



THE CAPITOL UPDATE

AN UPDATE ON
CONNECTICUT STATE
GOVERNMENT AND
POLITICS FROM
THE GOVERNMENT
AFFAIRS GROUP OF
MURTHA CULLINA LLP

HEY, BUDDY, CAN YOU SPARE A DIME?

2008 CT General Assembly

As pundits look back at the 2008 session of the Connecticut General Assembly, they might be reminded of Carl Sandburg's famous poem, "Fog," in which he cleverly describes a silent, opaque mist suddenly enveloping its surroundings, coming in "on little cat feet" without warning. A similar fog shrouded this year's legislative session, only this dense mist was *fiscal* in nature. With state revenues falling quicker than President Bush's approval ratings, legislative leaders and Governor M. Jodi Rell were left little choice but to grope their way to the end of the session as a predicted \$281.2 million budget surplus morphed into a projected \$67.7 million deficit.

Budget Meltdown

All grand plans and legislative schemes for budget adjustments evaporated this year with the slowing economy and the precipitous fall of state revenues. The Governor and legislative leaders saw proposed programs for additional oversight and staffing of nursing homes, extra state troopers to promote highway safety, the elimination of the \$250 Business Entity Tax, increased PILOT (payment in lieu of taxes) funds for municipalities and financial support for the private provider community fall victim to the weakening economy. The Governor and legislative leaders chose instead to live within the appropriation and revenue limits established in last year's biennial budget. This FY 09 state budget totals \$18.4 billion, for a growth rate of 4.6% over the FY 08 state budget.

As a sidebar to four months of budget deliberation between the Governor and Democrat leaders, the Senate and House Republican caucuses offered an alternative budget package to reduce taxes and selectively increase spending. This plan was summarily rejected by both the Governor and Democrat legislative leaders, each claiming it was built on ethereal savings achieved from a proposed state employee early retirement plan, a program that in the past has not generated the savings anticipated by the state.

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Criminal Justice Reform

Motivated by a series of deadly home invasions and a rash of urban drive-by shootings, legislators and the Governor embraced a criminal justice reform bill that seeks to keep persistent dangerous felons behind bars. Longer jail sentences for so-called career criminals and \$10 million for more prosecutors, public defenders, advanced tracking systems and additional resources for drug prevention and alternative support programs make up the main elements of this reform package.

Governor Rell and Republican leaders initially pressed for a "three strikes" law that would have sent repeat violent offenders to prison for life. Her measure was not approved. Citing the enormous cost to build extra prison space (\$222,000 per bed), the annual cost of incarceration (\$44,000 a year), the actual decline in violent crime in the past decade (274.5 per 100,000 residents in 2005 from 298.5 per 100,000 residents in 2003) and the reluctance to undermine judicial discretion in criminal areas, the legislature instead acted to toughen penalties and lengthen sentences of persistent and violent felons.

Additionally, the legislature took action to add to Connecticut's hate crime statutes by making it illegal to hang a noose on public or private property with the intent to intimidate or harass another person.

Sub-Prime Mortgages

While a moribund Congress and a seemingly apathetic Bush administration struggle to find common ground on a federal solution to the housing foreclosure crisis, state legislators and the Rell administration tackled, wrote, and passed a comprehensive, 72 page bill that brings hope to over 70,000 families in Connecticut with sub-prime mortgages. This measure continues a previously announced \$40 million sub-prime mortgage assistance program directed by the Connecticut Housing Finance Authority (CHFA), authorizes \$30 million in CHFA bonds to be used to purchase and refinance sub-prime loans directly from lenders, appropriates \$14 million from the State Banking Fund for emergency mortgage assistance for borrowers facing immediate foreclosure, places new restrictions on sub-prime mortgage offerings and creates a foreclosure mediation program in the state's judicial branch.

Global Warming

Connecticut lawmakers continue to push the state to the forefront of regulatory efforts to reduce greenhouse gas emissions. Following on last year's legislation authorizing the Commissioner of the Department of Environmental Protection to reduce carbon dioxide emissions from fossil-fuel-fired electric generation plants, this year's measure establishes new goals for state greenhouse gas emissions by mandating a 10 percent reduction below the 1990 levels by January 1, 2020 and by 80 percent below 2001 levels by January 1, 2050. California, Hawaii and New Jersey have enacted similar greenhouse gas emission caps.

Virtually ignored in the legislative debate on these greenhouse gas initiatives is the potential impact on Connecticut's electricity customers. Electric users in Connecticut currently pay the highest electricity prices in the contiguous United States and the second highest in the entire country. Based on experiences in the European Union, the actual cost of these carbon dioxide reductions could easily exceed \$20 per ton for each ton emitted by Connecticut's electric generating facilities. Such a rate would result in a 14 percent increase in monthly electric costs for Connecticut consumers who currently are contending with a 62 percent increase in the cost of gasoline and a 4.5 percent increase in food costs. With increased greenhouse gas costs scheduled to begin

January 1, 2009, Connecticut consumers could be facing an economic tsunami as a national recession continues to drive down personal incomes and cripple the state's revenue resources.

Health Care

Following passage of last year's \$337 million, two-year health care reform package, the legislature and the administration decided to convene a variety of health care accessibility and affordability working groups and limited their focus to a modest number of health care bills this session. Approved by both the House and Senate were measures to expand the number of nursing home patients that will be supported in community-based settings, provide full Medicaid coverage for hospice patients, mandate health insurance coverage for autism spectrum disorders and approve a new Connecticut Health Partnership program to allow municipalities, certain municipal service contractors, non-profit organizations and small businesses to provide health insurance coverage for their employees and retirees through the state employee insurance program. The state healthcare plan currently insures approximately 55,000 state employees, 37,000 state retirees and their dependents. Governor Rell and her budget officials have expressed strong concerns with this bill, including the cost of administering the new program and the potential impact on the financial integrity of the existing state employee health plan.

Business and Labor

With the legislature voting to raise the minimum hourly wage from \$7.65 to \$8.00 on January 1, 2009 and \$8.25 on January 1, 2010, Connecticut is seeking to join California, Illinois, Massachusetts and Washington in having the highest minimum wages in the United States. The federal minimum wage will be \$6.55 per hour, effective July 24, 2008. The state's new hourly wage law would cover approximately 858,390 workers. Governor Rell vetoed this bill on May 27, citing adverse economic consequences to employers in a period of strained resources. Legislative leaders have indicated they will try to override the Governor's veto during the trailer session in June.

Reacting to an August, 2007 theft of a Connecticut Department of Revenue Service's laptop computer containing the names and Social Security numbers of more than 100,000 Connecticut taxpayers and additional information breaches in several other state agencies, the Rell administration filed legislation to toughen identity theft laws and restrict the dissemination of Social Security numbers and other "personal identifying information." The legislature approved a modified version of this legislation requiring businesses to create privacy protection policies to safeguard personal information and Social Security numbers. Ironically, the bill exempts state agencies and political subdivisions from the duty of protecting similar information.

Items Left on the Table

Budget difficulties, a short legislative session (February 6 – May 7), and a number of political skirmishes frustrated efforts to pass a long list of measures, chief of which was a bipartisan measure to strengthen the state's ethics laws. The proposed legislation would have permitted judges to revoke pensions of public officials and state employees convicted of corruption, required adoption of municipal codes of ethics, banned the solicitation of campaign contributions by executive and legislative chiefs of staff, and made it a crime for public officials and employees to fail to report a bribe. The ethics bill ultimately died without concurrent action in the House and Senate due to a political feud over the possible revocation of pension rights attributable to collective bargaining

agreements. The House wanted such pensions excluded from the new ethics law while the Senate maintained these pensions were fair game and should be subject to possible revocation. At the end of the day, each side took their deflated "ethics ball" and went home.

Additional matters that were left for another legislative day included a bill prohibiting open containers of alcohol in the passenger areas of motor vehicles, a bill subjecting new court rules to legislative review, an enhanced whistleblower bill, an extension of the sales tax exemption on certain hybrid vehicles and the authorization of a state administered 401(k) program for small businesses and tax exempt entities.

Finally, prompted by the financial meltdown of fifteen nursing homes owned by Haven Healthcare last fall, the administration and legislative leaders filed legislation to protect patient care in Connecticut's 240 nursing care facilities. They sought to improve financial reporting requirements of nursing homes, raise nursing home staffing levels, create a nursing home bill of rights and develop an on-line nursing home report card. Each of these measures died for lack of resources as empty state coffers precluded action on such new programs.

Change

Despite the pressures of legislative life, i.e., endless committee meetings, efforts to provide constituent services and required political networking (the rubber chicken circuit), while attempting to make a living, raise a family and perhaps catch a ballgame along the way, the tenure and longevity of many of the members of the Connecticut General Assembly has been remarkably long and stable. The last big wave of new legislators came to the State Capitol in the election following the passage of the state income tax in 1991. Whether they were swept out by the voters or crawled home exhausted from the ordeal, sixty-seven legislators left the hallowed halls in 1993. This year nineteen legislators are retiring and two House members are seeking to move to the Senate - Toni Boucher (R-143, running for Senator Nickerson's seat) and Kevin Witkos (R-17, running for Senator Herlihy's seat). Senators retiring from state elective office are Tom Herlihy (R-8), David Capiello (R-24) (running for Congress in the 5th District), Judy Freedman (R-26) and Bill Nickerson (R-36). House members leaving are Art Feltman (D-6), Chris Stone (D-9), Michael Christ (D-11), Michael Caron (R-44), Walter Pawelkiewicz (D-49), Ruth Fahrback (R-61), Ron Burns (R-77), Bill Dyson (D-94), Len Greene (R-105), Julia Wasserman (R-106), Speaker of the House Jim Amann (D-118), Felipe Reinoso (D-130), John Ryan (R-141), Christel Truglia (D-145) and Dolly Powers (R-151). Speaker Amann has formed an exploratory committee to run for Governor in 2010.

Whether these members see another fiscal storm brewing, have succumbed to the aforementioned career pressures or are second guessing their support for equalizing election contests through passage of public campaign financing laws, the legislature is losing many of its veterans and a great deal of institutional knowledge. Best wishes to them all.

The Capitol Update is a publication of the Government Affairs Group of Murtha Cullina LLP. For further information or assistance, please contact David McQuade at (860) 240-6141 or dmcquade@murthalaw.com.