

## DDS Legislative Update – May 17, 2010

### Bills that Passed in the 2010 Legislative Session

#### **SB-25 - An Act Authorizing and Adjusting Bonds of the State for Capital Improvements, Transportation and Other Purposes.**

This bill cancels \$480.6 million in general obligation (GO) bond authorizations. The authorizations are for state and local capital projects and state grants and loans, including to municipalities and nonprofit entities. DDS bonding authorizations for \$315.626 were canceled in section 142 which reads: “Subdivision (1) of subsection (f) of section 13 of special act 05-1 of the June special session is amended to read as follows: Grants-in-aid to private, nonprofit organizations for alterations and improvements to nonresidential facilities, not exceeding [\$2,000,000] \$1,684,374;

#### **SB-283 - An Act Concerning Audits by the Department of Social Services.**

This bill makes a few changes in the law governing audits of providers that bill the Department of Social Services (DSS) for services rendered to clients enrolled in DSS programs. It gives the provider the right to appeal final audit decisions to the Superior Court, and requires (a) DSS to adopt regulations to carry out the auditing statute and (b) DSS or the entity it contacts with to perform the audits to provide a copy of these regulations when notifying a provider that it will be audited.

#### **SB-316 - An Act Establishing a Commission on Nonprofit Health and Human Services.**

The bill establishes the Commission on Nonprofit Health and Human Services, within the Office of Policy and Management (OPM) for administrative purposes. The commission shall examine the funding provided to nonprofit providers of health and human services under purchase of service contracts. The Commission’s membership includes the Commissioner of Developmental Services and other commissioners of state agencies along with legislative, gubernatorial, provider, union and state employee appointments.

#### **SB-402 - An Act Concerning the Behavioral Health Partnership.**

This bill makes a number of changes, primarily technical, to add the Department of Mental Health and Addiction Services (DHMAS) to the Connecticut Behavioral Health Partnership. The partnership is an integrated behavioral health system currently operated by the departments of Children and Families (DCF) and Social Services (DSS). The bill adds the Commissioner of Developmental Services to the Behavioral Health Partnership Oversight Council as a nonvoting ex-officio member.

**SB-428 - An Act Concerning Revisions to the Public Health Related Statutes.**

This bill makes numerous substantive and minor changes in laws governing Department of Public Health (DPH) programs and health professional licensing and certification. In section 42, the bill permits unlicensed assistive personnel to administer jejunostomy and gastrojejunal tube feedings to people who (1) attend day programs or respite centers or (2) reside in residential facilities or receive support under Department of Developmental Services (DDS) jurisdiction. These feedings must be performed by trained, unlicensed personnel under the written order of either a (1) physician, (2) advanced practice registered nurse, or (3) physician assistant who is licensed to prescribe.

**SB-494 - An Act Making Adjustments to State Expenditures for the Fiscal Year Ending June 30, 2011.**

See budget attachment.

Section 37 of the bill incorporates the provisions of [SB-355 - An Act Concerning Capital Improvements Required by the Department of Developmental Services](#). The section permits a higher rate for facilities that made or will make capital improvements in FY10 or FY11 because the Department of Development Services requires them to do so for residents' health or safety. PA 09-5, SSS froze the FY 10 and 11 rates the state pays private residential facilities at their FY 09 level. Section 37 is effective as of July 1, 2010.

**HB-5006 - An Act Concerning the Legislative Commissioners' Recommendations for Technical Revisions and Minor Changes to the Insurance and Related Statutes.**

This bill makes changes in various insurance and transportation statutes including broadening the applicability of several health insurance benefits. In sections 21 and 28, the bill requires individual and group health insurance policies amended in Connecticut on or after January 1, 2011 to cover medically necessary general anesthesia, nursing, and related hospital services provided to patients with (1) complex dental conditions that require procedures to be performed in a hospital or (2) developmental disabilities that place them at serious risk. The law already requires policies delivered, issued, renewed, or continued in Connecticut to cover these services. Both the bill and current law apply to policies that cover (1) basic hospital expenses; (2) basic medical-surgical expenses; (3) major medical expenses; and (4) hospital or medical services, including coverage under an HMO plan.

Also, in section 22 and 29, the bill requires individual and group health insurance policies amended in Connecticut on or after January 1, 2011 to cover medically necessary ostomy appliances and supplies, including collection devices, irrigation equipment and supplies, and skin barriers and protectors, up to \$ 1,000 annually. The law already requires policies delivered, issued, renewed, or continued in Connecticut to cover ostomy-related supplies.

**HB-5163 - An Act Requiring the Establishment of a Searchable Database for State Expenditures.**

The bill requires the Office of Fiscal Analysis (OFA) to establish and maintain a searchable database for certain expenditures by July 1, 2011. It also requires OFA to report quarterly to the

Appropriations Committee on the database, including any recommendations for improvements or operations of the database, by November 1, 2010. Lastly, the bill requires the Auditors of Public Accounts to review procedures and security used to develop the databases and report.

**[HB-5197](#) - An Act Implementing the Recommendations of the Program Review and Investigations Committee Concerning the Postponement of Program Termination Dates in the Sunset Law.**

This bill delays for one year the review of all agencies and programs subject to termination under the sunset law. Under the sunset law, 78 licensing, regulatory, and other state agencies and programs terminate on set dates unless the General Assembly reestablishes them after the Legislative Program Review and Investigations Committee conducts a performance audit of each. In this bill, DDS's Regional Advisory and Planning Councils, established under section 17a-273 have been extended until July 1, 2017.

**[HB-5360](#) - An Act Concerning Children in the Recession.**

This bill creates new state agency responsibilities, and reporting requirements intended to provide an emergency response to children affected by the recession. The Department of Social Services (DSS) is the agency most affected, but the other state agencies given new responsibilities are: the departments of Children and Families (DCF), Education (SDE), Labor (DOL), and Public Health (DPH). Additional responsibilities are all to be achieved within available appropriations. The bill designates the state's Child Poverty and Prevention Council as the children in the recession leadership team to make recommendations for the state's emergency response to children affected by the recession. The bill was amended to remove DDS Commissioner as a member of the children in recession leadership team although the Commissioner continues to be a member of the Child poverty and Prevention Council.

**[HB-5372](#) - An Act Concerning Visitable Housing.**

This bill authorizes the Department of Economic and Community Development (DECD), in consultation with the Connecticut Housing Finance Authority (CHFA), to establish a program that encourages Connecticut developers to build residential homes that are easy for people with disabilities to visit. It defines "visitable housing" as one-to-four family residential housing with "visitable features," which are (1) interior doorways that provide a minimum 32-inch wide clear opening, (2) at least one accessible means of egress, and (3) at least one full or half bathroom on the first floor that is compliant with the Americans with Disabilities Act of 1990, as amended. The bill exempts developers from a requirement to obtain a State Building Code variance or exemption to construct visitable homes. And, it authorizes municipal legislative bodies to adopt ordinances giving these developers a property tax abatement. Within available appropriations, the bill requires DECD to establish an informational webpage in a conspicuous place on its Internet website that provides links to available visitable housing resources.

**HB-5387 - An Act Concerning the Removal of Snow and Ice from Motor Vehicles.**

This bill requires a motorist to remove accumulated snow and ice from the hood, trunk, and roof of his or her motor vehicle so that it does not pose a threat to people or property while the vehicle is being operated on a state street or highway. A violator faces a \$ 75 fine. It imposes a fine of between (1) \$ 200 and \$ 1,000 on operators of noncommercial motor vehicles if snow or ice dislodged from the vehicle causes personal injury or property damage or (2) \$ 500 and \$ 1,250 for operators of commercial vehicles in the same circumstances. Drivers are not required to clean snow or ice from a vehicle (1) while it is parked or (2) if snow, sleet, or freezing rain began, and accumulated, while the motorist was driving. The effective date is December 31, 2013.

**HB-5413 - An Act Concerning Expenditures of State Agencies Providing Social Services.**

The original bill required the Secretary of the Office of Policy and Management to review the programs administered by each state agency that provides social services to residents of the state in order to determine: (1) The cost and effectiveness of each such program in relation to all such programs; (2) the relative importance of the services provided under each such program to the recipients of such services; (3) the likelihood that recipients could qualify for similar services under federal, local or private programs; and (4) the effects of the phase-out or elimination of such programs.

The bill as amended and passed facilitates the claiming of federal TANF Emergency Funding, and delineates the distribution of such funding to the state and related entities.

**HB-5425 - An Act Concerning Special Education.**

The bill requires school districts, starting July 1, 2012, to use only behavior analysts licensed or certified in accordance with its requirements to provide applied behavior analysis for students with autism spectrum disorders who require the services (1) according to a special education individualized education program (IEP) or (2) under an educational plan established under section 504 of the federal Rehabilitation Act of 1973. The bill also establishes standards for people who may provide applied behavioral analysis services if the education commissioner finds there are not enough licensed or certified personnel available.

The bill also revamps the Advisory Council for Special Education by: 1. reducing its statutorily specified membership from 37 to 30 and updating those members' qualifications; 2. requiring appointees to reflect the ethnic and racial diversity and types of disabilities found in the state.

**HB-5426 - An Act Concerning Individualized Educational Programs.**

The bill establishes a task force to study individualized educational programs. The task force must report its findings and recommendations to the Education, Higher Education, and Human Services Committees by February 1, 2011. The Commissioner of Developmental Services and other state agency commissioners will serve as members of the task force along with legislative appointees including parents of children who receive special education services.

**HB-5435 - An Act Concerning the Recommendations of the Majority Leaders' Job Growth Roundtable.**

This bill authorizes programs and policies for establishing or expanding businesses and creating jobs. It authorizes tax credits for investing in new and expanding businesses and pre seed capital for those developing new concepts. It also phases out existing Insurance Reinvestment Act tax credit program, which authorizes credits for investing only in insurance businesses, and replaces it a new version authorizing similar credits for insurers investing in many different types of businesses.

Sections 9 and 10 (see attachment) of the bill authorize insurance premium, corporation business, and personal income tax credits for businesses hiring Connecticut residents with disabilities under terms and conditions that are similar to those governing the bill's small business job creation credits. A business cannot apply the credit against their payroll withholding taxes. The bill imposes a combined \$11 million per year cap on these credits, the job creation credits described above, and the credits authorized under the existing job incentive tax credit program (CGS § 12-217ii).

**HB-5448 - An Act Concerning the Administration of the Department of Developmental Services.**

The Department of Developmental Services bill passed unanimously through both the House and Senate. Sections 1 through 5 revises Birth to Three statutes including changing the definition of parent to conform to the federal IDEA definition of parent, correcting references to federal law and puts in statute that the Birth to Three System establishes the state-wide rates. The new definition of “parent” allows grandparents and other relative caregivers to act as parents as well as allowing foster parents to act as parents for the purposes of obtaining Birth to Three services.

Section 6 of the bill puts in statute, language that had been in Birth to Three regulations, which narrows the definition of parent for purposes of charging fees for Birth to Three services. This language would exempt from fees for Birth to Three services, any grandparent or other relative caregiver along with any foster parent, who is not the child’s legal guardian but who is acting as the child’s parent.

Section 7 allows members of the Council on Developmental Services, who have met their three consecutive term limit, to continue to serve until a successor is appointed. Section 8 changes one appointment to the Camp Harkness Advisory Committee to a 501(c)(3) organization. Section 9 of the bill allows the Child Advocate, Office of Protection and Advocacy and the Commission on Children to appoint designees to the Family Support Council. The bill, also, allows the chairperson of the State Interagency Birth to Three Coordinating Council to appoint a designee. Section 10 updates the reference to Arc of CT and substitutes the appointment of a DDS consumer for the appointment of an attorney to DDS Regional Advisory and Planning Councils.

Section 11 allows the Department of Children and Families (DCF) to share a written summary of DCF investigations of abuse and neglect with DDS VSP for the purposes of planning VSP services for those children who are already enrolled in VSP. This expands the allowance for sharing this summary from just those children who are seeking to enroll in DDS VSP to all children enrolled in DDS VSP for service planning purposes only.

Section 12 removes the DDS Abuse and Neglect Registry from the sunset provisions of the state statutes.

**HB-5452 - An Act Concerning the Provision of Volunteer Health Care Services on a Temporary Basis.**

This bill allows out-of-state, volunteer health care practitioners to provide health care services in Connecticut at (1) a free clinic or similar charitable medical event providing free health care services or (2) the Special Olympics or similar athletic event attracting a large number of out-of-state participants provided they meet certain criteria.

The practitioner must: 1. hold an unrestricted license or certificate in another state, territory, or the District of Columbia; 2. not represent himself or herself as a Connecticut-licensed or -certified health care practitioner; 3. provide services only to patients or athletes participating in these events; 4. provide only those services permitted by Connecticut law; 5. provide services only under the supervision of a Connecticut-licensed or -certified health care practitioner within the same licensure or certification category; and 6. maintain, either personally or through the sponsoring organization, professional liability insurance or other professional malpractice insurance in an amount equal to or greater than that required for a comparable Connecticut licensee or certificate holder.

### **Bills that Died in the 2010 Legislative Session**

**SB-105 - An Act Concerning Liability of Nursing Home Owners for Neglect and Abuse of Nursing Home Residents.**

The bill would have required the Department of Public Health (DPH) to prepare a written application form for changes in nursing home ownership that includes a statement notifying the potential nursing home licensee or owner that he or she may be held criminally liable for abuse or neglect of a resident by a nursing home employee.

**SB-287 - An Act Concerning Accessible Voting for Voters with Disabilities or Needing Assistance.**

This bill would have eliminated an obsolete provision requiring lever voting machines to be delivered to polling places by 6: 00 p. m. the evening before an election. Instead it would have required each voting system, which the secretary of the state must have approved for use in an election, including those equipped for individuals with disabilities that comply with the Help America Vote Act (HAVA) (P. L. 107-252), be delivered no later than one hour before the polls open. As a result, it would have given the State Elections Enforcement Commission (SEEC) authority to investigate complaints concerning voting systems for individuals with disabilities (currently the IVS vote-by-phone), not only optical scan machines. The later deadline applies also to furniture and appliances necessary for conducting the election.

**SB-290 - An Act Concerning the Publication of State Agency Regulations on the Internet.**

This bill would have required each state agency to post on its website its regulations that the Commission on Official Legal Publications publishes in the *Connecticut Law Journal* on or after the same date. By January 1, 2012, each agency would have been required to post all of its regulations that are in effect.

**SB-314 - An Act Concerning Military or Veteran Status on State-Issued Forms and Publications, Benefits for Veterans and State Employees Called to Active Service and the Disposition of Remains of Members of the Armed Forces.**

This bill would have made changes in the laws affecting state-issued forms and publications, insurance coverage and vacation and sick time accrual for armed forces members (service members) called to active service, disposition of service members' bodies or remains, and posting of veterans' benefits on the Department of Veterans' Affairs (VA) website. The bill would have required any new form or publication issued by a state entity (agency, department, or office) for public distribution and returnable to the entity to include a question asking whether the recipient is a service member or veteran who would like information about veterans' benefits.

**SB-315 - An Act Concerning the Sexual Assault of Persons Whose Ability to Communicate Lack of Consent is Substantially Impaired.**

This bill would have changed the factors for determining guilt in cases of second and fourth degree sexual assault involving a person with a mental or physical disability. Under the bill, a person is guilty of these crimes if: 1. the assault victim's ability to communicate his or her lack of consent to sexual intercourse (for 2<sup>nd</sup> degree) or sexual contact (for 4<sup>th</sup> degree) is substantially impaired because of a mental or physical condition and 2. the person accused of the assault knew or had reasonable cause to believe the victim's ability to communicate lack of consent was impaired by that condition.

Under current law, a person is guilty of 2<sup>nd</sup> degree sexual assault if the victim is (1) "mentally defective" and consequently unable to consent to sexual intercourse or (2) physically helpless. A person is guilty of 4<sup>th</sup> degree sexual assault if the victim is (1) "mentally defective" or "mentally incapacitated" and consequently unable to consent to sexual contact or (2) physically helpless. A person is "mentally defective" if a mental disease or defect renders him or her incapable of appraising the nature of his or her conduct. The bill repeals this factor's use in 2<sup>nd</sup> and 4<sup>th</sup> degree sexual assault cases.

A person is "mentally incapacitated" under current law if he or she becomes temporarily incapable of appraising or controlling his or her conduct because, without consent, (1) another person administered drugs or intoxicants to him or her or (2) some other act was committed on the person. The bill removes a victim's mental incapacity from the factors that can be used in deciding guilt in 4<sup>th</sup> degree sexual assault, but it remains a factor in 1<sup>st</sup> degree sexual assault (CGS § 53a-70).

\*Senate Amendment "A" eliminated expanding the definition of mentally incapacitated to include people who become permanently incapable of judging or controlling their conduct.

**SB-355 - An Act Concerning Capital Improvements Required by the Department of Developmental Services.**

The bill would have allowed the Department of Social Services (DSS) to provide higher room and board rates to providers of Community Living Arrangements (CLAs) when capital improvements are required by the Department of Developmental Services (DDS) for the health and safety of its residents. The concept of this bill was included in section 37 of S.B. No 494 - An Act Making Adjustments to State Expenditures for the Fiscal Year Ending June 30, 2011.

**SB-409 - An Act Establishing a Pilot Program Using Civilian Volunteers to Assist in the Enforcement of State and Municipal Laws Concerning Parking for Persons with Disabilities that Limit or Impair the Ability to Walk and Persons with Blindness.**

The bill would have required the Department of Motor Vehicles (DMV) to conduct a pilot program and study on the enforcement of handicapped parking by civilian volunteers.

**SB-410 - An Act Concerning Persons who Transport Patients or Clients under the Care, Control or Custody of a State Agency.**

This bill would have required state agency employees who transport patients or clients under the agency's care, custody, or control to be trained in the proper method of safely transporting them. It bars a state employee convicted of certain motor vehicle violations from transporting patients or clients for at least one year. It would have established a cost-sharing pilot program for state employee license checks in which the Department of Motor Vehicles (DMV) must provide the departments of Developmental Services (DDS) and Transportation (DOT) with the motor vehicle records of 50 of their employees.

**SB-424 - Act Concerning Agency Consolidation and the Creation of the Health and Human Services Consolidation Steering Committee and the Extension of a Pilot Program.**

This bill would have established the Health and Human Services Consolidation Steering Committee to develop a five-year plan for consolidating five executive branch agencies into a new department of human services. The agencies to be consolidated are the Public Health, Developmental Services, Children and Families, Mental Health and Addiction Services, and Social Services department. The bill would have required the plan to (1) provide for the transfer of all affected state employees, (2) prohibit any layoffs of these employees, and (3) ensure that the agencies' programs are not affected. The committee must report annually to the GAE committee beginning January 1, 2011; the final report is due by January 1, 2015.

**HB-5013 - An Act Establishing a Catastrophic Medical Expenses Pool.**

This bill would have established (1) the Catastrophic Medical Expenses Advisory Commission and (2) a catastrophic medical expenses pool to reimburse or pay for, beginning January 1, 2011, certain medical and related expenses incurred for a child age 18 or younger when the family's expenses exceed a specified percentage of income. Under the bill, the healthcare advocate would have administered the pool with the commission's advice. The bill would have established the



catastrophic medical expenses account as a separate, non-lapsing account within the Insurance Fund. To fund the account, the bill would require Connecticut health insurers, HMOs, other entities issuing individual or group health insurance, and third party administrators to collect a fee of \$1 per person covered under health insurance policies and plans. It would require the social services commissioner to apply for any available federal matching funds.

**HB-5110 - An Act Concerning Criminal Background Checks for Employees of Homemaker-Companion Agencies and Home Health Agencies.**

The bill would have: 1. required a homemaker-companion agency applicant to submit to state and national criminal history record checks; 2. allowed the Department of Consumer Protection (DCP) commissioner to revoke, suspend, or deny registration certificates if a homemaker-companion agency fails to perform a comprehensive background check of any applicant for employment; and 3. required home health agency employees hired on or after October 1, 2010 to submit to a comprehensive background check, sign a written form regarding prior disciplinary action, and face a penalty for making a false statement

**HB-5245 - An Act Concerning a Report on the Privatization of Group Homes.**

The bill would have required the Department of Developmental Services (DDS) to provide the General Assembly with a report comparing the cost and services of group homes operated by DDS and those operated by private providers.