



OLR RESEARCH REPORT

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2002-R-0557

2002 VETO PACKAGE

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The governor vetoed two public acts passed in the 2002 session that may be considered during the veto session:

- “An Act Making Adjustments to the State Budget for the Biennium Ending June 30, 2003, and Making Appropriations Therefor, Making Deficiency Appropriations and Transferring Funds to Agencies With Deficiencies for the Fiscal Year Ending June 30, 2002, Concerning a Tax Amnesty Program, the Personal Income Tax, the Gift Tax, Funding for CT-N Television Network, Tax Exemptions for Alternative Fuels, the Depreciation Deduction under the Corporation Business Tax, Court Filing Fees, the Underground Storage Tank Funding Mechanism and the Administration of Certain Provisions with Respect to Taxes, and Concerning Operating a Motor Vehicle While Under The Influence of Intoxicating Liquor” (PA 02-38), and
- “An Act Concerning Animal Health Certificates and Cruelty to Animals” (PA 02-62).

The governor vetoed a third act, “An Act Concerning Hydrogen Production Facilities and Hydrogen Conversion Technology and the Protection of Long Island Sound” (PA 02-7), but the General Assembly chose to reconsider it during the regular session (the veto was sustained) and therefore cannot reconsider it during the veto session.

A vetoed act will not become a law unless it is reconsidered and passed again by a two-thirds vote of each house of the General Assembly (24 votes are necessary in the Senate and 101 in the House).

This report contains a brief summary of each act, the final vote tallies, and excerpts from the governor's veto messages.

PA 02-38—SB 660

Emergency Certification

AN ACT MAKING ADJUSTMENTS TO THE STATE BUDGET FOR THE BIENNIUM ENDING JUNE 30, 2003, AND MAKING APPROPRIATIONS THEREFOR, MAKING DEFICIENCY APPROPRIATIONS AND TRANSFERRING FUNDS TO AGENCIES WITH DEFICIENCIES FOR THE FISCAL YEAR ENDING JUNE 30, 2002, CONCERNING A TAX AMNESTY PROGRAM, THE PERSONAL INCOME TAX, THE GIFT TAX, FUNDING FOR CT-N TELEVISION NETWORK, TAX EXEMPTIONS FOR ALTERNATIVE FUELS, THE DEPRECIATION DEDUCTION UNDER THE CORPORATION BUSINESS TAX, COURT FILING FEES, THE UNDERGROUND STORAGE TANK FUNDING MECHANISM AND THE ADMINISTRATION OF CERTAIN PROVISIONS WITH RESPECT TO TAXES, AND CONCERNING OPERATING A MOTOR VEHICLE WHILE UNDER THE INFLUENCE OF INTOXICATING LIQUOR

SUMMARY: For FY 2002-03, this act adjusts state appropriations, allows specified funds to be carried forward rather than lapsing on July 1, 2002, and transfers money to the General Fund. It also makes many other funding adjustments for FY 2002-03; changes funding for the Underground Storage Tank Clean-Up Fund; eliminates funding allocations for recreational fishing, the statewide centralized voter registration system, and the Hospital Assistance Program Account; and changes the way the state pays for implementing the federal Health Insurance Portability and Accountability Act. It requires the Connecticut Television Network to be funded through an assessment on cable television companies and authorizes a 100% tax credit to offset the assessments.

The act allocates additional funds to cover deficiencies in appropriations for FY 2001-02 and adjusts estimated revenue for FY 2002-03.

The act makes many changes in taxes and revenues. With respect to the personal income tax, it (1) imposes a temporary 1% surcharge on annual income over \$1 million, (2) grants a temporary exemption to September 11th and anthrax attack victims, and (3) defers scheduled tax decreases for single filers.

Regarding business taxes, the act (1) bars corporations from using a new federal 30% bonus depreciation rule to figure their state corporation tax liability, (2) changes and clarifies (a) the Department of Revenue Services commissioner's authority to make adjustments in corporation taxes owed and (b) interest payment requirements on refunds of corporation and air carrier tax overpayments, and (3) temporarily suspends payments for 65% of the value of unused research and development (R&D) corporation tax credits to eligible companies.

The act also:

1. defers scheduled decreases in the gift tax,
2. authorizes an exemption from the petroleum products gross earnings tax and extends existing tax exemptions for alternative fuels,
3. establishes a tax amnesty program, and
4. increases certain court filing fees.

The act makes several changes in the drunk driving law. It:

1. lowers the .10% blood-alcohol content (BAC) standard for defining the per se offense of drunk driving (DWI) to .08% BAC;
2. eliminates a separate .07% BAC standard for defining drunk driving that formerly applied to anyone with a prior DWI conviction, thereby establishing a single .08% standard for all offenses;
3. eliminates the infraction offense of driving while impaired by alcohol (BAC of .07-.099%);
4. extends the Pretrial Alcohol Education Program to those under age 21 charged for a first time under the separate "zero tolerance" law that prohibits them from driving with a BAC of .02% or more;

5. allows someone arrested for DWI (but not someone under age 21 charged under the .02% zero tolerance law) to participate in the Pretrial Alcohol Education Program once every 10 years, instead of only once;
6. requires a Department of Mental Health and Addiction Services evaluation of an alcohol education program applicant before the referral court approves the participation application rather than after, and requires the applicant to pay an additional nonrefundable \$100 evaluation fee when he pays the existing \$50 dollar application fee;
7. eliminates the requirement that someone with a BAC of .16% or more participate in a minimum 15-session program, instead of a minimum 10-session program, but maintains authority for requiring a 15-session program based on the evaluation report and court order; and
8. eliminates the requirement that the public safety commissioner consult with the public health commissioner when adopting regulations governing the administration of BAC tests; the operation of test devices; training and certification of test device operators; and the drawing or obtaining of blood, breath, or urine samples for determining BAC levels.
EFFECTIVE DATE: Various

House Vote: 93-56 (April 26)

Senate Vote: 20-16 (April 24)

EXCERPTS FROM THE GOVERNOR'S VETO MESSAGE

“First, this budget is out of balance. According to the Office of Policy and Management (OPM), this year’s budget shortfall has grown to over \$500 million. This bill also may exceed revenues by as much as \$100 million and leads to an additional hole in the FY 2004 budget of approximately \$310 million. In addition, OPM has identified approximately \$80 million in accounts that are not sufficiently funded which will lead to further imbalances in the FY 2003 General Fund budget. Furthermore, because of reductions in the budget approved by the Democrats, in other current expense accounts that fund both personnel and operating costs for over 1,000 state employees, some of these individuals may face layoff.

“Second, this budget includes an income tax increase on a relatively small segment of the population that is fundamentally unfair and was not given a public hearing. This act raises the personal income tax rate by one-percentage point on approximately 6,500 Connecticut residents and represents a 22% increase in the marginal tax rate. Additionally, the policy behind this new tax is deeply flawed as it discriminates against these individuals, who in FY 2000 paid 30% of the state’s income tax, and asks them to pay more. This tax increase may provide the impetus for some of our state’s largest taxpayers and wealthiest residents to take up residence in another state. According to OPM, if one in every five of these individuals decides to leave the state or spends at least 183 days in another state of residency, any revenue anticipated to be generated by this surcharge would be negated. Consequently, we would have taxed the state’s wealthiest citizens and biggest income tax generators out of the state. Furthermore, as Governor, I encourage all Connecticut citizens to become financially independent. This tax unfairly penalizes those who have reached that goal merely because they have achieved it....

“Third, this budget unfairly penalizes businesses that have *already earned* the research and development tax credit by suspending it for one year. Essentially, this budget reaches back in time to take away a tax credit that certain corporations have already lawfully earned. Current tax law allows certain small start-up companies to be eligible for 65% of the value of unused corporation tax credits for research and development. These credits are particularly important to the biomedical cluster, which is growing at an unprecedented pace in the New Haven area. The biomedical industry will be disproportionately hurt by the suspension of this tax credit....

“Fourth, as Lt. Governor M. Jodi Rell ruled during the Senate debate and House Minority Leader Robert Ward urged on the floor of the House, this bill should have been approved by three-fifths of the members of the General Assembly, not a simple majority. Section 18 of Article XXVIII of the Amendments to the Connecticut Constitution requires that any use of surplus funds other than for the funding of a budget reserve fund or the reduction of bonded indebtedness must be approved by three-fifths of both houses of the General Assembly. The budget before me changes the purposes for which the surplus will be used from my original declaration in FY 2000-01. If the purposes for which a surplus is used can be changed without a three-fifths vote, the statutory and constitutional provisions requiring a three-fifths vote would be meaningless as the majority party could initially approve any surplus spending plan and then vote to amend it by a simple majority. This outcome is contrary to the intent of the voters in approving the constitutional amendment....”

**AN ACT CONCERNING COMPANION ANIMAL HEALTH CERTIFICATES
AND CRUELTY TO ANIMALS**

SUMMARY: This act expands the animal abuse law by (1) specifying the type of shelter that a person in charge of, or caring for, a dog, considering all surrounding circumstances, must provide and (2) setting outdoor dog care conditions (subjecting violators to a fine of up to \$1,000, up to a year in prison, or both) that include standards for:

1. outdoor housing facilities,
2. tethering and chaining, and
3. cable and line measurements.

It also requires owners to keep female dogs in heat away from male dogs (other than for breeding purposes). First offenses draw a warning, with a penalty of \$100 for a second or subsequent violation.

The act allows someone being prosecuted to claim, as an affirmative defense, that his violation of the tethering or confinement provision was not his usual and customary conduct. The act specifies that it does not prevent a finding of a violation of the existing law barring cruelty to animals, fighting animals, or intentionally killing a police animal.

The act specifies that the health certificate a person needs when importing a dog or cat into the state must be obtained no earlier than 30 days before importing the animal. By law, the health certificate must be from a licensed, graduate veterinarian stating that the animal (1) is free of any infectious, contagious, or communicable disease and (2) if older than three months, has been vaccinated against rabies by a licensed veterinarian. Violators are subject to a fine of up to \$100, 30 days imprisonment, or both.

EFFECTIVE DATE: July 1, 2002

Senate Vote: 35-0, Consent Calendar (April 10)

House Vote: 124-17 (April 17)

Senate Vote: 30-6 (April 30)

EXCERPTS FROM THE GOVERNOR'S VETO MESSAGE

“As a dog owner, I certainly understand and agree with the goals that the proponents of this act are trying to achieve. However, the act before me is unnecessary, vague, and unenforceable. The proponents of this act have admitted that it is flawed and have offered to work with me next year to fix its problems. However, it is irresponsible to sign a bill that is flawed in hopes that the legislature will vote to fix it in the future. If the legislature does not fix it, the executive branch will be in the position of enforcing an unenforceable law.

“In part, this act specifies the type of shelter that dog owners must provide to their dogs; vaguely describes the types of dogs that are subject to time and temperature limits while outside; imposes time limits on dog owners who decide to keep their dogs chained or tethered; and specifies the length and weight of the chain or tether that they must use....

“The act before me does not prohibit anything that is not already prohibited by current law (CGS § 53-247(a)) (citation added). The law clearly requires dogs to be protected from weather. Further, it prohibits constraining an animal if the constraint interferes with the animal's proper care. Law enforcement officials already have the authority to fine and imprison those who violate state laws prohibiting cruelty against animals. In fact, the Department of Agriculture recently exercised its authority to enforce the current law against someone who kept her dogs tethered to leashes that were too short while they were outside in the snow without shelter. The legislature's attempt to codify the weight of a dog chain, an arbitrary temperature and length of time for which a dog can be kept outside, and the height of a cable or trolley, makes a mockery out of the legislative process by trying to legislate common sense behavior....

“Pet shops, animal trainers and groomers, kennels, dog racing facilities and government control facilities are exempt from the tethering and confinement provisions of this act. Since it appears that all businesses and charitable organizations are exempt from the restrictive provisions of this act, one can only conclude that this bill is intended to apply to private citizens who own or otherwise have custody of a dog. In my opinion, there is no rational basis to treat individual citizens and business and charitable organizations differently. When legislating the protection of animals, the same rules should apply to everyone.

“Finally, the provisions of this act make it impossible for law enforcement officials to enforce it properly and fairly as it leaves too many questions unanswered. For example, what types of dogs are those that “belong to a breed of dog generally known to be tolerant of cold weather” and who makes this determination? Does this mean that dogs “known to be tolerant of cold weather” do not need shelter at all?...”

JM:ts