubles the total amount of credits that a company may claim annually under the NAA.

*Effective: October 1, 2011*

**For more information,** contact CBIA's Louis Bach at 860.244.1929 or Louis.bach@cbia.com.

## Education

**R**eforming Connecticut's education system continues to be a concern of businesses, policymakers, and educators. While several encouraging initiatives were introduced in the legislature this year, by session's end most were watered down because of fiscal or political pressures.

Most disappointing was lawmakers' approval of a two-year delay in implementing the landmark school reforms they adopted last year, due to the state's budget crisis.

In many of its proposals, the legislature's Education Committee focused on erasing Connecticut's worst-in-the-nation achievement gap. After months of deliberation, what lawmakers ultimately adopted fell short of their original goals.

The Achievement Gap bill (**PA 11-85**) and the Early Childhood Consolidation bill (**PA 11-81**) are positive steps for advancing important education reforms. However, the lack of meaningful teacher-evaluation legislation this year and the failure to adopt common charts of accounting for school expenditures are indicative of the level of work that remains to be done.

What's more, the Higher Education and Employment Advancement Committee made some important changes in the effort to heighten degree requirements for early childhood educators. The committee also took steps to better align the state's institutions of higher learning with the needs of the job market. In one measure, a more realistic timetable for early childhood educators' attainment of degrees was implemented; existing funds were also directed to subsidize the efforts of individual staff members in working towards those degrees (**PA 11-54**). The committee also asked that the Office for Workforce Development analyze and report, biennially, to the Board of Governors of Higher Education regarding the state's workforce requirements (**PA 11-133**).

### **PA 11-48 (HB 6651) AA Implementing Provisions of the Budget Concerning General Government**

One of several massive budget implementer bills, this legislation includes the establishment of a task force to study issues related to state funding for education, including the Education Cost Sharing (ECS) formula. Because the ECS formula fails to fairly, consistently, and efficiently finance public education across Connecticut, a major overhaul is needed. This measure begins the process of reforming school financing. The task force must be assembled by July 13, 2011.

This bill also:

- Extends the ECS grant cap for an additional two years, freezes grant levels for magnet schools, and imposes a minimum budget requirement for most schools.
- Establishes a task force to study the state's Vocational-Technical schools
- Creates two college transition pilot programs to prepare for college students in need of intensive postsecondary developmental education.

Significantly, sections 211-285 of HB 6651 and sections of HB 6652 consolidate the state's institutions of higher education under a single Board of Regents. Excepting the University of Connecticut (UConn), the consolidation will include regional community-technical colleges, the Connecticut State University System, and Charter Oak State College. The Board can appoint and remove staff responsible for its own operation and for that of its constituent institutions. Voting members—15 of the 19-member Board cannot be employed by, or be on the board of trustees of, any independent institution of higher learning in the state, the Board of Trustees of UConn, nor be employed by or elected officials of any public agency.

*Effective: June 13, 2011*

### **PA 11-81 (SB 1103) AAC Early Childhood Education**

Creates a coordinated system of early care and education and child development to be in place by July 1, 2013. The system's director will be located in the Office of Policy and Management (OPM) and will collaborate with local and regional early childhood councils to implement the system at the local level. The director will periodically report to an expanded Early Childhood Education Cabinet and committees of cognizance within the General Assembly. A related measure contained in HB 6651 requires the education and social services commissioners

*Continued on Page 11*

## Education

*Continued from Page 10*

to develop a plan to integrate child day care and school readiness services offered as part of the school readiness program and report to the governor by July 1, 2012. The plan must address eligibility, slot rates, and program requirements.

*Effective: July 1, 2011*

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### **PA 11-85 (SB 929) AAC Closing the Achievement Gap**

Advances measures to close Connecticut's worst-in-the-nation educational achievement gap, including two very positive measures, the first being the adoption and distribution of model curricula for pre-K through 4th grade. The nationally recognized "Common Core" curricula are paving the way for rigorous, effective learning at public schools across the country. Mandating their adoption in cornerstone subjects like math and reading is a significant step in the right direction. Ideally, this measure will grow to cover grades 5 through 12 as well.

SB 929 also mandates the successful completion of an approved math assessment for teachers seeking state certification. Following on the widely successful reading assessment requirement, the new math assessment ensures that all public teachers, regardless of their specialty, have the basic math skills that 21st century professional educators need.

Less significantly, the bill creates another task force and an interagency council aimed at clos-

ing the achievement gap, and mandates the creation of culturally relevant methods of teaching students whose primary language is not English.

Finally, SB 929 allows schools to increase the number of hours and/or days of school each year with an eye toward improving student performance, a redundancy in the law with respect to existing school authority. The bill does not include a school turnaround office that could aggressively intervene in failing schools with authority currently vested in the State Department of Education.

*Effective: July 8, 2011*

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### **PA 11-114 (HB 6318) AAC Donations of Equipment to the Regional Vocational-Technical School System**

This legislation provides commonsense liability protection to those who donate to public schools (including the technical high schools vo-tech schools) certain tangible property—such as equipment or machinery—that is valued at over \$1,000, and is to be used for educational purposes.

*Effective: July 8, 2011*

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### **PA 11-135 (HB 6498) AAC Implementation Dates for Secondary School Reform, Exceptions to the School Governance Council Requirement and the Inclusion of Continuous Employment in a Cooperative Arrangement as Part of the Definition of Teacher Tenure**

Delays by two years the implementation of much-needed school reforms adopted in last year's legislative session to help close Connecticut's achievement gap. The bill also moves up by one year (to July 1, 2012) the date by which the Performance Evaluation Advisory Council must develop model teacher performance evaluation system guidelines.

*Effective: July 8, 2011*

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### **PA 11-234 (SB 1160) AAC The Development of a Model Teacher Performance Evaluation System, and Teacher Tenure Laws and Cooperative Arrangements**

Rather than instituting a viable teacher performance evaluation system, as its title suggests, this legislation instead makes changes to the minimum budgetary requirement for towns without high schools but with low-performing schools. The bill allows towns that send students out-of-district to attend high school to deduct, within limits, the cost of those students from their minimum budget requirement. Schools with student poverty rates greater than 10% are prohibited from reducing their budget requirements, if they are lower than the previous year's. SB 1160 also establishes a charter school educator permit.

*Effective: July 1, 2011*

**For more information,** contact CBIA's Louis Bach at 860.244.1929 or louis.bach@cbia.com.

# Energy & Environment

One of the year's most talked-about measures (PA 11-80\*) creates a state agency that will consolidate the management and oversight of energy and environmental policies, although how that will be done remains to be seen. In another measure, CBIAs Environmental Policies Council played a major role in developing portions of legislation designed to stimulate private sector investment in the revitalization of brownfields. In addition, passed was a chemical ban affecting a wide variety of businesses that issue cash register receipts, and a new burden on DEP to adopt regulations concerning quarrying operations.

Unfortunately, bills that would have fostered expedited environmental permitting and streamlined DEP's regulatory burdens in a variety of programs—including stormwater, stream channel encroachment, vehicle emission standards, and stream flow—all failed in the legislative process.

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## **PA 11-6 (SB 1239) AAC The Budget for the Biennium Ending June 30, 2013, and Other Provisions Relating to Revenue**—as amended by **HB 6652 (PA 11-61)**

**Electric Generation Tax:** An electric generation facilities tax will be imposed at the rate of ¼ of a cent per net kilowatt hour of electricity generated and uploaded into the regional bulk power grid at Connecticut facilities. The tax applies to all electricity except that generated by a resources-recovery facility, by customer-side distributed resources, or through use of a fuel cell or alternative energy system (such as solar or wind system).

*Effective: May 4, 2011 and applicable for fiscal years 2011 and 2012, expiring June 30, 2013.*

Also included in PA 11-6 is the elimination of the sales tax exemption for hazardous waste removal, which could have broad consequences for brownfields and other cleanup activities.

*Effective: July 1, 2011*

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## **PA 11-80 (SB 1243) AA Establishing The Department of Energy and Environmental Protection and Planning for Connecticut's Energy Future**

Creates a new state agency consolidating ener-

gy and environmental oversight. The new Department of Energy and Environmental Protection (DEEP) merges the Department of Public Utility Control and energy experts from the Office of Policy and Management with the state's Department of Environmental Protection (DEP). Among many other things, the legislation establishes a new process in which the state will be the principal entity procuring energy for Connecticut. It also expands state programs designed to increase the use of green technologies and jobs within the industry. Many of the provisions of the bill also deal with increasing access to energy efficiency programs and services.

Among other things, SB 1243

- Makes DEEP responsible for projecting the state's future energy needs, in consultation with the Connecticut Energy Advisory Board and utility companies.
- Promotes using a broader range of renewable energy sources to meet Connecticut's aggressive renewable portfolio standards.
- Creates an Office of Energy Efficient Businesses that will provide Connecticut companies with a single entry point to state programs, services, and funding
- Allows Connecticut electric utilities to own and operate up to 10 MW of renewable power each.

The legislation also calls for a study of Connecticut's involvement in the region's energy market as managed by ISO-New England.

*Effective: July 1, 2011*

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## **PA 11-140 (HB 6525) AAC The Continuance of the Majority Leaders' Job Growth Roundtable**

This legislation establishes a 19-member task force to identify the barriers facing Connecticut businesses. The task force, which must report its findings to the legislature by Feb. 1, 2012, will explore, among other things:

- Energy-related job growth.
- The relationships between the state's manufacturing and higher education communities
- The number of Connecticut manufacturers that use remedial measures to address DEP enforcement actions and how remediation could reduce penalties
- Other states' programs for waiving environmental penalties on businesses

In addition, the legislation expands the powers of the state's Office of Brownfield Remediation and Development by allowing it to:

- Make cooperative agreements with imple-

menting agencies

- Award grants and subgrants to these agencies for designing, implementing, and supervising brownfield assessment and remediation

*Effective: July 8, 2011*

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## **PA 11-141 (HB 6526) AAC Brownfield Remediation and Development As An Economic Driver**

Includes a broad range of changes to existing DEP cleanup programs, especially regarding brownfields, and provides an entirely new option for brownfield developers designed to attract private investment in these properties.

The new program protects developers, including municipalities, from liability associated with the migration of pollution off-site and from possible on-site pollution once the site has been cleaned up consistent with state requirements. This protection extends to the immediate prior and subsequent owners of the property provided they did not cause or contribute to the contamination. The DECD commissioner will select brownfields eligible for the program based on applications up to a maximum of eight properties per calendar quarter. **[Note:** SB 1242 allocates \$25 million in each of the next two years to the Regional Brownfield Redevelopment Loan Fund.]

Participants are exempt from the burdensome Connecticut Transfer Act when they sell the property, and they are still eligible for state funding.

However, the bill imposes fees on parties accepted into the program and on those that subsequently acquire the properties. It exempts municipalities and economic development agencies from the application fees, but requires them to collect and remit the fees to DEP when they transfer the property. (A significant portion of the fee can be waived by the DEP, under certain circumstances.)

Other sections of the bill are also designed to foster more brownfield redevelopment in Connecticut. These include:

- Bolstering the role of the Office of Brownfield Remediation and Development within DECD and transforming the current municipal brownfield pilot program into a permanent "Municipal Brownfield Grant Program"
- Exempting certifying parties under the Transfer Act from investigating and remediating contamination that occurs after they remediate the property
- Broadening the definition of brownfields to include more types of properties
- Exempting state, municipal, and private organizations from paying DEP fees when

*Continued on Page 13*

## Energy & Environment

Continued from Page 12

cleaning up brownfields

- Expanding the range of benefits and eligible entities and properties under the existing "Abandoned Brownfield Cleanup Program"—to properties that have been abandoned or significantly underutilized for at least five years

*Effective dates: Various*

### **PA 11-162 (SB 227) AAC Remediation Standards Under a Consent Order**

Ensures that individuals, businesses, municipalities or other entities that enter into agreements with the DEP to clean up contamination according to state requirements will not be adversely impacted if those standards change after the date of the agreement.

*Effective: Oct. 1, 2011*

### **PA 11-190 (HB 5526) AA Requiring a Permit for Certain Commercial Products That Involve Quarrying**

Requires the DEP to expend scarce resources to develop regulations and permit requirements for commercial projects that involve quarrying near a town center. The legislation is applicable only to a municipality with a town meeting form of government and a population of at least 2,000 and no more than 3,000.

*Effective: July 13, 2011*

### **PA 11-222 (SB 210) AA Prohibiting the Use of Bisphenol-A in Thermal Receipt Paper**

Bans the use of Bisphenol-A, a compound that is commonly used in receipt paper from retailers and bank ATM machines. The ban is effective Oct. 1, 2013, but may extend to July 1, 2015, if the federal Environmental Protection Agency determines there is no safe, commercially available alternative. The original bill included a provision with potentially negative implications for UCONN's newly-formed Chemical Innovations Institute, by involving the institute in legislative advocacy for the banning of chemicals.

*Effective: Oct. 1, 2013*

### **PA 11-245 (HB 6249) AA Requiring Adoption of Regulations for the Siting of Wind Projects**

Bowing to local political pressure, this legislation puts a halt to the development of all wind power projects in Connecticut until regulations governing them are adopted by the Connecticut Siting Council.

*Effective: July 1, 2011*

**For more information,** contact CBIA's Eric Brown at 860.244.1926 or [eric.brown@cbia.com](mailto:eric.brown@cbia.com).

## Government Administration and Elections

Lawmakers approved legislation, within a budget implementer, that makes a few changes to Connecticut's campaign finance law. In addition, some cost-saving efficiencies recommended by the bipartisan Commission on Enhancing Agency Outcomes (originally contained in SB 1059) ultimately were included in the new state budget (PA 11-6).

### **Government efficiency**

#### **PA 11-6 (SB-1239) The Budget for the Biennium Ending June 30, 2013, and Other Provisions Relating to Revenue**

Many of the ideas of the bipartisan Commission on Enhancing Agency Outcomes, as originally contained in SB 1059, ultimately were incorporated into the overall budget bill. Among other things, the reforms include numerous changes to the state's corrections system; long-term healthcare; and expansion of technology in state government. Reforms also incorporate several recommendations made by the Connecticut Regional Institute for the 21st Century.

#### **PA 11-6 (SB-1239) AAC the Budget for the Biennium Ending June 30, 2013, and Other Provisions Relating to Revenue;**

#### **PA 11-51 (HB-6650) AA Implementing the Provisions of the Budget Concerning the Judicial Branch, Child Protection, Criminal Justice, Weigh Stations and Certain State Agency Consolidations;**

#### **PA 11-61 (HB-6652) AA Implementing the Revenue Items in the Budget and Making Budget Adjustments, Deficiency Appropriations, Certain Revisions to Bills of the Current Session and Miscellaneous Changes to the General Statutes;**

#### **PA 11-48 (HB-6651) AA Implementing Provisions of the Budget Concerning General Government**

The above-mentioned acts make numerous changes to the functionality of state government and the services that state agencies provide. They accomplish this by, among other things, making multiple state agency consolidations and function transfers.

The following are the major changes made in the areas of agency consolidations by

these acts, but do not represent every agency consolidation:

- Dissolves the Connecticut State University System, the Community Technical Colleges and the Charter Oak State College and transfers all functions to the new Board of Regents for Higher Education
- Dissolves the Commission on Child Protection and transfers all functions to the Public Defender Services Commission
- Dissolves the Department of Public Works and transfers all functions to the Department of Administrative Services and the new Department of Construction Services
- Dissolves the Department of Information Technology and transfers all functions to the Department of Administrative Services
- Dissolves both the Department of Public Safety and the Office of Emergency Management and Homeland Security and transfers all functions to the new Department of Emergency Services and Public Protection and transfers certain other state protection-related services and functions to this new agency
- Dissolves the Department of Special Revenue and transfers all functions to the Department of Consumer Protection
- Dissolves the Departments of Environmental Protection and Public Utility Control and transfers all functions to the new Department of Energy and Environmental Protection

*Effective: Various dates*

### **Campaign Finance**

#### **PA 11-61 (HB 6652) AA Implementing Provisions of the Budget Concerning General Government**

Among other things, amends election laws, including those related to campaign finance. The act:

- Authorizes testimonials for all elected offices
- Permits treasurers to use a bank or cashier's check for verifiable TV advertising costs
- Clarifies that "candidate committee" means a committee for a candidate who participates or does not in the state clean election program

The act also expands the list of items and services that are not considered contributions.

*Effective Date: Jan. 1, 2012*

For more information, contact CBIA's Eric George at 860.244.1921 or [eric.george@cbia.com](mailto:eric.george@cbia.com).

# Healthcare

**B**usinesses are both encouraged—and concerned—about the General Assembly's healthcare actions this year. While plans to significantly expand the control of state government over healthcare in the state were stopped, lawmakers added to Connecticut's mountain of healthcare mandates—which is certain to push costs higher.

Most noteworthy was the defeat of a proposed state-run health insurance public option, under the name of SustiNet. The SustiNet bill and a healthcare pooling proposal were changed dramatically from their original versions to be much less of a threat to Connecticut's economy and fiscal health.

Another positive was the adoption of a bill to begin the process of establishing a health insurance exchange in Connecticut, as required by federal law.

But seven new or expanded health benefit mandates that will increase the cost of health insurance for individuals and many businesses, especially small businesses, were approved. Connecticut already has more than 60 health insurance mandates on the books, one of the highest—and costliest—totals in the U.S.

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## **PA 11-6 (SB-1239) AAC The Budget for the Biennium Ending June 30, 2013 and Other Provisions Related to Revenue (as amended by PA 11-61 (HB 6652) and PA 11-44 (SB 1240))**

Potentially increases the cost of medical care by, among other things, eliminating the hospital gross earnings tax and instituting a tax on net patient revenue, which is set at the maximum amount permitted under federal law. It also eliminates the State Administered General Assistance (SAGA) program, which according to PA 10-1, was already effectively incorporated into the state's Medicaid program.

*Effective: July 1, 2011*

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## **PA 11-53 (SB 921) AA Establishing a State Health Insurance Exchange**

Begins the process of establishing a health

insurance exchange as required under federal healthcare reform. By 2014, each state must set up its own new health insurance marketplace (known as an "exchange") for individuals and small companies. Prior to that, by Dec. 31, 2012, states must satisfy federal regulators by having simplified insurance offerings, a standardized application, and a consumer-friendly online presentation.

This act establishes the framework for Connecticut's exchange. Unfortunately, while it allows individuals with healthcare experience to serve on the exchange's board of directors, it prohibits anyone currently working in the healthcare industry from serving on the board. This necessarily narrows the pool of qualified individuals from whose expertise and knowledge the exchange could benefit.

*Effective: July 1, 2011*

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## **PA 11-58 (HB-6308) AAC Healthcare Reform (as amended by PA 11-61, HB 6652)**

Makes numerous changes in the area of healthcare reform. Most notably, it opens the state employee health insurance plan to municipalities and certain nonprofits. However, it does not make the costly and risky expansion to private-sector businesses or individuals, nor does it establish a costly health insurance public option—all very positive changes to the original SustiNet and pooling proposals.

The act also creates two new healthcare-focused groups. The first is the SustiNet Health Care Cabinet, which would evaluate the viability of various future health reform initiatives, including a public option. The second is the Office of Health Reform and Innovation, which would have several duties, including bringing Connecticut into compliance with federal health reform rules.

The act also makes changes to the rules governing standards in contracts, rescission of pre-authorization decisions, regulation and licensing of third party administrators, and more.

*Effective: Various dates*

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## **PA 11-67 (SB 10) AAC Insurance Coverage for Breast Magnetic Resonance Imaging**

Increases the cost of health insurance for employers (especially small businesses) and the state of Connecticut by requiring their health plans to cover certain health services related to breast MRIs in certain specified circumstances. Under federal law, states are required to cover the costs of mandates that exceed an "essential benefits package." Since the federal govern-

ment has not yet determined what the essential benefits package will be, it is unknown whether this mandate will be included.

*Effective: Applicable to plans issued, renewed, amended or continued on or after Jan. 1, 2012*

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## **PA 11-83 (SB-923) AAC The American College of Radiology and Colorectal Cancer Screening Recommendations and Health Insurance Coverage for Colonoscopies**

Increases the cost of health insurance for employers (especially small businesses) and the state of Connecticut by requiring their health plans to cover certain health services related to colonoscopies. Under federal law, states are required to cover the costs of mandates that exceed the "essential benefits package." Since the federal government has not yet determined what the essential benefits package will be, it is unknown whether this mandate will be included.

*Effective: Applicable to plans issued, renewed, amended or continued on or after Jan. 1, 2012*

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## **PA 11-88 (HB-5032) AA Requiring Health Insurance Coverage for Bone Marrow Testing**

Increases the cost of health insurance for employers (especially small businesses) and the state of Connecticut by requiring their health plans to cover certain health services related to determining compatibility for bone marrow transplants. Under federal law, states are required to cover the costs of mandates that exceed an "essential benefits package." Since the federal government has not yet determined what the essential benefits package will be, it is unknown whether this mandate will be included.

*Effective: Applicable to plans issued, renewed, amended or continued on or after Jan. 1, 2012*

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## **PA 11-169 (SB 1083) AAC Health Insurance Coverage of Prescription Drugs for Pain Treatment**

Increases the cost of health insurance for employers (especially small businesses) and the state of Connecticut by requiring their health plans to cover certain health services related to pain management prescription drugs. Under federal law, states are required to cover the costs of mandates that exceed an "essential benefits package." Since the federal government has not yet determined what the essential benefits package will be, it is unknown whether

*Continued on Page 15*

## Healthcare

Continued from Page 14

this mandate will be included.

*Effective: Applicable to plans issued, renewed, amended or continued on or after Jan. 1, 2012*

### **PA 11-172 (SB 21) AAC Health Insurance Coverage for Routine Patient Care Costs for Certain Clinical Trial Patients**

Increases the cost of health insurance for employers (especially small businesses) and the state of Connecticut by requiring their health plans to cover certain health services related to clinical trials for all disabling or life-threatening chronic diseases (rather than cancer alone). Under federal law, states are required to cover the costs of mandates that exceed an "essential benefits package." Since the federal government has not yet determined what the essential benefits package will be, it is unknown whether this mandate will be included.

*Effective: Applicable to plans issued, renewed, amended or continued on or after Jan. 1, 2012*

### **PA 11-204 (HB 6472) AAC Health Insurance Coverage for Ostomy Supplies**

Increases the cost of health insurance for employers (especially small businesses) and the state of Connecticut by requiring their health plans to cover certain health services pertaining to ostomy-related supplies. Under federal law, states are required to cover the costs of mandates that exceed an "essential benefits package." Since the federal government has not yet determined what the essential benefits package will be, it is unknown whether this mandate will be included.

*Effective: Applicable to plans issued, renewed, amended or continued on or after Jan. 1, 2012*

### **PA 11-225 (SB 396) AAC Insurance Coverage for the Screening and Treatment of Prostate Cancer**

Increases the cost of health insurance for employers (especially small businesses) and the state of Connecticut by requiring their health plans to cover certain health services related to prostate cancer screening and treatment. Under federal law, states are required to cover the costs of mandates that exceed an "essential benefits package." Since the federal government has not yet determined what the essential benefits package will be, it is unknown whether this mandate will be included.

*Effective: Applicable to plans issued, renewed, amended or continued on or after Jan. 1, 2012*

**For more information,** contact CBIa's Eric George at 860.244.1921 or [eric.george@cbia.com](mailto:eric.george@cbia.com).

## Labor

**T**he most harmful legislation affecting businesses this year was the adoption of the paid sick leave mandate (**PA 11-52**). Despite hearing from hundreds of businesses across the state whose ability to create and keep good jobs will be weakened by this legislation, lawmakers instead listened to the voices of non-employer advocacy groups.

Another potentially damaging bill, the captive audience legislation (**HB 5460**), failed only when the attorney general said the proposal would not be able to withstand a court test.

Other approved proposals that could have had significantly harmful effects on businesses were amended to make them less costly or burdensome. The business community also defeated proposals that would have expanded workers' compensation benefits (SB 23) and increased administrative burdens (SB 986); and awarded employees double damages in certain civil actions (SB 798)—although the final proposal had been significantly improved by businesses.

### **Special Act 11-4 (HB 6370) AAC Coordination of the Enforcement and Investigation Responsibilities of the Labor Department**

Streamlines certain processes at the Connecticut Department of Labor in order to improve the coordination of enforcement and investigation functions.

*Effective: May 24, 2011*

### **PA 11-12 (HB 6176) AAC Increasing Penalties for Repeat Violators of the Personnel Files Act**

Increases penalties and makes employers liable for even unintentional violations of personnel records law. The first violation will incur a \$500 penalty and subsequent violations will be \$1,000 each.

*Effective: Oct. 1, 2011*

### **PA 11-36 (HB 6096) AA Preserving Good Cause for Late Filing of Certain Unemployment Compensation Appeals**

Clarifies the unemployment compensation appeals process by allowing claimants to appeal after the 21-day deadline if they can demonstrate a good reason for the late filing.

*Effective: Oct. 1, 2011*

### **PA 11-44 (SB 1240) AAC The Bureau of Rehabilitative Services and Implementation of Provisions of the Budget Concerning Human Services and Public Health**

Section 47 transfers the employee rehabilitation program of the Workers Compensation Commission (WCC) to the newly created Bureau of Rehabilitative Services (BRS). The changes mean WCC will no longer provide employee rehabilitation programs; BRS will take over that function.

Under current law, the WCC chairman must establish rehabilitation programs for injured workers who are eligible for workers' compensation benefits. In order to carry out this program the chairman is authorized to establish fees, enter into agreements with state and federal agencies, and develop programs or activities to secure federal grants and pledge or use funds from the Workers' Compensation Administration Fund. The legislation transfers this authority to the BRS director. This measure was amended by PA 11-61; funding for rehabilitation services for workers' compensation recipients will continue to come from employers' WC assessments.

*Effective: July 1, 2011*

### **PA 11-52 (SB 913) Mandating Employers Provide Paid Sick Leave to Employees**

Imposes a one-size-fits-all labor mandate on certain employers of 50 or more employees. It requires them to provide a minimum of one hour of paid leave for every 40 hours an employee works, regardless of employers' financial resources or business demands. The new mandate applies to all employers of "service workers" as defined by the legislation in a list of more than 60 job titles and functions, including data processors, restaurant and food service workers, security guards and front desk personnel. Manufacturers with industrial classification codes 31, 32, and 33 are exempted from the legislation, as are certain nonprofit organizations providing educational, day care, and recreational services. With the passage of this legislation, effective Jan. 1, 2012, Connecticut will become the first state in the nation to mandate the amount of paid sick time for employees.

Continued on Page 16

## Labor

Continued from Page 15

Effective: Jan. 1, 2012

### **PA 11-61 (HB 6652) An Act Implementing the Revenue Items in the Budget and Making Budget Adjustments, Deficiency Appropriations, Certain Revisions to Bills of the Current Session and Miscellaneous Changes to the General Statutes**

**Bureau of Rehabilitation Services Funding Determinations:** Requires the WCC chairman to determine the amount of funds sufficient to meet the expenses of the Bureau of Rehabilitation Services division of the WCC. By law and under the bill, assessments on employers to meet the expenses of the WCC must be accounted for and made available to the public for 30 days in the chairman's office. The bill also requires this function to also be performed by the WCC chairman and comptroller for the Bureau of Rehabilitation Services.

**Whistleblower Protection:** Sec. 119 creates whistleblower protections for employees, contractors, or agents who experience adverse job actions and/or discrimination as a result of lawfully testifying, participating in or taking steps to end illegal Medicare activities. Also adds "associated others" to protected groups.

Effective: July 1, 2011

### **PA 11-87 (SB 936) AAC Extending the Look-Back Period to Determine Eligibility for Unemployment Compensation Extended Benefits**

Allows the state to temporarily change its look-back period for the purpose of determining if and when the state triggers onto the Extended Benefits period under federal law. (Currently, the look-back period is two years.) This will help the state gain access to federally funded extended benefits for a longer period of time, which will relieve pressure on Connecticut employers.

Effective: July 8, 2011

### **PA 11-205 (HB 6474) AAC The Resolution of Liens in Workers' Compensation Cases**

Reduces the amount of reimbursement received by an employer that has paid workers' compensation benefits to an injured employee when the employee brings an action against a third-party tortfeasor and recovers damages.

Currently, if the employer and employee are both plaintiffs and recover damages, the employer's claim takes precedence in the apportionment of funds (after deductions for reasonable and necessary expenses, including attorneys' fees, incurred by the employee). Under this bill, if the employee brings the action, the employer's claim is reduced by one-third unless the parties agree otherwise. The reduction is solely for the employee's benefit, but it does not apply to government employers.

This legislation also requires employees and employers to immediately notify each other in writing when a lawsuit is filed so that the other can join the suit. Under current law, if the others do not join the suit within 30 days, their right of action against the party in question is eliminated. This bill provides that the right of action does not stop if the employer fails to join the lawsuit but does give written notice of a lien.

Effective: July 1, 2011

### **PA 11-223 (SB 361) AA Preventing the Use of Credit Scores by Certain Employers in Hiring Decisions**

Prevents employers from requiring an employee or applicant to consent to a credit check as a condition of employment, unless the employer is a financial institution, the employee is in certain financial occupations, or it is required by law. The legislation also imposes a penalty of \$300 for each violation.

Originally, this bill would have hindered employers' ability to fully assess job candidates, especially when the jobs entail access to sensitive, proprietary and highly valuable information. However, CBIA and others in the business community secured changes to the bill that

would allow employers to use credit reports in hiring decisions whenever the use of the information is "substantially related" to the job function. "Substantially related" is presumed when the position:

- is a managerial position that involves setting the direction or control of a business, division, unit, or agency of a business
- involves access to customers', employees', or the employer's personal or financial information other than customary retail transaction information
- involves a fiduciary responsibility to the employer, including authority to make payments, collect debts, transfer money, or enter contracts
- provides an expense account or corporate debit or credit card
- provides access to confidential or proprietary business information
- provides access to information (such as a formula, pattern, compilation, program, device, method, technique, process, or trade secret) which has actual or potential independent economic value because it is not generally known or readily ascertainable by proper means by others who could obtain economic value from the information and there are reasonable efforts under the circumstances to keep the information secret
- involves access to the employer's nonfinancial assets of at least \$ 2,005 in value, including museum and library collections and prescription drugs and pharmaceuticals.

Effective: Oct. 1, 2012

### **PA 11-237 (HB 6595) AAC The Commission on Human Rights and Opportunities**

Institutes new systems for improving case processing, reducing agency costs and streamlining the functioning of the CHRO.

Effective: Oct. 1, 2011

**For more information,** contact CBIA's Kia Murrell at 860.244.1931 or [kia.murrell@cbia.com](mailto:kia.murrell@cbia.com).



# Transportation

**F**or years, fulfilling the vast economic potential of Bradley International Airport has been elusive. Its close proximity to Boston and New York—but without the road congestion—should provide a great strategic advantage. This year, lawmakers approved a bill (**PA 11-84\***) to revamp how Bradley International Airport (as well as other state-run airports) is governed, with the hope of ultimately making the Bradley a more aggressive and successful competitor in the domestic and international markets.

Meanwhile, a bill authorizing electronic tolls for a limited time to fund the completion of Route 11 from Colchester to I-95 in the Waterford area fell just short—passing the House but dying on the Senate calendar as time ran out on June 8.

**Note:** *PA means Public Act; asterisks denote that the Governor has not yet signed the bill into law.*

## **PA 11-6 (SB 1239) AAC The Budget for the Biennium Ending June 30, 2013** as amended by **PA 11-61** and **HB 6701**

Among many other things, the budget bill includes:

### **Special Transportation Fund (STF):**

- Changes the formula for determining the percentage of the petroleum products gross earnings tax to be transferred to the Special Transportation Fund and requires the Department of Transportation (DOT) commissioner begin using this new formula beginning January 1, 2013 and every two years after.
- Raises the mandated yearly transfers from the state General Fund to the STF.
- Mandates crediting to the STF revenues from the motor vehicle sales tax, and any other

monies required by law including transfers from the General Fund to the STF. Bonds, securities and federal grants are exempt from the crediting requirement.

**Diesel Fuel Tax:** The base tax on diesel fuel increases from 26 cents to 29 cents per gallon. This measure also imposes an inventory tax of 3 cents on each gallon a licensed seller has in stock as of the close of business or 11:59, whichever is earlier, on June 30, 2011.

*Effective: The diesel fuel inventory tax is effective on May 4, 2011 and the rate per gallon increase is effective on July 1, 2011.*

**Transportation Strategy Board:** Transfers all unused funds from the TSB Fund to the General Fund.

*Effective: July 1, 2011*

## **PA 11-57 (SB-1242) An Act Authorizing Bonds of the State for Capital Improvements Authorizing Special Tax Obligation Bonds of the State for Transportation Purposes and Authorization State Grant Commitments for School Building Projects**

The Act authorizes bonding for the next two fiscal years for transportation-related projects including state road and bridge repair, highway maintenance projects and capital projects for ports, aviation and public transportation facilities

*Effective: FY12 authorizations are effective July 1, 2011 and FY 13 authorizations are effective July 1, 2012.*

## **PA 11-61 (HB-6652) An Act Implementing the Revenue Items in the Budget and Making Budget Adjustments, Deficiency Appropriations, Certain Revisions to Bills of the Current Session and Miscellaneous Changes to the General Statutes**—as amended by **HB 6701**

**New Haven Rail Line Fares:** The Act postpones scheduled rail fare increases on the New Haven line for 2 years and modifies the phase one increase effective January 1, 2012 from 1% to 1.25% and extends the subsequent 1% increase from 2016 to 2018.

**DOT Fare Changes:** The Act modifies the process by which DOT can change the fares it charges for mass transportation, avoiding the procedures required by the Uniform Administrative Procedures Act. Instead, DOT need only hold a public hearing on the proposed fare changes and must provide notice of the public hearing at least 15 days in advance.

**Transportation Strategy Board:** Disbands the state's Transportation Strategy Board.

*Effective: July 1, 2011, and impacts New Haven rail line fares effective Jan. 1, 2012*

### **Special Transportation Fund**

- HB 6701 reduces net Transportation Fund appropriations adopted in PA 11-61 by about \$120 million over the two-year biennium.

*Effective: Upon Governor's signature*

- HB 6701 reduces the transfer of dollars from the General Fund to the Special Transportation Fund under PA 11-61 from \$81.55 million to \$41 million.

*Effective: July 1, 2011*

## **PA 11-84 (SB 1003) AAC The Connecticut Airport Authority**

Creates a nine-member Connecticut Airport Authority that will replace the current Bradley board of directors. Serving on the authority would be representatives from both the public and private sectors.

The new board will be empowered to act quickly and allow Bradley to compete for air traffic and generate much-needed economic activity. Also under the panel's authority would be Connecticut's other, smaller state-owned airports.

*Effective: July 1, 2011*

**For more information,** contact CBI's Eric Brown at 860.244.1926 or [eric.brown@cbia.com](mailto:eric.brown@cbia.com).