Submissions for any SSL docket should be sent to CSG at least eight weeks in advance of any scheduled SSL meeting in order to be considered for the docket of that meeting. Submissions received after this will typically be held for a later meeting. Anyone desiring an exception to this policy must contact the SSL committee leadership and will be responsible for preparing and distributing to the SSL committee any materials that are related to the docket submission in question. The status of any item on this docket is listed as reported by the submitting state’s legislative Internet Web site or by telephone from state legislative service agencies and legislative libraries. 

Abstracts of the legislation on SSL dockets and in SSL volumes are usually compiled from bill digests and state legislative staff analysis.

CSG COMMITTEE ON
SUGGESTED STATE LEGISLATION

2012 CYCLE
DOCKET BOOK B

This docket and referenced legislation can be downloaded from www.csg.org.
CSG AND TRENDS

State officials face unprecedented, turbulent times in which to govern. Recent megatrends and trends that are beginning to affect the states, such as an aging population, generate issues that will profoundly impact states in the future.

A **megatrend** is a large, social, economic, political, environmental or technological change that is slow to form. Once in place, megatrends influence a wide range of activities, processes and perceptions, both in government and in society, possibly for decades. These are the underlying forces that drive trends. (*e.g.*, aging population).

A **trend** is an emerging pattern of change likely to impact state government and require a response. (*e.g.*, adult children taking care of parents). Discerning trends and state responses to trends affecting states involves these questions:

- Does the megatrend/trend impact the states?
- Is it significant? Is it broad-based? Is it national or regional in scope?
- Is it short-term or long-term?
- Is it measurable/trackable/observable?
- Is it actionable? Is there an innovative response to address new circumstances?

An **issue** is a controversial, debatable or “hot” topic or an innovative state action. (*e.g.*, changes to Medicare).
CSG's national trends mission helps state officials address the near- and long-term by providing the critical foresight capabilities they need to make proactive policy decisions about issues that arise from trends. Accordingly, CSG's Suggested State Legislation Program (SSL) seeks to identify recent, innovative state bills which address issues arising from:

**1. Demographic Shifts** - Demographic shifts refer to changes in various aspects of population statistics, such as size, racial and ethnic makeup, birth and mortality rates, geographic distribution, age and income.

- **Megatrend**: Aging population
  - **Trends**: buying habits, elder care, health care, workforce gaps when baby boomers retire
- **Megatrend**: Immigration/diversity
  - **Trends**: government service provision, capacity to fill gaps in workforce
- **Megatrend**: Population growth
  - **Trends**: demands and effects on land, climate, water, government resources, schools
- **Megatrend**: Suburbanization/sprawl

**2. Changes in Political Conditions** - Changes in political conditions refer to dynamics related to the process of electing officials as well as process of formulating and implementing public policy and programs.

- **Megatrend**: Election issues
  - **Trends**: campaign finance reform, redistricting, term limits
- **Megatrend**: Federalism
  - **Trends**: distribution of authority from one presidency and Congress to another, impact of federal policies on state governments (including international trade agreements)
- **Megatrend**: Participatory democracy
  - **Trends**: voting systems (including e-voting), lobbying, initiatives, referendums
- **Megatrend**: Privatization/outsourcing
  - **Trends**: private companies providing public services, sending jobs overseas

**3. Science and Technology Developments** - Science and technology developments are advancements in both scientific research and applications of that research.

- **Megatrend**: Bioengineering
  - **Trends**: DNA, stem cell research, cloning, genetic engineering
- **Megatrend**: Energy sources
  - **Trends**: development of alternative energy sources
- **Megatrend**: Privacy and security issues
  - **Trends**: wireless tracking, identity theft, cyber terrorism
- **Megatrend**: Electronic delivery of goods/services
  - **Trends**: e-commerce, e-government

**4. Economic Dynamics** - Economic dynamics are changes in the production and exchange of goods and services both within and between nations as well as movements in the overall economy such as prices, output, unemployment, banking, capital and wealth.
**Megatrend:** Globalization of trade  
- **Trends:** outsourcing, offshoring, free trade agreements, prescription drug reimportation

**Megatrend:** Energy supply  
- **Trends:** price increases, availability

**Megatrend:** Intellectual property  
- **Trends:** standardization of local, state, national and international regulations

**Megatrend:** Retirement issues  
- **Trends:** move away from defined benefit plans, pension shortfall, Social Security

5. **Social and Cultural Shifts** - Social and cultural shifts are changes in core values, beliefs, ethics and moral standards that direct peoples’ behavior and can influence their participation in the formulation of public policy.

**Megatrend:** Government involvement in social policy  
- **Trends:** gay marriage, abortion, separation of church and state issues

**Megatrend:** Redefinition of family and role of family  
- **Trends:** single-headed households, unmarried couples, home schooling

**Megatrend:** Redefinition of morality  
- **Trends:** re-evaluating definition of indecency, censorship issues

**Megatrend:** Spirituality  
- **Trends:** homeopathic medicine, spiritual beliefs may be different than religious beliefs

**Megatrend:** Assimilation  
- **Trends:** shift from acculturation to maintaining ethnic identities
MEGATRENDS AND CHANGE DRIVERS

Megatrends are caused by or a reflection of slow-forming, large social, economic, political, environmental or technological driving forces. Once in place, these “change drivers” influence a wide range of activities, processes and perceptions, both in government and in society, possibly for decades. Knowledge of what they are, how they interact, and what potential impacts they may produce, is one of the most important tools policy-makers have to recognize. The understanding of these change drivers allows for identifying trends and issues that are cutting across traditional policy areas, and therefore determining all potential impacts and implications for public policy. As such, the Committee on Suggested State Legislation seeks innovative legislation that addresses the following important and far-reaching changes that will affect states and shape state policies for years to come.

1. Aging of the Population

The U.S. population is rapidly getting older. While the population age 65 and older is projected to more than double to nearly 82 million by 2050, the 85 and older population is projected to quadruple within the same timeframe.

An aging population and increasing number of retirees will be hard on all economic sectors, especially those that are already having trouble attracting younger workers, such as agriculture, education and government. The nursing shortage will be particularly hard to deal with as the demand for health care will also increase as the population gets older.

As the population ages, state tax collections will be affected. The older population tends to spend money in non-taxed areas such as health care services. In addition, while many elderly will continue to work, the majority of their income will likely come from sources, such as pensions and Social Security that are not taxed as heavily as salaries and wages. And state government pensions will be hit hard by the wave of retiring baby boomers.

There may also be intergenerational conflicts among different groups. Older and younger voters may want different things from government. Younger voters, for instance, may be willing to pay higher taxes to finance public schools while older citizens may vote against any tax increase.

The aging of the population will also encourage smart growth. As baby boomers get older, there will be an increased demand for communities that are more pedestrian-friendly with residential and commercial areas in closer proximity to one another in order to decrease the need for driving.

With a growing number of seniors on the horizon, state policy-makers will undoubtedly focus more attention on work force shortages and health care. More specifically, planning for replacing retiring workers, training and retaining an existing work force, as well as helping the elderly pay for prescription drugs and dealing with long-term care will be the issues on most policy-makers’ radar screens.

2. Immigration

During the last decade, the foreign-born population grew by almost 60 percent as compared with a 9.3 percent increase in the native population. This growth can primarily be attributed to migration from Latin America and Asia. By 2030 one-quarter of all Americans will be either Hispanic or Asian. And the Hispanic and Asian populations are expected to triple by 2050.
Immigrants provide skilled and unskilled labor needed to keep the U.S. economy going. Immigrants account for 14 percent of the total work force and 20 percent of the low-wage work force. Immigrants are especially important in certain sectors, such as health care. Because of immigration restrictions since Sept. 11, some areas of the United States are experiencing doctor shortages, especially many rural areas that rely heavily on foreign-born care workers.

Immigration is the driving force behind increases in elementary and high school enrollment. There are gaps, however, in educational achievement between natives and immigrants at the elementary and secondary levels that need to be addressed. Children with limited English skills are more expensive to educate.

The nation’s health care system must adapt to a number of changing conditions because of the impact of immigration. Racial and ethnic health disparities may influence health care research and costs. Cultural competency and health literacy can affect the quality of health care. Many immigrants are uninsured.

Immigration will also impact public safety and justice. U.S. laws and the American legal system, and language barriers can intensify the problems. States are grappling with issue of drivers’ licenses and identification cards for illegal immigrants. And state facilities house inmates awaiting deportation with little or no reimbursement from the federal government.

States are already experiencing a need for bilingual teachers, law enforcement officers and public health workers. The need for bilingual government employees will only grow in the coming years. Finding the best way to educate immigrants and their children will also grow in importance, especially as immigrants move to states that are not traditional immigrant magnets, and therefore less equipped to respond to the demands and needs of the growing immigrant population.

3. Population Growth Patterns

The population of the South and West are growing. A major factor in the accelerated growth in these two regions is domestic migration, but they are also hot spots for immigration as well. In addition to these regional shifts, the United States is becoming more and more a suburban nation. The percentage of the population living in metropolitan areas is expected to increase over the next two decades, leaving fewer than 18 percent of the population in non-metropolitan areas by 2020.

Regional shifts in population will accentuate water shortage problems in these areas. Growing regions will also have to address the increasing demand for infrastructure and government services. Because of population increases, the South and West will gain in political power at the national level. The influx of people into these areas may also change the political makeup of these areas, depending on the demographics of the new arrivals.

Bedroom communities are thriving, but more remote rural areas and urban centers are losing population. This will lead to shifts in political power to the suburbs, so the needs of the rest of the population may not be addressed. This growing suburbanization leads to urban sprawl, with its related loss of farmland, environmental concerns, infrastructure demands and quality of life issues.

Regional population shifts and suburbanization will increase the attention to urban sprawl issues. As development occurs farther and farther away from city cores, state and local governments may need to address the efficiency of land use patterns and make sure that people are receiving the government services they need and demand.

4. Globalization
While capitalism is the driving force behind globalization, the end result is that people, businesses and governments around the world are more interrelated than ever before. It’s difficult to talk about economics without talking about politics, technology and culture. What happens in China may be as important as what happens in Washington, D.C. in a few years. All these factors have a profound impact on the states.

International trade agreements are an important element of globalization. These agreements, which are decided at the federal level, may limit states’ ability to exercise regulatory and legislative powers. States may be inadvertently violating trade agreements that were passed without their input.

State officials also have to deal with the impacts of offshoring jobs to other countries. Potential job losses can affect state economies profoundly. When jobs are lost states may need to pay for retraining workers, especially an issue now that higher-skilled jobs are being offshored. There is a potential downward pressure on U.S. wages to compete with workers in other countries, on the one hand, but offshoring also opens new markets for U.S. products by increasing wages and standards of living for people in other parts of the world.

Education about our global society is an unmet need that policy-makers should be aware of. Our current and future work forces may not have the knowledge of globalization that is needed to understand what is happening both economically and politically. In addition, policy-makers will need to realize what their state’s strengths are so their work forces can more effectively compete in the global economy.

5. New Economy

At the same time that globalization has occurred, the U.S. economy has evolved from a manufacturing-based economy centered on natural resources and standardized products to a service-based economy focused on knowledge and ideas. The skills needed to succeed in the New Economy are vastly different than those needed in the Old Economy. Today, people need to have critical thinking skills, be able to convert information into knowledge, and use and understand emerging technologies.

Because states’ sales taxes are mostly levied on durable goods rather than services, the sales tax base is eroding over time. As evidence of this, sales taxes currently account for a smaller portion of state revenues than they did in the 1970s. Services account for more than half of personal consumption, so it is a substantial potential revenue source.

E-commerce has been growing rapidly in the last few years. States and local communities are losing $16.4 billion a year in sales and use tax revenue because of online and catalog sales. According to some economists, this number could rise to $45 billion in 2006 and $66 billion in 2011. Because of a federal moratorium, however, states currently cannot collect taxes on electronic transactions.

Entrepreneurship is extremely important in the New Economy. Rapidly growing new firms are a major source of job creation, so entrepreneurs are one of the driving forces for the economy. Because of its economic importance, policy-makers need to do what they can to foster an entrepreneurial culture in their states. At the same time, the focus of many state officials’ activities will be on modernizing the tax structure, to better reflect a new nature of economy.

6. Information Dissemination
Information now flows at a dizzying pace. You can have instant access to almost any type of information you need or want. Today, businesses rely on this instant information to compete in the global economy, but there are some less positive impacts of almost unlimited access to information as well.

With cell phones and Blackberries, people are rarely unreachable. Somewhat ironically, however, the technological advances that make us constantly available can also be very isolating. Some people are choosing this technological interaction over face-to-face communications, which can affect social skills. A constant pressure of being reachable and available can also be very stressful. It may potentially disrupt daily routines and affect family life of technologically advanced workers.

Another interesting concept in information dissemination is the ability for people to only hear what they want to hear. Because there are some many sources of information available today, people do not have to rely on their local newspapers or the evening news. They can go to Web sites, participate in blogs and chat rooms, and only get information that they want to get. They do not have to listen to the other side of the story.

With all these changes in information dissemination, politicians and other state officials will have to change the way they communicate with their constituents if they want to get their messages across. In addition, this ability to filter information that you don’t want to hear increases the importance of good education. The education system should emphasize critical thinking skills, so that students will have the ability to process information responsibly and intelligently.

7. Privacy and Security

As the amount of readily available information increases so do concerns about individual and governmental privacy and security. The more information that is available, the more potential there is for misuse of this information.

One growing concern is identity theft. Criminals can use a variety of methods, ranging from rummaging through your trash to find pre-approved credit offers to hacking into your company’s computer system to find Social Security numbers, to obtain personal information to commit fraud or theft. Identity theft is on the rise and will continue to be a major issue because of the relatively easy access to information.

Nanotechnology is an emerging tool to change the molecular structure of products that are cleaner, stronger, lighter, and more precise. While this technology has many potential positive uses, it does bring up privacy issues as well. With the ability to make common devices such as cameras smaller and smaller, there is also the ability to invade people’s privacy.

Security issues have come to the forefront since Sept. 11 and continue to be in the minds of citizens and state officials alike. State and federal officials will continue to look at ways to regulate access to certain places in order to protect public security. Biometrics is an emerging technology that can be used to increase security but raises privacy concerns as well. Biometrics refers to the automated methods of recognizing a person based on physiological or behavioral characteristics. Biometric technologies are becoming the foundation of an extensive array of highly secure identification and personal verification solutions. A person’s face, fingerprints, hand geometry, handwriting, iris and voice can all be measured. The convergence of information technologies, scientific know-how, financial benefit and identified security need make the development and mainstream use of biometrics and biometric identifiers a potential reality.
State officials, while supporting the development of these very promising technologies and implementation of rules and regulations, will also have to carefully evaluate their impact on privacy and security, and therefore public perception and reaction.

8. Natural Resource Use and Protection

The growing population in this country and around the world will increase the demands on the environment. The responsible use of natural resources and the protection of environmental quality will continue to drive many social, political and economic decisions.

The growing trend of urban sprawl can put stress on our natural resources. Urban sprawl increases driving time and the use of petroleum fuels. In some cases, ecologically valuable wetlands are being developed, and prime farmland is being converted to residential and commercial use.

Experts project that the world could reach its peak oil production capacity within the next 10 to 40 years. After that, the supply of oil may not keep up with demand. With this in mind, some states are leading the way in promoting energy efficiency and conservation. California, for instance, has built a “green” government building, and New York renovated one of its government office buildings to be more environmentally friendly. And many states have incentive programs aimed at encouraging the purchase of alternative fuel vehicles, the conversion of vehicles to run on biofuels and the installation and operation of fueling facilities to serve these vehicles.

Policy-makers will have to focus on longer-term policies, programs and commitments in order to ensure balanced approaches to the use of natural resources and development of “greener” and “cleaner” technologies. Air quality as well as water quality and availability will remain on the agendas of many state officials.

9. Polarization of Society

The United States is starting to realize a growing polarization of society. Some experts argue that the driving forces behind this phenomenon are increasingly polarized elected officials. This political polarization is, according to some experts, the result of gerrymandering to create “safe” districts. Because these districts are safely Republican or safely Democratic, there is an opportunity for Democrats who are more liberal than the average American and Republicans more conservative than the average to win office. This leads to increased difficulty in finding political compromises among elected officials.

Some experts, however, argue that it’s not just politicians who are becoming polarized. It is the American public. These experts believe that issues such as gay marriage and abortion have created rifts among the general public that make compromise on these and other issues difficult if not impossible. This polarization is reinforced by trends in information dissemination that allow people to only hear the viewpoints they want to hear.

There is growing economic polarization as well. According to the U.S. Census Bureau, the country has experience a long-term trend of a widening income gap. In other words, there is increasing income inequality between the “haves” and the “have nots.” This trend may create more pressures on government services on one hand, and impact taxation policies on the other.

The growing economic, cultural and political differences in this country are leading to a call for more civility among citizens and among their elected officials. There is an increased need for statesmanship and respect for differences in opinion, beliefs and economic status so that state leaders can do their jobs effectively.
10. Role of Government

The role of government in American society has shifted many times during our country’s history. The pendulum swings between strongly centralized and decentralized relationships between the federal government and states. Government’s assertiveness has ranged from reacting to certain events to implementing proactive policies to influence other events. The level of government involved in certain areas has changed over time. The social contract between government and citizens has shifted as well. Trust in government has declined over the years, and the public’s willingness to pay for government services has decreased as evidenced by a growing anti-tax sentiment.

The changing level of government involvement is illustrated by changes in state economic development policy over the years. A few decades ago, states were almost totally reliant on industrial recruitment as an economic strategy. Some states then developed services for entrepreneurs and small businesses. This evolved into states serving as a broker between entrepreneurs and the private and nonprofit sources of business assistance they need.

Several states have experienced the conflict between what the public wants and what they’re willing to pay. Citizen ballot initiatives have, in certain instances, created costly programs without providing revenue sources for them. When combined with a growing anti-tax sentiment, states will be hard pressed to adequately fund programs, which may lead them to carefully examine what they want to focus on.

Federalism issues have been and will always be a major impact on state government. As state policy-makers and administrators know, state budgets are greatly affected by federal mandates, as well as state and federal court decisions. Because of the relative inflexibility of federal programs and policies, states have to reorganize their priorities to adhere to mandates. The same is true for court decisions. This reprioritization adds uncertainty to budget forecasting, making it more difficult to predict future expenditures.

The voice of state government must be heard in this dynamic political environment. State leaders should be active in state membership organizations. This is one avenue for leaders to express their concerns and to learn from other states that may have dealt with those same concerns. State leaders must also build good relationships with their congressional delegations to make sure that federal decision-makers understand the needs of the states and how federal policy can affect the performance of state government.
ONGOING FORCES OF CHANGE – 2007 AND BEYOND

Demographics

The United States population, now at 300 million, is experiencing profound demographic shifts due to increased longevity, smaller family size, and the influx of immigrants with higher fertility rates than native-born residents. These changes, along with dramatic variations in regional growth, will have major impacts on state economies, the demand for public services, the use and management of natural resources, and voting patterns.

Chasing the American Dream

The income gap between the rich and the poor in the United States is now greater than in any other advanced nation, with the middle class confronting increased financial pressures. Widening social and economic disparities will affect states’ ability to finance and facilitate access to public services, employment opportunities, technology, health care and affordable housing. State officials also will be challenged to address the differing needs and perspectives of culturally diverse populations and demographic differences in levels of civic participation and awareness.

Environmental Gluttony

A growing population, increased pollution, and global climate change are threatening our natural environment, economy, and way of living. As water supplies dwindle, states will face tough management, stewardship, and water rights decisions. The Energy Information Administration expects an upward price trend for energy to continue indefinitely. Thus, states will have to find creative ways to promote renewable energy and conserve energy resources. The environmental consequences of energy choices also will need to be addressed.

Health Care: Paying More, Getting Less

U.S. health care costs are skyrocketing, with the cost of health insurance projected to rise 6.4% per year over the next decade. Although U.S. health spending is significantly higher than the average rate of other industrialized countries, we have higher rates of infant mortality, shorter “healthy life” expectancies, and more premature and preventable deaths. Growing numbers of elderly citizens and uninsured individuals will create tremendous pressures on public health insurance programs, fragmented health care delivery systems, and health workforces.

Tech Revolution

Technology is upgrading so rapidly that, for every computer put on the market, one existing computer will become obsolete. Although increasing numbers of states are providing fully executable services online, the digital divide continues to widen along economic, racial, and generational lines. With the volume of e-waste increasing by 3% - 5% each year, states will be challenged to find hazard-free recycling and disposal options.

Economic Transformation
Now that the shift from a manufacturing-based economy to a service-based, global economy is well underway, many economic transformation issues are emerging. At their current pace, India and China are set to economically surpass Japan and the United States in the next 30 years. The emergence of new economic powers, along with increasing economic, social and political interdependence among countries, will have significant impacts on state economies, labor migration patterns, knowledge and product development, and the ownership and distribution of natural resources. A fundamental challenge for state policymakers will be to balance public issues and private sector concerns with the need to remain globally competitive.

Educating for Outcomes

The need to maintain a competitive edge in a global economy has accentuated concerns about the lower academic performance of U.S. students relative to other industrialized nations and persisting racial/ethnic and income-based disparities in academic achievement. Issues of access, instructional quality, learning outcomes, and preparedness for the “new economy” workforce will have important implications for states’ economic and social wellbeing.

Critical Infrastructure: Cracks in the Foundation

Critical infrastructure is becoming increasingly outmoded, as evidenced by the nation’s crumbling water distribution systems, transportation systems, and an overextended power grid. The need to address these problems and to keep pace with rapid changes in telecommunications and other infrastructure technology will have significant financial and regulatory implications for states.

Balance of Power

New technologies and globalization are intensifying pressures to centralize rather than share federal power with state and local governments. Over the past three years, Congress has shifted an estimated $75 billion in costs to the states. Unfunded mandates, along with federal preemption of state and local laws and restrictions on state taxation, will have a major impact on future federal-state-local relationships.

America the Safe and Secure?

The United States faces myriad threats to public safety, domestic security, and immigration enforcement. After a two-decade drop, violent crimes are on the rise. National Guard troops are increasingly being used as quasi-active duty units – both within and outside the United States. States also are expected to play an increasing role in arresting and detaining illegal immigrants – duties that they historically have not performed. A major challenge will be to find ways of addressing diverse domestic and international threats while protecting personal privacy.

Disposable Society

A 2006 report published by the Center for Environment and Population characterizes the United States as a “super-size” nation, with lifestyles reflected in super-sized appetites for food, houses, land and resource consumption. The marketing and consumption of fast foods and
disposable products, coupled with a growing population, will strain states’ waste management capacity and place citizens at increased risk for poor physical and financial health.

Changing Global Climate

What was once scientific conjecture is now scientific certainty: human activity—especially the combustion of fossil fuels—directly contributes to global climate change. Major shifts in climate patterns are likely to have significant agricultural, economic, health and environmental impacts on states.
SSL PROCESS

The Committee on Suggested State Legislation guides the SSL Program. SSL Committee members represent all regions of the country and many areas of state government. Members include legislators, legislative staff and other state government officials.

SSL Committee members meet several times a year to consider legislation. The items chosen by the SSL Committee are published online at www.csg.org after every meeting and then compiled into annual Suggested State Legislation volumes. The volumes are usually published in December.

SSL Committee members, other state officials, and their staff, CSG Associates and CSG staff can submit legislation directly to the SSL Program. The committee also considers legislation from other sources, but only when that legislation is submitted through a state official. Other sources include public interest groups and members of the corporate community who are not CSG Associates.

It takes many bills or laws to fill the dockets of one year-long SSL cycle. Items should be submitted to CSG at least eight weeks in advance to be considered for placement on the docket of a scheduled SSL meeting. Items submitted after that are typically held for a later meeting.

Committee members prefer to consider legislation that has been enacted into law by at least one state. Legislation that addresses a single, specific topic is preferable to omnibus legislation that addresses a general topic or references many disparate parts of a state code. Occasionally, committee members will consider and adopt uniform or proposed “model” legislation from an organization, or an interstate compact. In this case, the committee strongly prefers to examine state legislation that enacts the uniform or model law, or compact.

In order to facilitate the selection and review process on any submitted legislation, it is particularly helpful to include information on the status of the legislation, an enumeration of other states with similar provisions, and any summaries or analyses of the legislation.

Legislation and accompanying materials should be submitted to the Suggested State Legislation Program, The Council of State Governments, 2760 Research Park Drive, P.O. Box 11910, Lexington, Kentucky 40578-1910, (859) 244-8000, fax (859) 244-8001, or ssl@csg.org.
SSL CRITERIA

- Does the issue have national or regional significance?
- Are fresh and innovative approaches available to address the issue?
- Is the issue of sufficient complexity that a bill drafter would benefit from having a comprehensive draft available?
- Does the bill or Act represent a practical approach to the problem?
- Does the bill or Act represent a comprehensive approach to the problem or is it tied to a narrow approach that may have limited relevance for many states?
- Is the structure of the bill or Act logically consistent?
- Is the language and style of the bill or Act clear and unambiguous?

The word “Act” as used herein refers to both proposed and enacted legislation. Attempts are made to ensure that items presented to committee members are the most recent versions. However, interested parties should contact the originating state for the ultimate disposition in the state of any docket entry in question, including substitute bills and amendments. Furthermore, the Committee on Suggested State Legislation does not guarantee that entries presented on its dockets or in a Suggested State Legislation volume represent the exact versions of those items as enacted into law, if applicable.
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<thead>
<tr>
<th>Docket ID#</th>
<th>Title</th>
<th>State/source</th>
<th>Bill/Act</th>
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Summary: [These are typically excerpted from bill digests, committee summaries, and related materials which are contained in or accompany the legislation.]

Status: [Action taken on item in source state.]

Comment: [Contains references to other bills or information about the entry and issues the members should consider in referring the entry for publication in SSL. Space may also be used to note reaction to an item, instructions to staff, etc.]

Disposition of Entry: [Action taken on item by the SSL Committee.]

SSL Committee Meeting: (A)(B)(C)
- ( ) Include in Volume
- ( ) Defer consideration:
  - ( ) next task force mtg.
  - ( ) next SSL mtg.
  - ( ) next SSL cycle
- ( ) Reject

Comments/Note to staff:

*Item was deferred from the previous SSL cycle*
SSL DOCKET CATEGORIES - 2004A and later

(*) Indicates item is carried over from previous SSL cycle.

<table>
<thead>
<tr>
<th>Category Code</th>
<th>Category Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>01</td>
<td>Conservation and the Environment</td>
</tr>
<tr>
<td>02</td>
<td>Hazardous Materials/Waste</td>
</tr>
<tr>
<td>03</td>
<td>Energy</td>
</tr>
<tr>
<td>04</td>
<td>Science and Technology</td>
</tr>
<tr>
<td>05</td>
<td>Public, Occupational and Consumer Health and Safety</td>
</tr>
<tr>
<td>06</td>
<td>Property, Land and Housing/Infrastructure, Development/Protection</td>
</tr>
<tr>
<td>07</td>
<td>Growth Management</td>
</tr>
<tr>
<td>08</td>
<td>Economic Development/Global Dynamics/Development</td>
</tr>
<tr>
<td>09</td>
<td>Business Regulation and Commercial Law</td>
</tr>
<tr>
<td>10</td>
<td>Public Finance and Taxation</td>
</tr>
<tr>
<td>11</td>
<td>Labor/Workforce Recruitment, Relations and Development</td>
</tr>
<tr>
<td>12</td>
<td>Public Utilities and Public Works</td>
</tr>
<tr>
<td>13</td>
<td>State and Local Government/Interstate Cooperation and Legal Development</td>
</tr>
<tr>
<td>14</td>
<td>Transportation</td>
</tr>
<tr>
<td>15</td>
<td>Communications/Telecommunications</td>
</tr>
<tr>
<td>16</td>
<td>Elections/Political Conditions</td>
</tr>
<tr>
<td>17</td>
<td>Criminal Justice, the Courts and Corrections/Public Safety and Justice</td>
</tr>
<tr>
<td>18</td>
<td>Public Assistance/Human Services</td>
</tr>
<tr>
<td>19</td>
<td>Domestic Relations/Demographic Shifts/Social and Cultural Shifts</td>
</tr>
<tr>
<td>20</td>
<td>Education</td>
</tr>
<tr>
<td>21</td>
<td>Health Care</td>
</tr>
<tr>
<td>22</td>
<td>Culture, the Arts and Recreation</td>
</tr>
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<td>23</td>
<td>Privacy</td>
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<td>Agriculture</td>
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<td>Consumer Protection</td>
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<td>Miscellaneous</td>
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ITEM NO., TITLE OF ITEM UNDER CONSIDERATION | SOURCE | ACTION
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(*) Indicates item is carried over from previous SSL cycle.

(01) CONSERVATION AND THE ENVIRONMENT

(02) HAZARDOUS MATERIALS/WASTE
02-32B-01 Collecting and Disposing Grease | CO |

(03) ENERGY
*03-32A-01 New Energy Improvement District | CO |
(32A-a) Add Maine legislation about this issue to the next docket.
03-32B-01A Property Assessed Clean Energy | ME |
03-32B-01B Property Assessed Clean Energy | MI |
03-32B-02 Hydrogen Permitting | SC |
03-32B-03 Coal Bed Methane | IN |

(04) SCIENCE AND TECHNOLOGY
04-32B-01 Professional Geoscience Practice | LA |

(05) PUBLIC, OCCUPATIONAL AND CONSUMER HEALTH AND SAFETY
05-32B-01 Medically Fragile People Registry | NC |
05-32B-02 Criminal Gangs/Gang-Free Zones | TX |
05-32B-03 Monitoring the Sale of Products Containing Ephedrine, Pseudoephedrine, or Phenylpropanolamine | SC |

(06) PROPERTY, LAND, HOUSING AND INFRASTRUCTURE, DEVELOPMENT/PROTECTION
06-32B-01 State Trust Land Exchanges | AZ |
06-32B-02 Five Star Mortgage Program Statement | IN |
06-32B-03 Affordable Housing Land Trusts | MD |
06-32B-04 Public-Private Partnerships Statement | PR |
06-32B-05 Housing Blight and Revitalization | PA |
06-32B-06 Underground Utility Damage Prevention: Sewer Laterals | VA |

(07) GROWTH MANAGEMENT

(08) ECONOMIC DEVELOPMENT/GLOBAL DYNAMICS/DEVELOPMENT
08-32B-01 Global Health Technologies and Product Development Competitiveness Program | WA |
08-32B-02 Banking Development Districts | NJ |

(09) BUSINESS REGULATION AND COMMERCIAL LAW
09-32B-01 Surrogacy Facilitators | CA |
09-32B-02 Insurance Company Mutual-to-Stock Conversion | DE |
09-32B-03 International Commercial Arbitration | FL |
09-32B-04 Credit Card Blacklisting
09-32B-05 Online Prescribing, Dispensing, and Facilitation Licensing
09-32B-06 E-Commerce Integrity
09-32B-07 Full Compensation for Injured Party - Limit on Subrogation Rights of Insurer
09-32B-08 Extraordinary Circumstances Affecting Credit and Insurance Rates
09-32B-09 Internet Wagering Statement

(10) PUBLIC FINANCE AND TAXATION
10-32B-01 Recovery Audits

(11) LABOR/WORKFORCE RECRUITMENT, RELATIONS AND DEVELOPMENT
11-32B-01A Shared Work
11-32B-01B Shared Work
11-32B-02 Suspensions or Terminations of EMS Personnel
11-32B-03 Domestic Workers
11-32B-04 Wage Theft

(12) PUBLIC UTILITIES AND PUBLIC WORKS
12-32B-01 Unsafe Electricity or Natural Gas Connections
12-32B-02 Assaulting Utility Workers
12-32B-03 Smart Grid Policy
12-32B-04 Prepaid Electric Utility Service

(13) STATE AND LOCAL GOVERNMENT/INTERSTATE COOPERATION AND LEGAL DEVELOPMENT
13-32B-01 Furlough Retirement Credit
13-32B-02 Public Employers’ Access to State Employee Prescription Drug Plan
13-32B-03 Leasing Closed State Property
13-32B-04 Emergency Interim Successors for Legislators
13-32B-05 Placement Agents
13-32B-06 Fraud, Enforcement and Recovery
13-32B-07 SMART Government

(14) TRANSPORTATION
14-32B-01 Pedicabs
14-32B-02 Careless or Inattentive Driving
14-32B-03 Aircraft Pilot and Passenger Protection

(15) COMMUNICATIONS/TELECOMMUNICATIONS
*15-32A-01A Online Impersonation
(32A-c) Add other state legislation about this and related topics (e.g., anonymous postings) to the next docket.
15-32B-01A Cyberbullying
15-32B-01B Bullying and Cyberbullying  
15-32B-01C Bullying and Cyberbullying  
15-32B-01D Cyberbullying Prevention  
15-32B-02 Deregulating Telephone Companies Statement

(16) ELECTIONS/POLITICAL CONDITIONS
16-32B-01 Population Counts and Legislative Redistricting  
16-32B-02 Vote Center Counties  
16-32B-03 Government Ethic Statement

(17) CRIMINAL JUSTICE, THE COURTS AND CORRECTIONS/PUBLIC SAFETY AND JUSTICE
17-32B-01 Civil Protection Orders and Animals  
17-32B-02 Crimes against Children by People in Positions of Trust  
17-32B-03 Blue Alert  
17-32B-04 Nonrecourse Civil Litigation  
17-32B-05 DNA Testing Procedures  
17-32B-06 Restitution for Medicaid Expenditures

(18) PUBLIC ASSISTANCE/HUMAN SERVICES
18-32B-01 Credit Reports for Youth in Foster Care  
18-32B-02 Gateway to Opportunity  
18-32B-03 Housing Homeless People on Religious Organizations’ Property  
18-32B-04 Privilege for Communications to Veteran Mentors  
18-32B-05 Coordinating Faith- and Community-Based Health and Human Services and Social Services Initiatives

(19) DOMESTIC RELATIONS/DEMOGRAPHIC SHIFTS/SOCIAL AND CULTURAL SHIFTS
19-32B-01 Religious Freedom  
19-32B-02 Temporary Maintenance Awards  
19-32B-03 Putative Father’s Name on Birth Certificates

(20) EDUCATION
20-32B-01 Value-Added Teacher Evaluations  
20-32B-02A Anti-Bullying Bill of Rights  
20-32B-02B Dignity for All Students  
20-32B-03 College Partnership Laboratory Schools  
20-32B-04 Open Education Curriculum Board  
20-32B-05 Savings Accounts for Retraining Adults  
20-32B-06 Alternative School Funding Models  
20-32B-07 Healthy Youth  
20-32B-08A Innovation Zone Schools and Charter Schools  
20-32B-08B Innovation Zone Schools

(21) HEALTH CARE
21-32B-01 Recording Radiation X-Rays Radiation Doses  CA
21-32B-02 Health Insurance and Wellness Programs  CO
21-32B-03 Medical Clean Claims Transparency and Uniformity  CO
21-32B-04 Safe Medications Practice  GA
21-32B-05 Treatment or Examination of Minors  DE
21-32B-06 Prohibiting Insurance Plans Created by the Federal Patient Protection and Affordable Care Act from Covering Abortion Services  LA
21-32B-07 Healthcare Clearinghouse  MN
21-32B-08 Discontinuing Health Insurance  NY
21-32B-09 Medicaid Kickbacks  NC
21-32B-10 Caregiver Consent  WV
21-32B-11 Pain-Capable Unborn Child Protection  NE
21-32B-12 Freedom from Coercion  TN

(22) CULTURE, THE ARTS AND RECREATION
22-32B-01 Film Industry Economic Incentives  PR

(23) PRIVACY

(24) AGRICULTURE

(25) CONSUMER PROTECTION
25-32B-01 Vehicle Title Loans  DE
25-32B-02 Declaration of Removal from Credit Reports  NM

(26) MISCELLANEOUS
This Act requires the solid and hazardous waste commission in the department of public health and environment regulate grease collection, transportation, storage, and disposal. The Act pertains only to trap grease derived from food preparation and yellow grease used as cooking oil. The Act requires people who collect, transport, store, process, or dispose of grease to register with the department, display decals on their grease transport vehicles, and keep manifests that log their grease shipments. They must also post a surety bond or another debt instrument to remediate any environmental hazards and pay annual registration fees paid to department.

The Act makes exceptions for people who collect and transport such grease solely for their personal use in order to make a biofuel.

Submitted as:
Colorado
Chapter 349 of 2010
Status: Enacted into law in 2010.

Comment:

Disposition:

SSL Committee Meeting: 2012B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This bill creates the Colorado New Energy Improvement District to administer and finance a New Energy Improvement Program for on-site energy efficiency and renewable energy improvements. The improvements will be financed by bonds issued by the district that are paid by special assessments levied on homes that choose to participate in the program. The total principal amount of bonds that can be issued by the district is limited to $800 million and the duration of the bonds cannot exceed 20 years. Bonds are exempt from all taxation and assessments in the state, and do not constitute a debt or financial obligation to the state.

The amount of the assessment will be based on the cost of the home energy improvements to the district, including paying the contractors who make the energy improvements and district administrative costs. The amount of the assessment cannot exceed the value of the special benefit of the energy improvement made to the home, defined as any increase in market value of the property; any cost of completing the improvement defrayed by reimbursement; any reduction in energy bills resulting from completion of the improvement; and any value of the improvement to the property included in the program application.

The assessment can either be paid in full within 30 days of being levied or can be paid in installments, with interest, over a period not to exceed 20 years. The district's payment for an energy improvement, either to a homeowner or contractor, cannot exceed $25,000, adjusted annually for inflation.

The New Energy Improvement District will include all residential properties that apply to and are accepted to join the district, and the district is authorized to charge program application fees. However, the program may be conducted only in counties where the board of county commissioners has explicitly authorized the program. The district will be a statutory public entity that is governed by an eleven-member board. It will not be an agency of state or local government or subject to administrative direction by any state or local government agency.

A utility can count the energy savings achieved resulting from its efforts with the district toward its demand side management targets or goals established with the Public Utilities Commission.

No later than June 30, 2014 and every 5 years thereafter, the bill requires the State Auditor's Office to conduct a performance audit of the district. The state auditor is required to prepare a report and present its findings to the Legislative Audit Committee. The bill is repealed, effective January 1, 2016, unless the district has issued bonds that have not been fully repaid as of that date.

The district is prohibited from accepting new applications for the program or issuing additional bonds on or after that date.

Finally, the bill creates a Clean Energy Improvement Debt Reserve Fund, to consist of up to $10,000,000 of non-state money controlled by the Governor's Energy Office. Money in the fund is continuously appropriated to the State Treasurer in order to pay principal and interest on bonds issued by local improvement districts (LIDs). A LID that issues bonds payable with special assessments may rely on these moneys as a reserve for bonded debt in return for paying an annual fee to the State Treasurer. Such fees are considered to be part of the interest rate savings that the LID will realize from having the fund serve as a reserve. The bill also specifies conditions under which money will be expended from the fund to cover the bonds.
Status: Enacted into law in 2010.

Comment:

Disposition:

SSL Committee Meeting: 2012B
( ) Include in Volume
( ) Defer consideration
( ) next task force mtg.
( ) next SSL mtg.
( ) next SSL cycle
( ) Reject

Comments/Note to staff:
(32A-a) Add Maine legislation about this issue to the next docket.

03-32B-01A Property Assessed Clean Energy ME

This bill establishes a Property Assessed Clean Energy (PACE) program to be administered by the Efficiency Maine Trust (EMT) for municipalities that adopt an enabling ordinance and choose to participate in the program. Under PACE agreements with municipalities, individual property owners can borrow to finance energy-saving improvements on qualifying property. All PACE agreements must comply with underwriting requirements established by the EMT. PACE agreements are to be administered by the EMT.

Submitted as:
Maine
Public Law Chapter 591, 124th Legislature
Status: Enacted into law in 2010.

Comment:

03-32B-01B Property Assessed Clean Energy MI

This Act authorizes local units of government to adopt Property Assessed Clean Energy programs and to create districts to promote the use of renewable energy systems and energy efficiency improvements by owners of certain real property. It provides for the financing of such programs through voluntary property assessments, commercial lending, and other means. It authorizes a local unit of government to issue bonds, notes, and other evidences of indebtedness and to pay the cost of renewable energy systems and energy efficiency improvements from the proceeds thereof. The Act provides for the repayment of bonds, notes, and other evidences of indebtedness; authorizes certain fees; and prescribes the powers and duties of certain governmental officers and entities; and to provide for remedies.
Submitted as:
Michigan
Act 270 of 2010
Status: Enacted into law in 2010.

Comment:

Per 32A-a, CSG staff did not find Maine legislation identical to Colorado HB 10-1328. However Maine Public Law Chapter 591, 124th Legislature helps property owners finance energy-savings improvements. This Maine law and Michigan Act 270 of 2010 are part of a trend among the states to enact Property Assessed Clean Energy (PACE) laws.

According to PACENOW, the PACE Initiative:

“Is a bipartisan local government initiative that allows property owners to finance energy efficiency and renewable energy projects for their homes and commercial buildings. Interested property owners opt-in to receive financing for improvements that is repaid through an assessment on their property taxes for up to 20 years. PACE financing spreads the cost of energy improvements such as weather sealing, insulation, energy efficient boilers and cooling systems, new windows, and solar installations over the expected life of the measures and allows for the repayment obligation to transfer automatically to the next property owner if the property is sold. PACE emerged in 2008 with a pilot program in California and quickly caught the attention of communities around the country.”

“PACE uses the same kind of land-secured financing districts that American cities and towns have used for over 100 years to pay for improvements in the public interest. Over 37,000 land secured districts already exist and are a safe and familiar tool of municipal finance for street paving, parks, open space, water and sewer systems, street lighting, and seismic strengthening, among others.”

“In just two years, PACE enabling legislation has been adopted in CA, CO, DC, FL, GA, IL, LA, MA, ME, MD, MI, MN, MO, NV, NH, NM, NY, NC, OH, OK, OR, TX, VT, VA, and WI.”

“Federal overreach, in a challenge to state and local government rights, has brought PACE to a standstill today despite its great promise. For over a century, municipalities have used property taxes and assessments to finance projects that achieve a broad range of public purposes established in laws enacted by our elected state and local representatives. Like all municipal assessments, PACE assessments in arrears have a senior lien to mortgage payments in the event of a default. Recognizing this, PACE advocates began a dialogue in 2008 with Fannie Mae, Freddie Mac, and their regulator, the Federal Housing Finance Agency (FHFA) to find ways to address their concerns. Broad safeguards were developed as program guidelines by a working group that included the U.S. Department of energy to ensure that PACE programs would be beneficial to building owners, municipalities, and mortgage lenders.”

“Notwithstanding these measures, on July 6, 2010, the FHFA issued a statement that directed Fannie Mae and Freddie Mac not to underwrite mortgages for properties with a PACE assessment. It further directed mortgage lenders to redline communities with PACE programs by tightening lending standards (which, ironically, has the effect of reducing property values in such communities, devaluing lenders’ collateral). FHFA based its action on two astonishing claims:

- PACE benefits, articulated and codified by state and local governments in 23 states, do not meet a valid public purpose; and
PACE program defaults, estimated to be no more than $200 per average home, raise concerns with regard to the safety and soundness of the mortgage industry. “PACE residential programs around the country were halted by the July 6, 2010 statements of the Federal Housing Financing Agency (FHFA) and the U.S. Treasury Department Office of the Comptroller of the Currency (OCC). It is likely that by late January, 2011, the Federal District Court for the Northern District of California will order the FHFA to commence a rulemaking process, which the agency failed to do before releasing its July 6, 2010 rules.”

Maine Chapter 591 and Michigan Act 270 of 2010 are recent examples of state PACE legislation. ERC staff says the Maine law is unique in that it assigns PACE loans junior lien status instead of senior lien status, meaning that in the case of foreclosure, it would not be paid back before the mortgage. Other state PACE laws include Connecticut and Ohio.

Section 22 of Connecticut Public Act No. 07-242 allows:
(a) Any municipality may, by vote of its legislative body, establish an energy improvement district within such municipality. The affairs of any such district shall be administered by an Energy Improvement District Board. The chief elected official of the municipality shall appoint the members of any such board, who shall serve for such term as the legislative body may prescribe and until their successors are appointed and have qualified. The chief elected official shall fill any vacancy for the unexpired portion of the term. The members of each such board shall serve without compensation, except for necessary expenses.
(b) After a vote by a municipality to establish an energy improvement district, the chief elected official of the municipality shall notify by mail each property owner of record within said district of said action. An owner may record on the land records in the municipality its decision to participate in the energy improvement district pursuant to sections 21 to 36, inclusive, of this act. Any owner of record, including any new owner of record, may rescind said decision at any time.

Section 23 of Connecticut Public Act No. 07-242 states:
(a) An Energy Improvement District Board shall fund energy improvement district distributed resources in its district consistent with a comprehensive plan prepared for the district by said board for the development and financing of such resources, except on state or federally owned properties, with a view to increasing efficiency and reliability and the furtherance of commerce and industry in the energy improvement district, provided such district's plan shall be consistent with the state-wide procurement and deployment plan prepared and approved pursuant to section 54 of this act and the siting determinations of the Connecticut Siting Council. The board may lease or acquire office space and equip the same with suitable furniture and supplies for the performance of work of the board and may employ such personnel as may be necessary for such performance.

Ohio SB 232 of 2010 says a special improvement district may be created within the boundaries of any one municipal corporation, any one township, or any combination of contiguous municipal corporations and townships for the purpose of developing and implementing plans for public improvements and public services that benefit the district. A district may be created by petition of the owners of real property within the proposed district, or by an existing qualified nonprofit corporation.

Special improvement districts can undertake “special energy improvement projects,” which mean any property, device, structure, or equipment necessary for the acquisition, installation, equipping, and improvement of any real or personal property used for the purpose of creating a solar photo voltaic photovoltaic project or, a solar thermal energy project, a geothermal energy project, a customer-generated energy project, or an energy efficiency
improvement, whether such real or personal property is publicly or privately owned. “Energy efficiency improvement” means energy efficiency technologies, products, and activities that reduce or support the reduction of energy consumption, allow for the reduction in demand, or support the production of clean, renewable energy and that are or will be permanently fixed to real property.

Per 32A-a, there is also an Energy Efficiency Trust Statement about Maine Chapter 372 of 2009 in the 2011 Suggested State Legislation volume. That Maine law creates a trust to pay to weatherize all residential buildings and half of commercial buildings in the state by 2030, which is in line with the state’s greenhouse-gas reduction goals. The trust will also pay for programs to promote energy efficiency and increased use of alternative energy resources in the state. Alternative energy resources include nonfossil fuel energy resources, including, but not limited to, biomass, wood, wood pellets and solar, wind or geothermal resources.

Disposition: 03-32B-01A

SSL Committee Meeting: 2012B

( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject

Comments/Note to staff:

Disposition: 03-32B-01B

SSL Committee Meeting: 2012B

( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This Act establishes a Hydrogen Permitting Program within the office of the state fire marshal. The program is intended to make hydrogen fuel easily accessible to the general public for retail purchase from multiple locations throughout the state in a manner similar to that used to dispense gasoline and other motor vehicle fuels. It is designed to promote a positive business environment for the hydrogen and fuel cell industry and demonstrate leadership as a progressive alternative energy state by ensuring that hydrogen and fuel cells are permitted on a consistent basis throughout the state and meet minimum standards of quality.

The Act directs that only the state fire marshal may permit a hydrogen facility in the state, but may they delegate this authority to a county or municipal official under certain circumstances. The law defines requirements for parties seeking to renovate or build a hydrogen facility and it enables the fire marshal to impose certain fees related to permitting, licensing, and inspecting such facilities.

Submitted as:
South Carolina
H. 3835
Status: Enacted into law in 2010.

Comment:

Disposition:

SSL Committee Meeting: 2012B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This Act defines coal bed methane and expands the definition in state law of a commercially minable coal resource. It prohibits extracting coal bed methane before July 1, 2012, unless the owner of the coal from which the coal bed methane is extracted consents or the coal bed methane is extracted from a well that is operated under a permit issued by the department of natural resources.

Submitted as:
Indiana
HOUSE ENROLLED ACT No. 1265
Status: Enacted into law in 2010.

Comment:

Disposition:

SSL Committee Meeting: 2012B
( ) Include in Volume
( ) Defer consideration
    ( ) next task force mtg.
    ( ) next SSL mtg.
    ( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This Act establishes standards to get licensed or certified to perform or supervise geoscientific services or work. The Act defines geoscience as a science of the earth, its origin and history, investigation of its environment and constituent materials, and the study of natural and introduced agents, forces and processes that cause changes to the earth. The bill creates a board to administer the licensing and certification process.

Submitted as:
Louisiana
Act 974 of 2010
Status: Enacted into law in 2010.

Comment:

Disposition:

SSL Committee Meeting: 2012B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This Act authorizes the division of emergency management to establish a voluntary registry for use by counties and municipalities to identify functionally and medically fragile people who need assistance during disasters. It also authorizes counties and municipalities to operate similar registries.

Submitted as:
North Carolina
SESSION LAW 2009-225
Status: Enacted into law in 2009.

Comment:

Disposition:

SSL Committee Meeting: 2012B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This Act enacts a number of provisions relating to the investigation, prosecution, and punishment for certain gang-related and other criminal offenses. The bill adds certain offenses relating to escaping from custody and an offense relating to prohibited substances and items in a correctional or detention facility or on property of the department of criminal justice or the youth commission to the offenses that constitute an organized criminal activity under certain circumstances.

The bill creates the first-degree felony offense of directing activities of certain criminal street gangs.

Prior law set the punishment for criminal solicitation of a minor at one category lower than the solicited offense. The bill increases the punishment to the same category as the solicited offense if the actor was 17 years of age or older at the time of the offense and committed the offense to further the activities of a criminal street gang or to avoid detection as a member of a criminal street gang.

The Act enhances the penalty for certain organized criminal activity committed in or around a gang-free zone and provides that a map from a municipal county engineer is admissible as evidence of a gang-free zone. It requires information about gang-free zones be included in the student handbooks or equivalent publications of public or private elementary or secondary schools and institutions of higher education and also be distributed to the parents and guardians of children who attend day-cares.

This legislation creates a civil action for the violation of an injunction by a criminal street gang or member. A district, county, or city attorney or the attorney general can sue to recover actual damages, civil penalties, and court costs and fees. The Act makes the property of a criminal street gang or its members subject to seizure under certain conditions. Money received for damages or as a civil penalty must be used to benefit of the community or neighborhood harmed.

The Act allows a local ordinance that requires a business to make aerosol paint inaccessible without customer assistance, and sets forth the responsibilities of property owners to remove graffiti.

The law makes the proceeds of organized criminal activity subject to forfeiture proceedings. It requires a judge to make an affirmative finding in the judgment of a case if it is determined that the applicable conduct was engaged in as part of the activities of a criminal street gang and authorizes the sentences for more than one conviction of an offense with such a finding to run concurrently or consecutively. The bill includes an active member of a criminal street gang as someone whom a defendant placed on community supervision may be required to avoid.

The bill authorizes a court granting community supervision to a member of a criminal street gang who is a repeat offender to impose electronic monitoring as a condition of community supervision and restrict that person’s operation of a motor vehicle. The bill authorizes a parole panel to impose electronic monitoring as a condition of release on parole or mandatory supervision on a member of a criminal street gang who is a repeat offender. The bill requires a juvenile court to order a child adjudicated as having engaged in gang-related conduct to participate in a criminal street gang intervention program.

This Act authorizes including evidence that an individual has used the Internet or another electronic format to post photographs or other documentation identifying the individual as a member of a criminal street gang, evidence that an individual has visited a known member of a criminal street gang while the member was confined or committed to a penal institution, and evidence of an individual's use of technology to recruit new criminal street gang members in the
criminal combination and criminal street gang intelligence database. The bill increases, from three years to five years, the period that information in the database may be retained. It establishes procedures to authorize intercepting oral, wire, or electronic communication to observe gang activities.

The Act creates a public corruption unit within the department of public safety to address allegations of organized criminal activity by a state peace officer or a federal law enforcement officer while performing duties in the state. The bill requires the governor's criminal justice division to administer the state anti-gang grant program and support regional, multidisciplinary approaches to combat gang violence.

The bill establishes that, if conduct constituting an offense of false application, use of an illegal license or certificate, or delivery or manufacture of a counterfeit instrument also constitutes an offense under another law, the actor may be prosecuted under either law or both laws.

Submitted as:
Texas
**HB 2086 (Enrolled version)**
Status: Enacted into law in 2009.

Comment:

Disposition:

SSL Committee Meeting: 2012B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This Act establishes criteria to monitor buying and selling products that contain Ephedrine, Pseudoephedrine, or Phenylpropanolamine. The law makes it illegal to purchase certain amounts of these products in certain time periods.

The bill requires information about such purchases that is gathered from purchasers at the time of sale be entered into an electronic log instead of a written log. Such information must be transmitted to a data collection system in real time and generate a stop sale alert if the sale would result in a violation of law. The Act provides that a retailer who receives a stop sale alert must not complete the sale unless they fear they will be harmed by the purchaser. It directs the state law enforcement division to set up an electronic monitoring system to serve as the repository for the information collected under the Act.

Submitted as:
South Carolina
Act 242 of 2010
Status: Enacted into law in 2010.
Comment:
According to the person who submitted the bill, this South Carolina law differs in several ways from the SSL draft “Real Time Electronic Logbook for a Pharmacy to Record Purchases of Psuedoephedrine and Other Similar Substances” in the 2009 Suggested State Legislation volume.

First, this South Carolina Act integrates all state precursor sales data into a National Precursor Log Exchange. That exchange currently operates in more than 25,000 retailers nationwide, including mandatorily in ten states. This is accomplished through the MOU specified by the bill to be executed by the National Drug Diversion Investigators Association. In practice, this results in sales being blocked and tracked regardless of state lines, and made immediately available to some 5000 law enforcement officers via a secure web-site.

Second, this law requires provision of the South Carolina transactional data to a state law enforcement agency, the South Carolina Law Enforcement Division. This allows SLED to feed their criminal intelligence data base, resulting in much more effective intelligence for investigators, all within the parameters of state and federal law.

Finally, this bill requires that there be no cost to any state government agency, retailer, or pharmacy for any of these services. In fact, all support, training, implementation, and administration to the extent requested are performed at no cost to said entities. This is accomplished by the required sponsorship of the manufacturers of these over-the-counter medicines, in order that these products can continue to be sold in the state.

Disposition:
SSL Committee Meeting: 2012B
(  ) Include in Volume
(  ) Defer consideration
     (  ) next task force mtg.
     (  ) next SSL mtg.
     (  ) next SSL cycle
(  ) Reject
Comments/Note to staff:
The enabling Act of the state set aside land to be held in trust for schools and other public institutions. There are approximately 9.3 million acres of state land held in trust. The State Land Department (SLD) acts as trustee for all state trust lands and the natural products derived from such land. The mission of the SLD is to manage trust lands and maximize revenues for the beneficiaries. The beneficiaries include schools, legislative and judicial buildings, the state hospital, the department of corrections, department of juvenile corrections, and certain colleges and universities.

This Act revises the process to review and evaluate proposed state trust land exchanges. The value of the respective parcels of land being exchanged must be substantially the same as determined by an appraisal to be made by a qualified appraiser appointed by the governing body of the political subdivision in control of the land that is being exchanged.

This Act generally allows state land to be exchanged for other land in the state to ensure such lands are properly managed and protected, to convert land to public use, or to preserve or protect military facilities. It allows exchanges to be made for land owned or administered by the United States or its agencies along with other state agencies, counties and municipalities. It requires an application for the exchange of state land to include the mailing address, telephone number and relevant affiliation, if any, of the applicant. The bill specifies that a report on a proposed exchange of state land be delivered to certain people after determining that the application for the exchange of state land is complete and correct, and includes payment of the required fees.

The law requires at least two independent analyses of a proposed exchange of state lands be conducted to determine the following:

- the income to the Trust from the lands before the exchange and the projected income to the Trust after the exchange;
- the fiscal impact of the exchange on each county, city or town and school district in which all the lands involved in the exchange are located, and
- the physical, economic and natural resource impacts of the proposed exchange on the surrounding or directly adjacent communities, military facilities, and local land uses and land use plans.

It requires the SLD to give a written 30-day notice to the following entities, in addition to specified political subdivisions and agencies, prior to public notice of a proposed exchange of state lands for other lands:

- the military affairs commission;
- each military facility at the address on record at the SLD, and
- leaseholders on state lands that are to be exchanged and on state lands that are adjacent to the lands to be exchanged.

The bill specifies that the SLD must publish notice of the proposed exchange of state lands after determining that the application is complete and correct and all required payments, appraisals and analyses have been completed.

It extends the time that the notice of the proposed exchange of state lands must be published from four to six consecutive weeks in a manner pursuant to current law.

It requires the SLD to schedule at least two public hearings on the exchange of state lands. It requires one hearing on the exchange of state lands be held at the state capital and another hearing be held in a location of general accessibility in the proximate vicinity of the state lands being exchanged.
It specifies that within 60 days after the conclusion of the last hearing on the exchange of state lands, the state must determine and issue a written finding recommending either that the exchange be denied or approved. If recommended for approval, the proposed exchange must then be submitted to a referendum for final approval at the next regular general election.

Submitted as:
Arizona
Chapter 222 of 2010
Status: Enacted into law in 2010.

Comment:

Disposition:

SSL Committee Meeting: 2012B
(  ) Include in Volume
(  ) Defer consideration
    (  ) next task force mtg.
    (  ) next SSL mtg.
    (  ) next SSL cycle
(  ) Reject

Comments/Note to staff:
Chapter 23.6 of Indiana House Enrolled Act No. 1336 establishes a voluntary Five Star Mortgage Program for creditors and mortgage brokers which offer qualifying mortgages to customers. It requires the state department of financial institutions to adopt guidelines to implement the program.

A mortgage must include the following terms and conditions to qualify as a five star mortgage under the program:

- if the mortgage involves a purchase money transaction, the mortgage must require a down payment by the debtor, or a person acting on behalf of the debtor, of at least ten percent of the purchase price of the dwelling that is the subject of the mortgage, or that the customer have equity of at least 10% in the dwelling, in the case of a refinancing;
- a fixed rate of interest;
- provide for an escrow account for the payment of taxes and insurance, if the creditor regularly provides for such escrow accounts in the creditor's ordinary course of business;
- cannot have a term that exceeds 30 years, and
- cannot include a prepayment penalty or fee.

The Act requires a five star mortgage lender to provide a written statement to any customer who applies for a five star mortgage offered by the lender and does not qualify for the mortgage based on the lender's underwriting standards.

The bill provides that the statement must set forth the reasons why the customer did not qualify for the five star mortgage.

It allows a creditor that qualifies as a five star mortgage lender to include that fact in marketing materials or solicitations directed at customers, subject to the department's guidelines.

The Act requires the department to publish on the department's Internet web site a list of all creditors that have a current and accurate certification or renewal certification on file with the department. The department must provide written notice to a creditor that the creditor does not qualify for the program whenever a creditor holds itself out as a five star mortgage lender when it does not qualify to participate in the program or fails to comply with any program requirement. The requires the department to remove such a creditor from the list of five star mortgage lenders on the department's Internet web site and to provide, on the same Internet web page on which the list is published, a link to the notice provided to the creditor.

This legislation provides that the authority of the boards of trustees of the public employees' retirement fund (PERF) and of the state teachers' retirement fund (TRF) to invest in pooled funds includes the authority to invest in pools consisting in part or entirely of five star mortgages. It allows the PERF board to maintain alternative investment programs within the PERF annuity savings account and the legislators' defined contribution plan that invest in pooled funds consisting in part or entirely of five star mortgages, or that otherwise invest in five star mortgages. The bill allows the TRF board to maintain alternative investment programs within the TRF annuity savings account that invest in pooled funds consisting in part or entirely of five star mortgages, or that otherwise invest in five star mortgages.

Submitted as:
Indiana
HOUSE ENROLLED ACT No. 1336
Status: Enacted into law in 2010.
Comment:

Disposition: 06-32B-02

SSL Committee Meeting: 2012B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject

Comments/Note to staff:
A Maryland legislative Fiscal and Policy Note says this bill establishes an Affordable Housing Land Trust and the contents of an Affordable Housing Land Trust Agreement. The Act defines an Affordable Housing Land Trust as an entity that provides affordable housing to low-income and moderate-income families through an affordable housing land trust agreement and is managed or organized by a 501(c) tax-exempt nonprofit organization or a unit of state or local government. An Affordable Housing Land Trust Agreement is an agreement between an Affordable Housing Land Trust and a purchaser of real property owned by the land trust, or for which the land trust has a proprietary or reversionary interest that:

- grants the affordable housing land trust a preemptive right to purchase or repurchase the property, including any improvements;
- contains language restricting the transfer, lease, sublease, assignment, or occupancy of the property with regard to potential occupants or others, as specified, and the price at which the property may be transferred; or
- imposes other conditions on the use or transfer of the property that would trigger a reversionary interest and that are designed to ensure that the property remains available and affordable to low-income and moderate-income families.

The bill authorizes an Affordable Housing Land Trust to acquire residential real property or an interest in property; make improvements on residential real property; enter into Affordable Housing Land Trust Agreements with qualified people who meet specified criteria under the bill and the Affordable Housing Land Trust Agreement; and engage in other activities related to the sale, leasing, management, maintenance, and preservation of properties under the control of the Affordable Housing Land Trust.

An Affordable Housing Land Trust Agreement may:

- restrict the transfer, lease, sublease, or assignment of possession or an interest in property to a person who does not meet the conditions set forth in the Affordable Housing Land Trust Agreement for that property;
- grant the Affordable Housing Land Trust the right to repurchase any interest in the property or improvements on the property under the terms set forth in the agreement and in accordance with the bill’s provisions;
- grant the Affordable Housing Land Trust the right to take possession and sell the property under specified circumstances;
- provide for the reversion of the property at the end of the term of the Affordable Housing Land Trust Agreement under the conditions set forth in the agreement;
- provide a mechanism or formula for the sharing of any proceeds from a future sale or transfer of an interest in the property; and
- provide other mechanisms to enforce the terms of the Affordable Housing Land Trust Agreement.

The bill prohibits an Affordable Housing Land Trust Agreement from extending beyond 99 years but allows the agreement to be renewed under specified conditions. The bill requires a copy of the Affordable Housing Land Trust Agreement and a signed, notarized affidavit acknowledging receipt by the transferee to be:

- recorded in the local land records in the county in which the property is located;
- indexed in the grantor and grantee indices listing the seller as grantor and purchaser as grantee; and
accepted for recording by the clerk without payment of recordation and transfer
taxes, not withstanding that a copy of the Affordable Housing Land Trust Agreement, rather than
the original, is offered for record with the affidavit.

The recordation of a copy of the Affordable Housing Land Trust Agreement and the
affidavit terminates the right of rescission and provides a conclusive presumption that a contract
of sale was not rescinded.

The bill requires an Affordable Housing Land Trust to register with the state and submit
updates relating to its organization, tax status, address, officers, and any other required
information. The state must also maintain an online list of registered affordable housing land
trusts in the state.

In any assessment for tax purposes, the property subject to an Affordable Housing Land
Trust Agreement must be assessed on its market value subject to any restrictions in the
affordable housing land trust agreement. The assessment must indicate that the sale was not an
arms-length transfer on the property tax record.

An Affordable Housing Land Trust Agreement may authorize the land trust to repurchase
an interest in the property and any improvements under the conditions set forth in the agreement.
The right to repurchase must be specified in the agreement and may not exceed 120 days from
the date that the land trust received notice of a triggering event that gives the trust the right to
repurchase.

The Affordable Housing Land Trust Agreement may authorize the trust to take
possession of the property and any improvements and sell or transfer the specified interest in the
property if a condition defined in the Affordable Housing Land Trust Agreement is met; the sale
is made pursuant to provisions of the state rule governing judicial sales; the owner of the
property interest retains the right to any proceeds of a sale as set forth in the agreement; and the
right of the owner to the proceeds has precedence over any claim by the Affordable Housing
Land Trust to the sale proceeds.

The reversionary rights of an Affordable Housing Land Trust set forth in the written
agreement are limited to provisions that relate to:

- the transfer of the property or an interest in the property to a person or possession
  of the property by a person who does not meet the conditions set forth in the Affordable Housing
  Land Trust Agreement;
- the waste, destruction, or abandonment of the property; or
- the failure to comply with any financial provision of the Affordable Housing Land
  Trust Agreement.

A nonprofit organization operating an Affordable Housing Land Trust that gives up or
loses its nonprofit status may no longer operate an Affordable Housing Land Trust. The bill
authorizes a nonprofit organization operating an Affordable Housing Land Trust to transfer its
interest to another trust under specified conditions. If a nonprofit organization gives up or loses
its nonprofit status and does not transfer its interest to another trust, the Affordable Housing
Land Trust Agreement becomes void and any reversionary interest or provision for the sharing of
proceeds is unenforceable and the title holder to the property obtains fee simple title without
restriction.

The bill exempts an Affordable Housing Land Trust from certain time limits relating to
the possibility of reverter and right of entry and from provisions governing the creation and
redemption of reversionary interests. The bill also specifies that an Affordable Housing Land
Trust Agreement is not a ground lease and is not subject to existing provisions of law applicable
to ground leases. An Affordable Housing Land Trust Agreement is exempted from the
application of the common law rule against perpetuities.
Submitted as:
Maryland
Chapter 609 of 2010
Status: Enacted into law in 2010.

Comment:

Disposition:

SSL Committee Meeting: 2012B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject

Comments/Note to staff:
Given the dire situation of many government budgets, governments at all levels are looking for innovative alternatives to provide services, maintain existing infrastructure, and finance new public works. Puerto Rico’s Public-Partnerships Act of 2009 offers a recent framework to do that. This Act authorizes all departments, agencies, public corporations, and instrumentalities, and the legislative and judicial branches of the Government of Puerto Rico to establish Public-Private Partnerships. Such partnerships couple the resources and efforts of the public sector with resources of the private sector by means of a joint investment that results in the benefit of both parties.

This Act generally defines Public-Private Partnerships as contracts between a government entity and one or more people to delegate operations, functions, services, or responsibilities of any government entity, or to design, develop, finance, maintain or operate one or more facilities, or any combination thereof. It spells out the criteria to set up Public-Private Partnerships and defines the terms of Public-Private Partnership contracts. For example, the Act sanctions the following contract arrangements: design / build, design / build / operate, design / build / finance / operate, design / build / transfer / operate, design / build / operate / transfer, turnkey contract, long-term lease contract, surface right contract, administrative grant contract, joint venture contract, long-term administration and operation contract, and any other kind of contract that separates or combines the design, building, financing, operation or maintenance phases of a project.

Such contracts can involve:

- the development, construction or operation of sanitary landfill systems, including methane recovery operations, as well as facilities for the management and disposal of non-hazardous and hazardous solid waste, such as plants for recycling, composting, and converting waste into energy;
- the construction, operation or maintenance of reservoirs and dams, including any infrastructure necessary for their operation to produce, treat, and distribute water and any infrastructure for the production of hydroelectric energy and for sewage and potable water treatment plants;
- the construction, operation or maintenance of existing or new plants for the production of energy that use alternate fuels other than oil or that use renewable energy sources, such as wind, solar and oceanic-thermal energy, among others, as well as the transmission of energy of any kind;
- the construction, operation or maintenance of transportation systems of any kind, thoroughfare system or related infrastructure, including maritime or air transportation;
- the construction, operation or maintenance of educational, health, security, correctional and rehabilitation facilities;
- the construction, operation or maintenance of affordable housing projects;
- the construction, operation or maintenance of sports, recreational, tourist and cultural entertainment facilities;
- the construction, operation or maintenance of wired or wireless communication networks for communications infrastructure of any kind;
- the design, construction, operation or maintenance of high-technology, informatics and automation systems, or
- the construction, operation or maintenance of any kind of activity or facility or service as may be identified from time to time as a priority project through legislation.
This Act creates a Public-Private Partnership Authority as an affiliate of the Government Development Bank for Puerto Rico and defines the authority’s powers to oversee public-private partnerships. Generally, the Authority can:

- evaluate and select the government entities, functions, services, and facilities for partnerships;
- analyze the feasibility, desirability and convenience of partnerships to determine whether it is advisable to such partnerships;
- create regulations and procedures to establishment partnerships;
- negotiate partnership contracts;
- post public notice of pending partnerships;
- co-supervise approved partnerships;
- render a contract ineffective, and
- take over from a contractor and carry out directly or contract a third party on an provisional or temporary basis to develop, operate, maintain, and administer a facility or to provide a service or discharge a function if the Authority determines in its reasonable discretion that the contractor’s ongoing performance of such tasks poses a risk to the public health and safety or to the environment.

The Authority uses Partnership Committees to:

- approve documents required to evaluate and select partnerships;
- evaluate potential contractors and pre-qualify those suitable to participate in a partnership;
- evaluate and select partnership proposals;
- engage in or supervise the negotiation of the terms and conditions of partnership contracts;
- contract with consultants to help the committee and Authority discharge their functions, and
- prepare reports about the procedures leading to partnerships.

The reports include information about the government objectives and social welfare goals of partnerships, details about qualifying suitable partners, requests for proposals, and the reasons why partners are chosen. These reports must be submitted to the governor and the legislature, and be published on the Internet.

The Act specifies that any labor contractual clause that prohibits the transfer of functions, services, facilities or employees to a Public-Private Partnership shall be neither valid nor effective under certain circumstances.

The legislation provides for the acceptance and use of federal and local funds to further the purposes of the Act and it authorizes granting certain tax exemptions and benefits to partners in Public-Private Partnerships.

The Act directs all government entities to submit to the Authority proposals for partnership projects in connection with any function, service or facility for which the government entities are responsible. The Authority must publish these proposals on a website and in a newspaper of general circulation.

Before commencing a partnership, the Authority, with the assistance of the Bank, must study the desirability and convenience of a proposal to determine whether establishing such partnership is advisable. The scope of such study depends on the kind of project or function, service or facility under review. The Authority shall consider:

- the essential characteristics of the function, facility or service involved;
- the social impacts of the proposed partnership;
• operational and technological risks involved in the proposed partnership;
• the projected investment and operating costs;
• potential partnership profitability;
• federal funding;
• environmental effects, and
• local business participation.

The Act requires the Authority to publish such studies on its website and in a newspaper of general circulation.

This Act establishes the requirements to be a non-governmental partner under such contracts and the criteria required to get approved. Generally, anyone who wishes to be considered as a non-government partner must:
• be authorized to do business in the Commonwealth of Puerto Rico;
• have available such corporate or equity capital or securities or other financial resources that, in the judgment of the Authority and the Partnership Committee, are necessary for the proper operation of the Partnership;
• have a good reputation and the managerial, organizational and technical capacities to develop and administer a partnership, and
• certify that they or their company has never been formally convicted for acts of corruption.

The bill requires partnerships approved by the Authority to be presented to the governor or the governor’s delegate for final approval. The governor or their delegate has 30 days to approve or deny a partnership in writing. If the governor or delegate does not approve a partnership during that term, the partnership is deemed denied.

Approved partnership contracts must contain:
• a definition and description of the Services to be rendered, the Function to be discharged or the Facility to be developed or improved by the selected Proponent;
• in the case of new facilities or repairs, replacements or improvements to existing facilities, the plan for the financing, development, design, building, rebuilding, repair, replacement, improvement, maintenance, operation or administration of the facility;
• the term of the partnership;
• the rights the government and non-government partners have to income from a function, service or facility under the partnership or any real property included as part of the partnership;
• the contractual rights and the mechanisms available to the partnering government entity to ensure compliance by the selected non-government partner with the conditions of the partnership contract, including but not limited to compliance with quality standards set for the function or service under the partnership or adequate maintenance of the facility under the partnership or compliance with the approved design and other standards for building, repair or improvement projects or to ascertain compliance by the non-government partner with its obligations under the contract;
• the rights of partners to fix, impose and charge fees to citizens or partnering government entity for rendering a service or discharging a function or for the use of a facility;
• mechanisms and procedures to be used by the partnering government entity to resolve and adjudicate controversies and complaints from the citizens about the service, function or facility delivered through the partnership;
• causes for terminating the partnership contract;
- nonbinding informal proceedings to hear allegations by the parties as to breach or interpretation of contract;
- procedures and rules for amending or assigning the partnership contract;
- the rights concerning inspections by the Authority and the partnering government entity to inspect facilities addressed by the partnership contract;
- requirements for obtaining and maintaining all such insurance policies as required by law;
- requirements for non-government partners to periodically file audited financial statements with the Authority or the partnering government entity or with such other entity as the parties may agree;
- circumstances under which a partnership contract can be modified, and
- provisions for breach of contract or non-compliance and remedies to such instances, including penalties and fines; Partnership Contract.

The Act enables the Government Development Bank for Puerto Rico to issue sureties or other mechanisms to ensure compliance by Partnering Government Entities with their obligations under the Public-Private Partnership contracts. It authorizes lawsuits against the Commonwealth of Puerto Rico based on a Public-Private Partnership Contract and authorizes the transfer of rights and the constitution of liens under the Public-Private Partnership contracts.

Submitted as:
Puerto Rico
SB 469
Status: Enacted into law in 2009.

Comment:

Disposition:

SSL Committee Meeting: 2012B
(   ) Include in Volume
(   ) Defer consideration
    (   ) next task force mtg.
    (   ) next SSL mtg.
    (   ) next SSL cycle
(   ) Reject

Comments/Note to staff:
This Act grants additional powers to a municipality to take action against an owner of real property that is in serious violation of code, or an owner who fails to correct a condition which causes the property to be regarded as a public nuisance. A municipality may initiate an *in personam* action against an owner for a continuing violation for which the owner takes no substantial step to correct within six months of receiving an order to correct a violation. The municipality may also recover an amount equal to any penalties imposed against the owner and any costs of remediation incurred by the municipality to fix the code violation. To recover the amount, a lien may be placed against the assets of the owner.

A municipality may also deny a permit to an applicant who owns real property in any municipality and has a tax, water, sewer, or refuse collection delinquency. The municipality may also deny a permit for failure to abate a serious violation of state law or code, for which a district judge or municipal court has imposed fines or penalties.

The bill enables the administrative office of the courts to develop annual training programs for judges about state laws which address blighted and abandoned property.

It also lets counties under certain circumstances establish a housing court to hear and decide matters arising under the legislation and other laws concerning real property issues.
This Act establishes a set of requirements to protect sewer system laterals and private sewer laterals. These requirements are different from the general requirements of the state Underground Utility Damage Prevention Act. This Act also establishes procedures to address when localities and other political subdivisions fail to comply with the Act.

Submitted as:
Virginia
Chapter 205 of 2010
Status: Enacted into law in 2010.

Comment:

Disposition:

SSL Committee Meeting: 2012B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This Act creates a Global Health Technologies and Product Development Competitiveness Program, to be administered by a nonprofit organization with a board of directors appointed by the governor. The board is to contract with the state department of commerce for management services. The board's duties include soliciting funds from businesses, foundations, and the federal government, and making grants for development of global health technologies and products.

Grant award recipients must conduct their research, development, and production activities within the state, except for clinical trials that must be carried out in developing countries.

The board may provide funding for recruitment and employment of global health researchers at state research institutions upon the recommendation of the state economic development commission.

The Act sets up a global health technologies and product development account as a non-appropriated account in the custody of the state treasurer. The account will be funded with federal and state money and used to support the grants for global health commercialization efforts.

Submitted as:
Washington
Chapter 13, Laws of 2010
Status: Enacted into law in 2010.

Comment:

Disposition:

SSL Committee Meeting: 2012B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This bill creates a Banking Development District Program within the state department of banking and insurance to encourage establishing bank branches in geographic locations in the state where there is a demonstrated need for banking services. The bill requires the department to promulgate rules and regulations to develop the criteria to create of banking development districts.

A municipality, in conjunction with a bank, may submit an application to the commissioner of banking to designate a banking development district within a specified geographic area. The commissioner shall issue a determination on the application within 60 days of receipt of the application. A bank may submit an application to open a branch in the proposed banking development district simultaneously with the submission of the application for the designation of a banking development district.

The state treasurer may select a bank in a district as a depository for public money or funds that are otherwise in the custody of the state treasurer. Subject to an agreement between the treasurer and the bank, funds of the state deposited in the bank may earn a fixed rate of interest which is at or below the bank’s posted rate for a mutually agreeable depository product for a mutually agreeable term.

The governing body of a municipality in which a banking development district has been designated by the commissioner may, by resolution, select a bank in the district as a depository for funds of the municipality, provided the bank shall be subject to the requirements for a public depository established by state law. Subject to an agreement between the governing body of the municipality and the bank, funds of the municipality deposited in the bank may earn a fixed rate of interest which is at or below the bank’s posted rate for a mutually agreeable depository product for a mutually agreeable term.

Submitted as:
New Jersey
A1458 (Introduced version)
Status: Enacted into law in 2011.

Comment:

Disposition:

SSL Committee Meeting: 2012B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This Act defines surrogacy facilitator to mean a person or organization that advertises or the purpose of soliciting parties to an assisted reproduction agreement or acting as an intermediary between the parties to an assisted agreement; or, charging a fee or other valuable consideration for services rendered relating to an assisted reproduction agreement.

It requires surrogacy facilitators who are not licensed attorneys in good standing, to direct clients to deposit all client funds into either of the following in either an independent, bonded escrow account, or a trust account maintained by an attorney. It specifies that non-attorney surrogacy facilitators shall not have a financial interest, as specified, in an escrow company holding client funds.

The bill provides that client funds, when deposited described above, may be disbursed by the attorney or escrow agent as set forth in the assisted reproduction agreement and the fund management agreement entered into by the parties. It defines “fund management agreement” to mean the agreement between the intended parents and the surrogacy facilitator relating to the fee or other valuable consideration for services rendered or that will be rendered by the surrogacy facilitator.

Submitted as:
California
CH 138 of 2010
Status: Enacted into law in 2010.

Comment:

Disposition:

SSL Committee Meeting: 2012B
(  ) Include in Volume
(  ) Defer consideration
   (  ) next task force mtg.
   (  ) next SSL mtg.
   (  ) next SSL cycle
(  ) Reject

Comments/Note to staff:
This Act updates the provisions of the state Insurance Code governing the conversion of a mutual insurer to a stock insurer. It is intended to facilitate the recapitalization of the insurance industry nationally by establishing a proven method of capital formation for insurance companies that elect to domicile in the state.

Submitted as:
Delaware
CH 466 of 2010
Status: Enacted into law in 2010.

Comment:

Disposition:

SSL Committee Meeting: 2012B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject

Comments/Note to staff:
Arbitration is an alternative to litigation, under which parties agree to have their disputes settled by a neutral third party. Parties choose what rules will apply to the arbitration, but uncertainty in the agreement is settled by state or federal law. An arbitration award is binding on the parties and may only be set aside by a court under special circumstances.

Arbitration has become favored for disputes involving international trade because it offers increased certainty as to outcomes and enforceability of awards. In crafting an arbitration agreement, agreeing to the seat of arbitration is very important. This will be the place where the arbitration will actually occur, whose courts will provide supervisory jurisdiction over the arbitration, and whose procedural law will provide the backdrop of the arbitration. Notably, in the absence of an agreement otherwise, the law of the seat of arbitration is applied. Florida ranks as the second U.S. venue of choice.

International arbitration in Florida is governed by the Florida International Arbitration Act (FIAA). Many other jurisdictions are enacting the Model International Commercial Arbitration Law (Model Law) drafted under the supervision of the United Nations Commission on International Trade Law.

The FIAA and Model Law are substantially similar, but have key differences in their approach to:

- applicability to certain disputes;
- arbitrator appointment and removal;
- arbitral tribunal authority to issue interim relief;
- termination of proceedings not ending in settlement;
- consolidation of similar arbitration actions;
- publication of arbitration awards, and
- specific grounds for judicial vacating of arbitration awards.

Arbitration awards are more easily enforced worldwide under several multi-national agreements, the most prominent of which is the United Nations Convention on Recognition and Enforcement of Foreign Arbitral Awards (“New York Convention”). The New York Convention, ratified by more than 120 nations, including the United States, obliges member states to recognize and enforce both international commercial arbitration agreements and awards, with limited exceptions. Additionally, most developed trading states have enacted national arbitration legislation that provides for enforcement of international arbitration agreements and awards, limits judicial interference in the arbitration process, and authorizes judicial support for the arbitral process.

The United States, for example, has adopted the Federal Arbitration Act 1 (FAA) governing all arbitration and providing for the enforcement of foreign arbitration awards. Where state law discriminates against arbitration agreements, FAA’s federal rules of enforceability
preempt the state law; however state law regulating the formation, validity and enforceability of contracts in general is not preempted.

In crafting an arbitration agreement, agreeing to the seat of arbitration is key. This will be the place where the arbitration will actually occur, whose courts will provide supervisory jurisdiction over arbitration, and whose procedural law will provide the backdrop of the arbitration. Notably, in the absence of an agreement otherwise, the law of the seat of arbitration is applied.

Florida currently ranks as the second U.S. venue of choice for international arbitration, behind New York. Houston and Chicago rank third and fourth, respectively.

Florida adopted the Florida International Arbitration Act (FIAA) in 1986. Many states have since enacted similar laws, and other states, 7 along with 61 countries, are adopting the Model International Commercial Arbitration Law (Model Law) drafted in 1986 under the supervision of the United Nations Commission on International Trade Law (UNCITRAL). In drafting the FIAA, Florida considered the Model Law, which was in draft form at the time.

The FIAA rules, like most rules governing arbitration, establish a framework upon which parties to a agreement.

Notable differences between current law and that adopted by the bill are highlighted below. Where no difference is noted, current law is substantially similar to the bill.


The Act applies to international arbitration and would be subject to any agreement between the United States and any other country.

The bill only applies to arbitration conducted in the state, except provisions relating to court-enforcement of arbitration awards, requests for interim measures of protection, and grounds for refusing award recognition or enforcement. This is different from prior law, which applied regardless of where the arbitration took place.

The bill defines the scope of international arbitration to include:

- agreements between parties who have their places of business, or for nonbusinesses - residences in different countries at the time of the agreement’s conclusion;
- agreements between parties, where one of the following is situated in a different country than a party’s place of business:
  - the seat of arbitration,
  - the place where a substantial part of the agreement’s obligation is to be performed, or
  - the place where the subject matter of the dispute is most closely connected, and
- agreements under which the parties have expressly agreed that the matter relates to more than one country.

This is different from prior law, which specifically excluded from international arbitration disputes over real property within the state, except by express agreement, and any dispute involving domestic relations or of a political nature between two or more governments. Under the Act parties can agree to submit claims to international arbitration.

The bill defines arbitration, arbitration agreement, and court. It also provides rules of interpretation, including enabling parties to delegate authority to determine issues to third parties, including institutions and parties ability to adopt alternative procedures under the bill includes the ability to adopt arbitration rules by reference. The Act should be interpreted in light of its international origin and to promote international uniformity in its application.
Arbitration agreements are deemed separate and independent from the underlying contract and may survive even if the contract is deemed invalid. Disputes shall be determined pursuant to substantive rules of law chosen by the parties. If the parties fail to choose the applicable law, the tribunal may determine the applicable law by the choice-of-law provision it deems applicable.

All parties are to be treated equally and given equal opportunity to present their cases. No similar provision exists under current law.

Absent an agreement otherwise, the arbitral tribunal may conduct proceedings as it sees fit, in the language it chooses and has the authority to determine matters of evidence, to choose the place of arbitration, and to appoint experts.

Unless otherwise agreed and within the time agreed to or adopted by the tribunal, the claimant submits a statement of its claim, including the remedy sought. The respondent then submits a statement of its defense. Unless otherwise agreed or determined by the tribunal, parties may amend their statements at any time. Unless otherwise agreed, if a claimant, without a showing of sufficient cause, fails to provide its statement of claim, the tribunal shall terminate the arbitration. If a respondent fails to provide its defense, the tribunal shall continue the arbitration. The tribunal shall also continue the arbitration if a party fails to appear or produce evidence.

An arbitral tribunal has the ability to rule on its own jurisdiction, including any challenges to the validity of the parties’ agreement to arbitrate. Jurisdictional challenges must be submitted with the statement of defense. Claims that the tribunal is exceeding its authority must be raised as soon as such matter arises. The tribunal has discretion to hear justifiably untimely challenges. A party may appeal the tribunal’s decisions on jurisdiction to a circuit court.

There are to be three arbitrators, unless the parties agree otherwise, and a procedure for appointment is provided. Arbitrators shall have the same immunity as a judge. Circumstances giving rise to justifiable doubts as to an arbitrator’s impartiality and independence are grounds for challenging the arbitrator. Arbitrators must continuously disclose any such circumstances. An arbitrator may also be challenged for lacking the qualifications agreed to by the absence of an agreement otherwise, the bill provides a process by which arbitrators may be challenged.

An arbitrator’s mandate terminates if they actually or legally unable to perform or fails to timely perform. The parties may agree to such termination, the arbitrator may withdraw, or a party can seek judicial termination. A substitute arbitrator is appointed using the same procedures used for the initial arbitrator.

In arbitrations with multiple arbitrators, decisions are to be made by a majority of arbitrators, unless otherwise agreed by the parties. Questions of procedures may, however, be decided by the presiding arbitrator, if authorized by the parties or all the members of the arbitral tribunal.

Written communications, outside of court proceedings, are deemed received when delivered personally, or at the addressee’s place of business, habitual residence or mailing address.

A party who fails to timely object to a known violation of any requirement of the Act or the agreement waives the right to object to such noncompliance.

Unless otherwise agreed by the parties, the tribunal has the ability to issue interim measures at the request of a party. Interim measures are binding on the parties and may be enforced in security has not been met, on one of the grounds for refusing to enforce an arbitration award, or if the court finds that the measure is incompatible with the powers of the court. A court also shares the same authority to issue interim measures as the tribunal.
Interim measures are temporary and may include orders to maintain or restore the status quo; prevent current or imminent harm or prejudice to the arbitral process; preserve assets out of which a subsequent award may be satisfied, or preserve evidence.

The requesting party must prove that harm not adequately reparable by money damages is likely to result and such harm substantially outweighs harm likely to result from issuing the measure, and there is a reasonable possibility that the requesting party with succeed on the merits.

The tribunal may require the requesting party post security and to disclose any change in the circumstances supporting the measure. The requesting party is liable for costs and damages arising from a granted interim measure that the tribunal later determines should not have been granted.

A party requesting an interim measure may also request a preliminary order prohibiting a party from frustrating the purpose of the interim measure. The tribunal may grant such a request if it finds that prior disclosure of the request for the interim measure risks frustrating the measures. A specific process for issuing preliminary orders is detailed. A preliminary order, while binding on the parties, is not enforceable by a court and does not constitute an award.

The tribunal must require the requesting party post security and to disclose any change in the circumstances supporting the measure. The requesting party is liable for costs and damages arising from a granted preliminary order that the tribunal later determines should not have been granted.

An arbitral tribunal may modify, suspend or terminate an interim measure or preliminary order at the request of any party or, in exceptional circumstances and with notice to the parties, at its own initiative.

Parties may settle during the arbitration, and if they do so, the tribunal is to terminate the proceeding and, if requested by the parties and not objected to by the tribunal, shall record the settlement as an arbitral award.

An arbitration award must be made in writing, signed by a majority of the arbitrators, and state the date and place it was made. An award also states the reasons upon which it is based, unless the parties agree otherwise. An award is binding on the parties and enforceable in any court of competent jurisdiction.

A party may request a court set an award aside within three months. A party may also apply to the court to enforce the award.

A final award terminates the arbitration. A tribunal may also terminate the arbitration by order, if the claimant withdraws their claim, absent objection by the respondent, and the tribunal finds the respondent has an interest in a final settlement; the parties agree; or the tribunal finds that continuation of the arbitration has become unnecessary or impossible.

Either party may request the tribunal correct any computation, clerical or typographical errors and a detailed process for correction is provided. Either party may also request interpretation of any part of the award.

The bill provides rules governing the circumstance where both arbitration and a court action are initiated. A court hearing a claim that is subject to an arbitration agreement shall, if requested by a party in its initial answer, refer the agreement to arbitration, unless it finds the agreement is null and void, inoperative, or incapable of performance. Or, if an action has been brought, arbitration may also be commenced or continued, and an arbitration award may be made, while the issue is pending in the court.

The bill provides for supervisory oversight by a circuit court in the county where the arbitration is occurring. The court may, at a party’s request and unless the parties agree otherwise, appoint an arbitrator, if the party, or arbitrators appointed by the parties, fails to do so
as the agreement or Act requires. The court’s decision is not appealable. The court may hear a challenge to an arbitrator that the arbitral tribunal rejected. The court’s decision is not appealable, and the arbitration may continue while the court hears the challenge. The court may determine whether an arbitrator’s mandate should be terminated if the arbitrator becomes actually or legally unable to perform or fails to act without undue delay. The party may only make such a request if the parties fail to agree on the arbitrator’s termination and the arbitrator fails to withdraw from office. The court’s decision is not appealable. The court may decide jurisdictional issues of the arbitral tribunal. The court’s decision is not appealable, and the arbitration may continue while the court hears the issue. A court can issue an interim measure of protection (injunction) before or during the arbitration. The court may set aside an arbitral award under certain circumstances. The court may suspend such a hearing to give the tribunal an opportunity to resume arbitration or cure the grounds to set aside the award. The court may enforce or refuse to enforce an arbitral award.

The bill provides grounds for setting aside or refusing to enforce an arbitration award. These are limited to the complaining party to the agreement was under some incapacity; the arbitration agreement is invalid under the law the parties designated or state law, if no law has been designated; the complaining party was not given notice of the appointment of an arbitrator or the proceedings, or was unable to present its case; the award deals with a dispute not contemplated by or not falling within the terms of the submission to arbitration; less the agreement violated law; the court finds that the subject matter of the dispute may not be arbitrated under state law or the award is contrary to the public policy of the state; or in the case of refusing to enforce an award, a finding that the award has not yet become binding on the parties or has previously been set aside.
This Act prohibits including or enforcing a provision in a consumer credit contract that triggers a default under the contract or authorizes a party to alter the terms of the contract based on a prohibited risk factor, without the consumer’s prior written consent.

Submitted as:
Maryland
**Chapter 309 of 2010**
Status: Enacted into law in 2010.

Comment:

Disposition:

SSL Committee Meeting: 2012B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This Act enables online prescribing and dispensing drugs. The Act requires a state license to engage in online prescribing, online dispensing, or Internet facilitation. It establishes requirements for licensing and allows certain online prescribers, online contract pharmacies, and Internet facilitators to continue delivering online pharmaceutical services while their applications for licensure are pending with the state. The bill establishes duties for a licensed online prescriber, online contract pharmacy, and Internet facilitator. It limits the type of drugs that can be prescribed online and requires the use of an Internet facilitator and an online contract pharmacy to prescribe online.

Submitted as:
Utah
SB 274 (Enrolled copy)
Status: Enacted into law in 2010.

Comment:

Disposition:

SSL Committee Meeting: 2012B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This Act contains prohibitions and other provisions about Internet-related conduct, including phishing, pharming, spyware, and cybersquatting. The bill prohibits a person from facilitating certain types of fraud and injury through use of electronic communications. It allows for removing domain names and online content by an Internet registrar or Internet Service Provider under certain circumstances. It prohibits contrary laws enacted by a political subdivision of the state. It prohibits registering domain names under certain circumstances, and provides civil penalties violating cybersquatting provisions.

Submitted as:
Utah
SB 26 (Enrolled Copy)
Status: Enacted into law in 2010.

Comment:

Disposition:

SSL Committee Meeting: 2012B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject

Comments/Note to staff:
Under prior state law, an insurer that pays benefits to a person who was injured due to an act or omission of a third party could, under some circumstances, obtain repayment of those benefits out of any recovery paid to the injured party, regardless of whether the injured party was been fully compensated for their losses.

This Act limits the ability of an insurer to obtain a repayment of benefits, through reimbursement or subrogation, if the repayment would cause the injured party to not be fully compensated. Additionally, if the injured party has been fully compensated and the repayment is allowed, the amount of the repayment is limited to the amount actually paid by the insurer or, for health care services provided on a capped basis, 80% of the usual and customary charge for the same service charged by health care providers that provide care on a noncapitated basis in the geographic region. Finally, an insurer must pay its proportionate share of attorney fees and costs incurred by the injured party in obtaining the settlement or judgment. However, an insurer may seek repayment of amounts paid for property damage or uninsured or underinsured motorist coverage, and such insurers are not required to share in the injured party's attorney fees and costs.

If an injured party makes a recovery of an amount that is less than the total amount of coverage available under any third-party liability insurance policy or uninsured or underinsured motorist coverage, the injured party is presumed to be fully compensated. A rebuttable presumption that an injured party has not been fully compensated is created if the injured party makes a recovery that equals the amount of coverage available under all third-party liability insurance policies and uninsured or underinsured motorist coverages.

Further, when an injured party obtains a judgment, the amount of the judgment is presumed to be the amount necessary to fully compensate the injured party. An injured party who obtains a recovery that is less than the sum of all of their damages and who intends to limit an insurer's ability to obtain repayment of benefits paid to or on behalf of the injured party must notify the insurer within 60 days after obtaining each recovery, and the notice is to specify the total amount and source of the recovery, any applicable coverage limits, and the amount of costs charged to the injured party.

If the insurer disputes the injured party's claim, the insurer may request arbitration of the dispute within 60 days after receipt of the notice from the injured party. The parties are to jointly appoint an arbitrator or, if they cannot agree on a single arbitrator, each party appoints an arbitrator and the 2 arbitrators together select a third arbitrator to serve on a panel to resolve the dispute. If the arbitrator determines that the recovery does not fully compensate the injured party, the insurer has no right to reimbursement or subrogation.

An insurer is precluded from bringing a direct action against the at-fault third party for subrogation or reimbursement unless the injured party has not pursued a claim against the at-fault third party by 60 days before the statute of limitations expires, in which case an insurer may bring a direct action against the at-fault third party. The third party cannot add the insurer as a copayee on any check or draft in payment of a settlement or judgment for the injured party.

Insurers cannot delay, withhold, or reduce benefits either because the obligation to pay benefits results from the acts or omissions of a third party or as a means to compel reimbursement or subrogation. Additionally, if an insurer obtains reimbursement of benefits paid, the insurer must apply the amount of the reimbursement as a credit against any applicable lifetime cap on benefits contained in the applicable policy or plan.
The Act does not affect statutory liens granted to hospitals that provide care to an injured party, lien rights of the department of health care policy and financing with regard to medical benefits provided under a medical assistance program pursuant to the state Medical Assistance Act, or subrogation and lien rights granted under the state Workers' Compensation Act.

Submitted as:
Colorado
Chapter 164 of 2010
Status: Enacted into law in 2010.

Comment:

Disposition:

SSL Committee Meeting: 2012B
( ) Include in Volume
( ) Defer consideration
    ( ) next task force mtg.
    ( ) next SSL mtg.
    ( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This Act directs an insurer that uses credit information to underwrite or rate risks for a personal insurance policy shall, on written request from a consumer, provide reasonable exceptions to the insurer's rates, rating classifications, company or tier placement, or underwriting rules or guidelines for a consumer who has experienced and whose credit information has been directly influenced by certain events. These events include:

- a catastrophic event, as declared by the federal or a state government;
- a serious illness or injury, or serious illness or injury to an immediate family member;
- death of a spouse, child, or parent;
- divorce or involuntary interruption of legally owed alimony or support payments.
- identity theft;
- temporary loss of employment for a period of three months or more, if such loss results from involuntary termination of employment;
- military deployment overseas, or
- other events as determined by the insurer.

Submitted as:
Iowa
Senate File 2075 - Enrolled
Status: Enacted into law in 2010.

Comment:

Disposition:
SSL Committee Meeting: 2012B
( ) Include in Volume
( ) Defer consideration
( ) next task force mtg.
( ) next SSL mtg.
( ) next SSL cycle
( ) Reject

Comments/Note to staff:
According to an Assembly Budget Committee Statement, Senate Bill No. 490 (3R) authorizes Internet wagering at Atlantic City casinos. This enables New Jersey residents to place wagers on casino games via the Internet.

The bill provides that:

- All games, including poker, which may be played at a casino, as well as variations or composites thereof, may be offered through Internet wagering.
- All equipment used by a licensee to conduct Internet wagering, including but not limited to computers, servers, monitoring rooms, and hubs, must be located either in a restricted area on the premises of a casino hotel or in a secure facility inaccessible to the public and specifically designed for that purpose off the premises of a casino hotel but within the territorial limits of Atlantic City. All Internet wagers will be deemed to be placed when received in Atlantic City by the licensee regardless of the player’s physical location; any intermediate routing of electronic data in connection with a wager will not affect the fact that the wager is placed in Atlantic City.
- Internet wagering in the state will be subject to the provisions of, and preempted and superseded by, any applicable federal law.
- There is imposed an annual tax on Internet wagering gross revenues in the amount of 8% of such gross revenues which will be paid into the casino revenue fund; the 8% tax on casino gross revenues will not apply to Internet wagering gross revenues; and the investment alternative tax will apply to Internet wagering gross revenues, except that the investment alternative tax on these revenues will be 30% and the investment alternative will be 15%, with the proceeds thereof used as provided in that section, and except that the Casino Reinvestment Development Authority will annually appropriate a percentage of the amount of that tax generated by Internet wagering to the New Jersey Racing Commission to be used for the benefit of the horse racing, including but not limited to the augmentation of purses.
- The investment alternative tax on Internet wagering gross revenues will be decreased to 10%, and the investment alternative to 5%, following one State fiscal year after wagering on sports events is implemented in this State, or five State fiscal years after the provisions of the bill are implemented, whichever occurs sooner.
- The allocation to the New Jersey Racing Commission for the benefit of the horse racing industry will cease one State fiscal year after wagering on sports events is implemented in this State.
- The Casino Control Commission may establish a Division of Internet Wagering to which it may delegate authority for the administration of Internet wagering conducted by casino licensees. The division, if established, will be responsible for recommending regulations concerning Internet wagering for consideration and possible adoption by the commission; this would not affect the authority of the Division of Gaming Enforcement with respect to all casino gaming activities, including Internet wagering.
- There will be an application process for a licensed casino to obtain a permit to establish Internet wagering, with the permit valid for one year and subject to renewal. As part of the application process, a casino licensee must submit to the commission for its approval a description of the casino’s system of internal procedures (including security procedures) and administrative and accounting controls for Internet wagering, including provisions that provide for real time monitoring of all games. A casino licensee must also submit its gaming software and other Internet wagering equipment to the Division of Gaming Enforcement for testing to ensure compliance with technical standards for such equipment set by the commission.
• It will be lawful for a casino licensee to provide marketing information by means of the Internet to players engaged in Internet wagering and to offer those players incentives to visit the licensee’s casino in Atlantic City.

• There will be an annual fee for Internet wagering permit holders for the initial permit and permit renewal to cover the costs of regulation by the commission and the division, with the initial fee to be at least $200,000 and the renewal fee to be at least $100,000.

• There will be an annual fee for Internet wagering permit holders of $100,000 to be allocated to programs to prevent compulsive gambling and to assist compulsive gamblers.

Further, the bill makes provision for:

• the procedures for the crediting and debiting of a wagering account are established;

• required features of Internet wagering to assist the wagering account holder;

• required features to assist problem gamblers and potential problem gamblers, and

• penalties for violations of the provisions of the bill.

Except as otherwise provided by the bill, a licensed casino’s Internet wagering operation will be subject to the existing provisions of the Casino Control Act and the regulations of the commission, including, but not limited to the licensure of all employees with gaming-related duties or responsibilities; penalties for a violation of the Act; and supplemental sanctions deemed appropriate by the commission for violations.

The bill requires the commission and the division to adopt regulations for the implementation and conduct of Internet wagering that are consistent with regulations governing casino gambling generally.

The sponsors note that, in State v. Trump 160 N.J. 505 (1999), a majority of the New Jersey Supreme Court adopted a purposive reading of Article IV, Section 7, paragraph 2, subparagraph D, of the State Constitution. The court clearly indicated that the purposes of the provision were “a rejuvenated tourist industry, increased employment, capital investment and much needed urban redevelopment,” and “to raise revenue to benefit senior and disabled citizens.” Trump, 160 N.J. at 516.

Submitted as:
New Jersey
S. 490 (Enrolled version)
Status: Awaiting governor’s signature as of March 3, 2011

Comment:

This bill is reported to be the first of its kind.

Disposition:
SSL Committee Meeting: 2012B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This Act requires the state controller to:

- contract with one or more private consultants to conduct recovery audits of state agencies for the 2007-08, 2008-09, and 2009-10 fiscal years;
- provide to an auditing consultant any confidential information necessary for the conduct of an audit to the extent not prohibited by law or an agreement;
- provide copies of all reports received from recovery audit consultants to the governor, the state auditor, and the legislative audit and joint budget committees of the general assembly within 7 days of receipt; and
- issue a report to the legislature summarizing the contents of all reports received from recovery audit consultants no later than June 30, 2012.

The state controller may, subject to review and approval by the legislative audit and joint budget committees of the legislature, exempt a state agency from recovery audits if the state controller determines that subjecting the state agency to a recovery audit is not likely to yield significant net benefits to the state or that the state agency is already subjected to recovery audits under any federal law or regulation or state law, rule, or policy. The state controller must provide the committees with a report detailing any proposed exemptions, and the committees may veto any proposed exemption.

The controller can make rules to establish additional specific criteria for exempting state agencies from recovery audits and retain a portion of any amount recovered due to a recovery audit in order to defray the reasonable and necessary administrative costs in contracting for and providing oversight of the recovery audit, including costs incurred by other state agencies in relation to the recovery audit.

Submitted as:
Colorado
Chapter 402 of 2010
Status: Enacted into law in 2010.

Comment:

Disposition:

SSL Committee Meeting: 2012B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject

Comments>Note to staff:
This Act requires the state employment security commission to establish a voluntary Shared Work Program and authorizes the commission to promulgate rules and procedures to run the program. It authorizes that commission to approve or deny shared work plans under certain conditions. It addresses eligibility for unemployment benefits under a shared work plan and contains procedure for employers and employees to file unemployment claims under a shared work plan.

Submitted as:
Oklahoma
SB 1970 (Enrolled version)
Status: Enacted into law in 2010.

Comment:

This Act outlines information and certifications employers must submit to the state commissioner of employment and economic development to set up shared work plans. Such information includes the proposed reduction in hours and compensation for the affected employee group; the names and social security numbers of the employees; employee hire dates; the hours of work each participating employee will work under the plan; the proposed duration of the agreement; and the plan start date. Such agreements may not be approved for employers with unpaid unemployment insurance taxes or fees, those with a maximum experience rating, or those in high experience rating industries.

The bill provides that unemployment insurance requirements about pursuing work and availability for work do not apply to employees participating in a shared work program. The Act allows for one-year extensions of shared work plans and it allows the commissioner to immediately cancel any agreement if the commissioner determines an agreement was based on false information or the employer is in breach of contract.

Submitted as:
Minnesota
Chapter 27 of 2009
Status: Enacted into law in 2009.

Comment:

Disposition: 11-32B-01A
SSL Committee Meeting: 2012B
(  ) Include in Volume
(  ) Defer consideration
   (  ) next task force mtg.
   (  ) next SSL mtg.
   (  ) next SSL cycle
(  ) Reject
Comments/Note to staff:

Disposition: 11-32B-01B
SSL Committee Meeting: 2012B
(  ) Include in Volume
(  ) Defer consideration
   (  ) next task force mtg.
   (  ) next SSL mtg.
   (  ) next SSL cycle
(  ) Reject
Comments/Note to staff:
This Act requires a medical director of a police or fire department or a volunteer fire department to provide a written explanation to someone who is a member of the department, and as a condition of employment or appointment, holds a certification to provide emergency medical services, if the medical director refuses or fails to supervise or attest to the competency of the individual to provide emergency medical services or suspends the individual from performing emergency medical services. It provides that, before a department takes any employment or appointment related action against the individual, the individual is entitled to a hearing and appeal of the medical director's refusal, failure, or suspension. It requires the board or commission hearing the appeal to consult with an independent medical expert who must have certain qualifications in order to determine whether the individual followed the applicable emergency medical services protocol, if the medical director's action that is the subject of the appeal is based on a health care decision made by the individual in performing emergency medical services.

Submitted as:
Indiana
Senate Enrolled Act 87
Status: Enacted into law in 2010.

Comment:

Disposition:

SSL Committee Meeting: 2012B
( ) Include in Volume
( ) Defer consideration
( ) next task force mtg.
( ) next SSL mtg.
( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This Act removes exemptions for domestic workers from the state minimum wage law and the overtime law in order to provide domestic workers with overtime pay after eight hours of work. The Act states that domestic workers must be provided with a day of rest each week. In addition, the bill grants disability insurance to part time domestic workers, includes domestic workers under the anti-discrimination law, and grants domestic workers collective bargaining rights.

This Act empowers the state department of labor wage and hour enforcement powers to protect the wages of domestic workers and it directs the state department of labor to study the impact of collective bargaining on domestic work and to form an interagency task force to help domestic workers and employers perform all legally obligated actions when hiring a domestic worker.

Submitted as: New York
Chapter 481 of 2010
Status: Enacted into law in 2010.

Comment:

Disposition:

SSL Committee Meeting: 2012B
( ) Include in Volume
( ) Defer consideration
    ( ) next task force mtg.
    ( ) next SSL mtg.
    ( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This Act expands the rights of employees to seek civil and criminal remedies when employers fail to follow state labor law.

The Act defines information that must be included in a disclosure of wage rate notice required by state law. It clarifies that employers must disclose their intent to claim allowances (e.g.; tip or meal allowances) as part of the minimum wage. It clarifies that employers must state the basis of wage payment (i.e.; whether paying by hour, shift, day, week, piece, etc.).

The Act establishes new requirements for disclosing an employer’s business name and how that name is listed on pay stubs.

The Act requires employers to provide translated notices provided by the state department of labor to employees and it requires the department of labor to create dual-language template notices in English and additional languages as the department deems necessary.

The Act requires employers maintain copies of payroll records for six years. It gives the state commissioner of labor discretion to require employers to account for all assets when employers default on administrative orders to pay wages, damages, and penalties. It provides a civil penalty of up to $10,000 if an employer fails to provide that information and the commissioner must go to court to obtain compliance. The Act gives the commissioner discretion to require employer to post bond after a default on an order to comply.

The legislation increases liquidated damages on unpaid wages from 25% to 100% in court and it gives the commissioner discretion to assess up to 100% liquidated damages in early investigation stages, prior to issuing an order to comply.

The Act prohibits retaliation by employers against employees when employees make a complaint about conduct the employers reasonably believes violates state labor law. The bill provides for statutory damages, in addition to existing remedies of up to $10,000 for instances of retaliation.

The Act requires the commissioner to provide a copy of an order to comply issued against an employer to a complaining employee.

To facilitate collections, the law gives the commissioner discretion to assign to an employee the amount of wages, wages supplements, interest and liquidated damages due that employee under an order to comply and file in the name of that employee with the county clerk where the employer resides or has a place of business.

The law gives the commissioner discretion to post notices of violations at worksites and defines how long the notice must be visible to employees. It makes it a misdemeanor to deface or remove such a posting without authorization.

This bill requires employers to allow state labor department investigators to interview employees without interference and in a private location.

Submitted as:
New York
Chapter 564 of 2010
Status: Enacted into law in 2010.

Comment:

APPROVAL MEMORANDUM - No. 37 Chapter 564
MEMORANDUM filed with Senate Bill Number 8380, entitled:
AN ACT to amend the labor law, in relation to establishing the “Wage Theft Prevention Act”

APPROVED

In the current era of recession, wage stagnation and high unemployment, low-income workers often bear the brunt of cost-cutting measures. It is precisely in such times that we are reminded of the need to protect our most vulnerable workers, ensure that they receive the compensation to which they are entitled, and prevent unscrupulous employers who cut corners on the backs of their employees from gaining an unfair advantage over employers who play by the rules.

This bill would serve these important ends by, among other things, enacting more stringent and transparent record-keeping and employee notification requirements; increasing the amount that can be recovered in a lawsuit or by the Commissioner of Labor for non-payment of wages; creating more robust collection tools; raising criminal penalties; and strengthening protections against retaliation for people asserting their right to protection under the law. I am confident that these new tools will provide a durable shield for workers against illegal exploitation, and an effective sword to obtain recovery when employees are deprived of moneys they are lawfully owed. For these reasons, I am proud to sign it into law.

A number of businesses and trade associations have expressed concerns about this measure. While I strongly believe this bill merits enactment, I take seriously and respect the opinions of the business community, and agree that government must do its utmost, as it strives to protect workers, to avoid placing unreasonable burdens on employers. To that end, I wish to make clear my understanding of specific provisions in the bill so that employers receive adequate guidance and reassurance, and so that the legislative record is unambiguous.

One of the provisions that has generated the most discussion is the requirement (qualified, as noted below) that annual notification of wages be given in the employee’s primary language. The rationale for this provision is that employees who are not proficient in English will gain far greater protection against mistreatment that violates their legal rights if they are provided with information on such rights in a language that they understand. Nonetheless, I am aware that it would be difficult and onerous for businesses, and particularly small businesses, to translate notices into every language spoken by a multi-lingual work-force. Fortunately, the sponsors have taken this issue into account in crafting this bill, and I believe that the rules it sets forth strike the appropriate balance in this regard for a number of reasons.

First, this legislation does not in any way require employers to perform their own translation of the annual notices. Rather, the bill states that the Department of Labor (DOL) will provide templates of the notices in widely-spoken languages which will be selected by the Commissioner of Labor in her discretion. Where no such template is provided in the employee’s language, the employer simply may provide the English language notification. See Labor Law Section 195(1)(c).

Second, the bill states that an employer may not be penalized for any errors and omissions in regard to the non-English language requirement. See Labor Law Section 195(d). It thus shields employers who seek in good faith to comply with the non-English notification requirement from being held liable for violations of this requirement because they make mistakes in the process.

Third, the bill provides for an affirmative defense against any penalty for notice violations where the employer can show that it paid all of its wage obligations in a timely fashion, or had a good faith belief that it was not required to provide the notice at issue. Further, Civil Practice Law and Rules Section 901 does not allow for class action recovery.
for such penalties, and provisions in the bill that would have removed this prohibition were dropped from the legislation. In short, the bill provides a deterrent against non-compliance that may be used by individual employees against employers that fail to comply with notice rules, and that augments the available sanctions against employers who are not complying with wage requirements generally. It should not, by my reading, does not, create a trap for the unwary employer, who is otherwise paying the compensation to which its workers are entitled.

Some who commented on the bill also expressed concerns about section 2 thereof, which states in its entirety that “(a) ll references to labor law, chapter, article or section shall be deemed to include any rule, regulation or order promulgated thereunder or related thereto.” The import of this section is simply that where remedies or sanctions apply to violations of a particular section of the Labor Law, they also apply to violations of regulations or orders construing or implementing that section. This interpretation is consistent with a view long held by the Department of Labor, and is intended simply to overrule the contrary holding in Epifani v. Johnson, 882 N.Y.S.2d 234 (2d Dep’t 2009) which declined to find unlawful retaliation under Labor Law Section 215 since the plaintiff complained of an overtime violation, which is a violation of a regulation and not of the statute. This provision does not grant authority to DOL to apply penalties that address specific conduct to regulations that do not address such conduct. To illustrate: Labor Law Section 924 allows the Commissioner to impose civil penalties for a violation of the Professional Employer Act; section 2 of this bill makes clear that the sanction is available for violations of any regulations that may be issued under that Act. In contrast, Labor Law Section 860-h provides a specific daily penalty for violations associated with failure to comply with notice requirements under the Worker Adjustment and Retraining Notification (“WARN”) Act. Section 2 would not somehow subject to this penalty an unrelated violation of the WARN regulations, such as failure to provide information requested by the Commissioner.

While questions have been raised as to what it means for a regulation or order to be “related to” a section of Labor Law, I understand that this language is intended to include within the ambit of this provision regulations issued under DOL’s general regulatory authority. Regulations that implement or enforce a DOL statute are related to that statute for purposes of this section; regulations are not “related” to a statute solely because they address the same general subject matter.

Some employers also have raised objections to a provision in the bill that would allow the Commissioner of Labor to add additional notification requirements to the annual notice provisions in the bill if she deems them “material and necessary.” I agree that, given the expansion in notice requirements provided for by this bill, it would be unwise to increase such requirements administratively at this time. Any adoption of additional notification requirements, in any case, must be done through the rulemaking process, allowing for notice and comment. I know that DOL makes great efforts to reach out to stakeholders, including both employer and employee representatives, before issuing regulations generally. With all this in mind, giving some regulatory flexibility in the notification area to address issues that may arise in the future is not unwarranted. I also note that many of the notice and record-keeping requirements in the bill are not new, but rather codify in statute requirements already set forth in regulation.

The fear that the penalty provisions in the bill will prove overly severe on employers who have committed minor, technical violations, has also been expressed. But, as to a number of such penalties, the legislation specifies that they represent a ceiling, not the amount that must be assessed against all violating employers. Where that is the case, the amount of sanction will vary case by case, and will depend on such factors as the size of the employer's business, the good faith basis of the employer to believe that its conduct was in compliance with the law, the
gravity of the violation, the history of previous violations and, in the case of wage, benefit or supplement violations, the failure to comply with recordkeeping or other non-wage requirements. In some instances, where the violation is egregious, the maximum penalty will be entirely appropriate; in others a much smaller sanction will be fitting. That the statute provides sufficient flexibility to punish the most significant violations should not be taken as an indication that the same sanction will apply regardless of the circumstances of the misconduct.

Finally, I wish to note one issue of concern that has been raised by DOL, and that should be clarified. The legislation gives DOL discretion in Labor Law Section 195(e) to waive or alter requirements for temporary employment firms. I understand that following enactment of legislation enhancing employee notice requirements in 2009, DOL put in place comprehensive policies to address compliance issues unique to such firms. I see nothing in the law that would require DOL to alter the standards it currently has in place in this regard, or that would bar it from continuing to exercise its discretion as consistent with those policies.

As is the case with any such comprehensive and expansive legislation, this bill inevitably will raise questions of interpretation, and it will take some adjustment as both employers and employees learn about the new practices and rules that it would implement. It is important that such implementation be carried out with sensitivity to the burdens law abiding employers face, and with widespread outreach so as to aid them to come into complete compliance with the new law. At the same time, however, it is crucial that the State move forward and carry out the statute's comprehensive and important mandate to protect workers' rights to the money they have earned by deterring violations and by ensuring that employers who seek to deny those rights are sanctioned.

The bill is approved.

(signed) DAVID A. PATERSON

Disposition: 11-32B-04

SSL Committee Meeting: 2012B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This Act allows a regulated electric or natural gas utility to refuse to provide electric or natural gas service at a location where electric or gas service was shut off at least twice during the previous two years due to unauthorized use. The bill specifies the documentation and payments needed to reestablish service, and requires an owner to notify a utility when surrendering or abandoning property to avoid liability for subsequent unauthorized service use.

Submitted as:
Michigan
Act 128 of 2010
Status: Enacted into law in 2010.

Comment:

According to a Michigan House Legislative Analysis, “Energy theft has become a serious and widespread problem in Michigan. For example, Consumers Energy says that it investigates almost 10,000 incidents of energy theft every year. In recent years it has billed between six and eight million dollars for energy theft, but has been able to collect only about half of that amount. Following a shut-off for non-payment, some people reportedly reconnect their service using jumper cables or other makeshift methods. Some unscrupulous landlords have apparently created unauthorized connections and then advertised free utilities to attract tenants. In the underground economy, some people have gone so far as to make a business out of illegally reestablishing service for others after a shut-off. Utility companies say that some industrial and commercial customers have tampered with meters to reduce their bills.

Unauthorized connections and meter tampering can cause serious safety problems as well as increase costs that are passed on to all utility customers. Tampering with meters or making illegal connections can result in fires, explosions, electrocution injuries, or even deaths. The person making the wrongful connection, other people in the home or business, nearby people, and utility workers may all be placed at risk. When some customers tamper with their service connections or meters to avoid paying their fair share, every customer’s cost of service increases to cover the losses.

It has been suggested that regulated natural gas and electric utilities should be allowed to deny service at a location where at least two instances of unauthorized use of natural gas or electricity has occurred within 24 months, that a customer should be required to provide property ownership or residence information and pay certain fees and charges to have service reconnected, and that an owner should have to notify a utility when surrendering or abandoning property to avoid liability for unauthorized service use.”

www.michigan.gov
Release Date: July 21, 2010
Last Update: July 21, 2010
Contact: Tiffany Brown 517-335-6397

Governor Granholm Signs Legislation to Prevent Energy Theft
July 21, 2010

_Bipartisan package designed to curb meter tampering, protect utility employees, contractors_
LANSING - Governor Jennifer M. Granholm today signed legislation designed to prevent energy theft through meter tampering and protect utility employees and contractors. The bipartisan package of bills aims to decrease unauthorized electric and natural gas utility service connections as well as protect consumers from increased costs related to energy theft.

“When individuals tamper with their connections or meters, every customer pays the increased cost of service to cover the losses,” Granholm said. “This legislation will deter energy theft and protect people from unnecessary charges and risk of harm.”

The legislation requires utility companies to use best practices to address unsafe connections caused by the unauthorized use of electric or natural gas service and allows them to take steps to deter future unauthorized use. It also makes it a crime for any person to sell or transfer electricity or natural gas to another person, knowing or having reason to know that the product or service was obtained unlawfully.

Additionally, the legislation sets penalties for the assault of a public utility worker or contractor who is performing their duties on the job. The offenses range from a misdemeanor to a felony punishable by imprisonment for up to 10 years and a $10,000 fine for a worker's death.

Unauthorized connections and meter tampering can cause serious safety problems resulting in fires, explosions, electrocution injuries or even death. These illegal connections endanger the person making the wrongful connection and nearby people and utility workers.

The bill package includes Senate Bill 1310, sponsored by Senator Tupac Hunter (D-Detroit); Senate Bill 1311, sponsored by Senator Buzz Thomas (D-Detroit); Senate Bill 1312, sponsored by Senator Dennis Olshove (D-Warren); Senate Bill 1313, sponsored by Senator Irma Clark-Coleman (D-Detroit); and Senate Bill 1314, sponsored by Senator Mike Nofs (R-Battle Creek).

Disposition: 12-32B-01

SSL Committee Meeting: 2012B
( ) Include in Volume
( ) Defer consideration
( ) next task force mtg.
( ) next SSL mtg.
( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This Act makes it a misdemeanor for a person to assault or batter a public utility employee or contractor while the employee or contractor is performing duties or because of the employee’s status as a public utility employee or contractor. This offense is punishable by imprisonment for not more than one year, a fine of not more than $1,000, or both. If someone assaults such employee and causes the employee or contractor bodily injury requiring medical attention or medical care, the offense is a felony punishable by imprisonment for not more than two years, a fine of not more than $1,000, or both. If the person caused the employee or contractor serious impairment of a body function, the offense is a felony punishable by imprisonment for not more than five years, a fine of not less than $1,000 or more than $5,000, or both.

Submitted as:
Michigan
Act 131 of 2010
Status: Enacted into law in 2010.

Comment:

Disposition:

SSL Committee Meeting: 2012B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This Act establishes a state policy on smart grid infrastructure including employment of a smart grid to improve power reliability as well as the overall efficiency of the power resource and delivery system while reducing energy consumption, greenhouse gas emissions and costs to consumers, in part by offering consumers greater choice and information about their electricity consumption. The state policy ensures that deployment of a smart grid is done in a manner that is consistent with applicable safety, security and reliability standards. The bill includes legislative findings about the high cost of electricity to consumers, the need for smart grid electric infrastructure, the lack of a state policy on smart grid infrastructure, and the need for such a policy.

It allows transmission and distribution utilities to recover reasonable costs associated with creating a smart grid. It also directs the state public utilities commission to examine the need for and feasibility of creating or designating a special entity in each transmission and distribution utility service territory to facilitate a rapid increase in the availability and use of smart grid functions.

Submitted as:
Maine
Chapter 539
Status: Enacted into law in 2010.

Disposition:

SSL Committee Meeting: 2012B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This Act authorizes electric cooperatives to install and operate a prepaid metering equipment and system upon a customer's request. The equipment and system will terminate electric service immediately and automatically when the customer has incurred charges for electric service equal to the amount prepaid by the customer. Such service would be exempt from existing requirements that a utility provide one billing cycle before initiating a proceeding for a residential customer's nonpayment for local service, pay interest on deposits, return deposits after one year of satisfactory credit, give 10 days' notice prior to terminating service, and not terminate a customer's residential service for nonpayment of basic nonresidential services. Tariffs shall be filed with the state corporation commission for review and determination that the tariff is not contrary to the public interest.

Submitted as:
Virginia
Chapter 320 of 2010
Status: Enacted into law in 2010.

Comment:

Disposition:

SSL Committee Meeting: 2012B
( ) Include in Volume
( ) Defer consideration
    ( ) next task force mtg.
    ( ) next SSL mtg.
    ( ) next SSL cycle
( ) Reject

Comments/Note to staff:
The state Public Employees’ Retirement Law provides retirement benefits based upon a member’s final compensation and years of credited service. That law provides that members in the personal leave program shall receive credit for service that would have been credited had the employee not been in the personal leave program. This Act provides that the calculations for retirement allowances, under the Public Employees’ Retirement Law, for specified local safety members and people who are employees of specified educational entities and who are subject to mandatory furloughs shall include, as credit for service and compensation, the amount of service and compensation that would have been credited and paid had the employee not been subject to mandatory furloughs on or after July 1, 2008.

Submitted as:
California
CH 574 of 2010
Status: Enacted into law in 2010.

Comment:

Disposition:

SSL Committee Meeting: 2012B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This Act requires the comptroller to offer nonstate public employers the option to purchase prescription drugs through the state's bulk purchasing authority and to establish procedures to do that. The prescription drugs must be purchased for the employees, dependents, or retirees. The bill defines nonstate public employer as a municipality or other state political subdivision, including a board of education, quasi-public agency, or public library and the state Teachers’ Retirement Board.

In making the offer, the Act requires the comptroller to offer nonstate public employers the option of purchasing prescription drugs through the state employees’ bargaining agent coalition collective bargaining agreement with the state, but only if the health care cost containment committee gives the comptroller written notice that doing so is consistent with that agreement. The Act permits the comptroller to proceed without the written notice if they establishes a prescription drug purchasing program for nonstate public employers that is separate from the program for state employees.

The Act requires nonstate public employers to pay the full cost of their own claims and prescription drugs.

The Act authorizes the comptroller to offer a nonstate public employer participating in the prescription drug purchasing program the option of purchasing stop-loss coverage from an insurer at a rate the controller negotiates.

This Act also permits two or more nonstate public employers to join together to purchase prescription drugs for their employees, employees' dependents, and retirees. It specifies that such an arrangement does not constitute a Multiple Employer Welfare Arrangement (MEWA) as defined under federal law.

Submitted as:
Connecticut
Public Act 10-131
Status: Enacted into law in 2010.

Comment:

Disposition:

SSL Committee Meeting: 2012B
   ( ) Include in Volume
   ( ) Defer consideration
      ( ) next task force mtg.
      ( ) next SSL mtg.
      ( ) next SSL cycle
   ( ) Reject

Comments/Note to staff:
This Act requires the department of natural resources and the state historic preservation agency offer to lease to any interested unit of local government, non-profit organization, or public or private college or university, the operation and maintenance of any closed state park or historic site for one dollar. It provides that the leasing entity shall retain all revenues generated by such operation during the term of the lease. The bill requires the state to reimburse the leasing entity for the undepreciated portion of any improvements made or paid for by the entity at the end of the lease.

Submitted as:
Illinois
Public Act 096-0557
Status: Enacted into law in 2009.

Comment:

Disposition:

SSL Committee Meeting: 2012B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject

Comments/Note to staff:
According to a Wisconsin Legislative Council memo, this Act provides a mechanism for choosing interim successors for legislators if specified criteria are met. The provision takes effect if there are nine or more vacancies in the Senate at the same time or if there are 25 or more vacancies in the Assembly at the same time. Under the provision for interim successors for Senators, the Senate leader of each political party for each vacant Senate seat that was last held by a member of their own party must request the state chairperson of that party to solicit nominations for an interim successor from county chairpeople of the party in each county that is at least partially within the Senate district. The Senate leader must request that the state chairperson select three to five potential interim successors from the nominees submitted by the county chairpeople and request that the state chairperson submit the names to the Senate leader of the party within seven days after the date on which the ninth Senate vacancy occurred. Within 14 days after the ninth vacancy occurred, the Senate leader of the political party must appoint an interim successor from the list of potential interim successors that is submitted by the state chairperson of the party. The Act lists the order in which people are determined to be the Senate leader for the majority party and for the minority party.

A similar procedure is specified for situations in which there are 25 or more vacancies in the Assembly at the same time.

The above procedures apply when the numerical threshold of vacancies is reached during an emergency resulting from enemy action. However, the Act would delete references to “enemy action” upon approval of an amendment to the Wisconsin Constitution that provides for temporary successors in other types of emergencies. Such an amendment to Article IV, Section 34 of the Wisconsin Constitution was approved by the Legislature on first consideration during the 2009-2010 Legislative Session. [2009 Assembly Joint Resolution 59; Enrolled Joint Resolution 14.] In order to take effect, the constitutional amendment would need to be approved by the Legislature on second consideration and by the electorate in a referendum.

The Senate and Assembly political party leaders may not appoint an interim successor who is unwilling, unable, or ineligible under the constitution and the statutes to serve as a legislator. Interim successors are required to take the oath of office immediately upon appointment, but may not be required, as a prerequisite to the exercise of the powers or discharge of the duties of a legislator, to comply with any other provision of the law relative to taking office. The chief clerk of each house or their deputy must notify the Secretary of State of all vacancies that are filled by interim successors. An interim successor must exercise the powers and discharge the duties of the office until the vacancy is filled by an election.

This Act permits each house of the Legislature, pursuant to its rules or joint rules, to issue a notice that the house and its committees are prevented from physically meeting at the seat of government due to a disaster or the imminent threat of a disaster. If a notice is issued, the house and any committee of the house may conduct a virtual meeting and transact business using any means of communication by which the following occur: (1) the identity of each participating member is verified and the actions of each participating member are authenticated; (2) all participating members are able to simultaneously hear or read the comments of members recognized to speak; (3) any document that is used by a member and that is accepted by the presiding officer or chairperson is immediately transmitted to the other participating members; and (4) the public has the opportunity to monitor the proceedings, within technological limits. In order for a joint committee of the Legislature to hold a virtual meeting in the manner described above, each house would have to issue a notice of emergency. Exceptions to public notice of
legislative proceedings or meetings and to public access are provided where the public welfare requires secrecy, as provided in Article IV, Section 10, of the Wisconsin Constitution.

Under the Act, a virtual meeting held in accordance with these requirements is considered to have occurred at the seat of government and all actions taken at a virtual meeting have the same legal effect as if the members were physically present at the seat of government. For purposes of determining the presence of a quorum to conduct business, any member participating in a virtual meeting is considered present in the same manner as if physically present at the seat of government.

The Act provides that in presiding over a virtual meeting of a house of the Legislature, the presiding officer must interpret and apply all rules of proceeding of that house which presume the physical presence of members in the house’s chambers at the seat of government, in a manner so as to accomplish the same purposes for which the rules were adopted. The Act authorizes the Legislature to meet for up to one week per session by holding a virtual meeting, in order to practice meeting in that manner. Finally, the Act provides that the language authorizing virtual meetings does not limit the authority of either house to use teleconferencing for purposes of holding a committee meeting at the seat of government.

Under the statutes, whenever during a state of emergency it becomes imprudent, inexpedient, or impossible to conduct the affairs of state government at the state capital, the Governor is required to designate an emergency temporary location for the seat of government and to take such action and issue such orders as are necessary for an orderly transition of the affairs of state government to that location.

While the seat of government remains at a temporary location, all official acts required by law to be performed at the seat of government are as valid and binding when performed at the temporary location as if performed at the normal location.

This bill allows the Legislature, by joint rule, to provide a process for designating an emergency temporary seat of government for the Legislature that is different than the location designated by the Governor. Under the Act, whenever, as the result of a disaster or the imminent threat of a disaster, it becomes imprudent, inexpedient, or impossible to conduct the business of the Legislature at the state capital, the Legislature may meet either at the location designated by the Governor or the location designated by the Legislature itself. Information about this location is not subject to inspection or copying under the Open Records Law.

This Act enables the Legislature to meet for up to one week per session in a location other than the state capital or the temporary seat of government designated by the Governor, in order to practice meeting in a temporary location.

Submitted as: Wisconsin 2009 Wisconsin Act 363
Status: Enacted into law in 2010.

Comment:

Disposition:
SSL Committee Meeting: 2012B
( ) Include in Volume
( ) Defer consideration
( ) next task force mtg.
( ) next SSL mtg.
( ) next SSL cycle
( ) Reject

Comments/Note to staff:
Prior state law regulated investments made by public pension and retirement systems and defines placement agent to mean a person or entity hired, engaged, or retained by an external manager, as defined, to raise money or investment from a public retirement system in California. The state Political Reform Act of 1974, provided for the comprehensive regulation of the lobbying industry, including defining lobbyist and regulating the conduct of lobbyists. Among its provisions, that Act requires lobbyists to register with the secretary of state and to file periodic disclosure reports, and it prohibits lobbyists from engaging in certain activities, including accepting or agreeing to accept any payment in any way contingent upon the defeat, enactment, or outcome of any proposed legislative or administrative action, as defined.

This Act redefines placement agent to mean a person, as defined, hired, engaged, or retained by, or serving for the benefit of or on behalf of, an external manager, as defined, to act as a finder, solicitor, marketer, consultant, broker, or other intermediary in connection with the offer or sale of the securities, assets, or services of an external manager to a public retirement system in the state for compensation. It excludes from that definition an employee, officer, director, equityholder, partner, member, or trustee of an external manager who spends one third or more of their during a calendar year managing the securities or assets owned, controlled, invested, or held by the external manager.

This Act defines placement agent in a similar way for purposes of the Political Reform Act of 1974, except that the definition is limited to an individual acting in connection with the offer or sale of the securities, assets, or services of an external manager to a state public retirement system in the state and does not include employees, officers, or directors of specified external managers or of affiliates of those external managers. In addition, the bill would prohibit a person from acting as a placement agent in connection with any potential system investment made by a state public retirement system unless that person is registered as a lobbyist and is in full compliance with the Political Reform Act of 1974 as that act applies to lobbyists.

The Act requires a person acting as a placement agent in connection with any potential system investment made by a local public retirement system to file any applicable reports with a local government agency that requires lobbyists to register and file reports and to comply with any applicable requirements imposed by a local government agency. It provides that an individual acting as a placement agent is a lobbyist for purposes of the Political Reform Act of 1974 and is thereby required to comply with all regulations and restrictions imposed on lobbyists by the Act, and it expands the definition of administrative action to include, with regard only to placement agents, the decision by any state agency to enter into a contract to invest state public retirement system assets on behalf of a state public retirement system.

This Act specifies that a placement agent who is registered with the Securities and Exchange Commission and regulated by the Financial Industry Regulatory Authority is permitted to receive a payment of fees for contractual services provided to an investment manager, except to the extent that payment of fees is prohibited by the proscription on contingency payments to placement agents.

The law requires the state employees retirement system and state teachers’ retirement system to provide to the Legislature a report on the use of placement agents in connection with investments made by those retirement systems.
Status: Enacted into law in 2010.

Comment:

Disposition:

SSL Committee Meeting: 2012B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This Act creates the first-in-the-nation state program to allow whistle-blowers to go after tax cheats that defraud the state of over $350,000. This provision is aimed at illegal off-shore tax shelters. The Act requires contractors that defraud local governments to pay local governments triple damages plus civil penalties. It establishes anti-blacklisting protections against whistleblowers so companies cannot refuse to hire a qualified worker because they reported another company. The law bans employers from suing employees who provide evidence of fraud to law enforcement in a False Claims Act case.

Submitted as:
New York
Chapter 379 of 2010
Status: Enacted into law in 2010

Comment:

Published on New York State Senate (http://www.nysenate.gov)
Home > Senator Eric. T. Schneiderman Shepherds Historic Anti-Fraud Taxpayer Protection Measure Through Legislature
Senator Eric. T. Schneiderman Shepherds Historic Anti-Fraud Taxpayer Protection Measure Through Legislature
By Eric T. Schneiderman
Created 07/01/2010 - 4:46pm
Posted by Eric T. Schneiderman [1] on Thursday, July 1st, 2010

Schneiderman’s leadership in cracking down on fraud is heralded by whistleblowers, local governments, school boards, labor, and taxpayer advocates
Makes New York’s Anti-Fraud Whistle-Blower Law Strongest in Nation


The New York False Claims Act, passed in 2007 and modeled after the then-existing United States False Claims Act, is New York’s most powerful tool to fight fraud against the government, especially fraud by corrupt contractors. The law allows the Attorney General, a local government, or a whistleblower to bring a legal action against any party who makes or uses a false or fraudulent claim, record or statement to obtain government funds. Guilty parties must pay triple damages plus mandatory civil penalties.

Since its passage in 2007, the law has helped the State recover hundreds of millions of dollars. However, many of the terms of the False Claims Act have recently been misinterpreted by federal courts — including the Supreme Court — to create loopholes that make it harder for law enforcement and whistleblowers to fight fraud. To address these loopholes and court decisions, President Barack Obama recently signed a series of amendments to the United States False Claims Act, heralded by anti-fraud groups and, among others, the New York Times.
In March, Senator Schneiderman [1] introduced the first bill in the legislature to adopt the Obama amendments into the New York False Claims Act. Indeed, Senator Schneiderman’s bill went even further than those amendments in cracking down on corrupt contractors and protecting whistleblowers in significant ways.

The stronger provisions — a “false claims act on steroids” — include the following:

- Enacting triple damages and mandatory civil penalties for tax fraud;
- Creating the first-in-the-nation state program to allow whistle-blowers to go after millionaire tax cheats that defraud the state of over $350,000. This provision is aimed at illegal off-shore tax shelters;
- Fixing a flaw in the New York State False Claims act so that corrupt contractors that defraud local governments must pay local governments triple damages plus civil penalties — instead of just triple damages. This will encourage local governments to use the False Claims Act to recover funds and keep property taxes low;
- Establishing anti-blacklisting protections against whistleblowers, so company “y” can not refuse to hire a qualified worker because he or she reported company “x” for fraud;
- Clarification that whistleblowers who use the freedom of information act are not barred from suing a contractor for fraud because he or she created a public disclosure of information; and
- The first-in-the-nation ban on employers from suing employees who provide evidence of fraud to law enforcement in a False Claims Act case.

Here's what leading voices are saying about Schneiderman's anti-fraud, taxpayer protection bill:

Jeb White, acting Executive Director of Taxpayers Against Fraud [6], a national public interest organization dedicated to combating fraud against federal, state, and local governments said, “With this latest round of amendments [to the False Claims Act], New York has the strongest set of fraud fighting tools in the nation. We are extremely pleased that, thanks to Eric Schneiderman's leadership, New York will now be able to recover millions of dollars that might otherwise have slipped through liability loopholes. In addition, New York should be eligible for millions of new Medicaid dollars thanks to incentives offered under federal legislation. With this strengthened law, New York will also be able to recover millions of dollars stolen by tax cheats. Because New York is a major financial center, we think the state will be a bellwether for the nation in the arena of tax recovery. Without a doubt, the New York law will be used as a cat's-paw to illuminate national tax fraud cases that have tentacles in New York.”

Harry Markopolos, author of “No One Would Listen,” and original whistle-blower in the Bernie Madoff Scandal said, “I congratulate Senator Schneiderman for his leadership in passing the New York Fraud, Enforcement and Recovery Act. This legislation sends a powerful deterrent message to government contractors to think twice before they try to rip off taxpayers. Passing this bill empowers and protects employees who go out of their way to safeguard the state's budget from fiscal predators that would otherwise get away with contract fraud. We cannot afford to enrich white collar fraudsters nor can we offer them any safe haven from detection and prosecution. I applaud Senator Schneiderman for his dedication that led to the passage of this bill. I am glad to see that New York is taking the lead in exceeding the federal standards in this important area.”
Denis Hughes, President of the New York State AFL-CIO [7], referring to the fact that Senator Schneiderman’s bill will enhance the ability of workers to enforce prevailing and minimum wage laws, said, “The NYS AFL-CIO applauds Senator Schneiderman for passing this bill. Any tool we can use to help workers get the pay that they are lawfully entitled to is worth fighting for.”

Russ Haven, Legislative Counsel for NYPIRG [8], said, “The New York Public Interest Research Group (NYPIRG) applauds Senator Schneiderman for his leadership in passing the Fraud Enforcement and Recovery Act. This will be an important tool for citizens seeking to root out public corruption in contractor fraud. Most important, it will correct the injustices worked by the courts on the similar federal law, which prevented cases developed through the use of the Freedom of Information Law (FOIL) from going forward. Now it is up to Governor Paterson to sign this legislation into law.”

Stephen J. Acquario, executive director of the New York State Association of Counties [9] (NYSAC) said, “Counties commend Senator Schneiderman and the members of the New York State Senate for providing this incentive for local governments to protect taxpayers against corruption. The legislation enables ‘whistle blowers’ to bring claims against individuals who try to defraud counties. We must be vigilant at all times to protect the public and prevent fraud and abuse at all levels of government.”

Lori Mithen, Counsel for the Association of Towns of the State of New York [10] said, “The Association of Towns of the State of New York supports Senator Schneiderman’s efforts to increase penalties for contractors that rip off local governments through the filing of false claims, and to increase the ability and incentive for local governments to protect taxpayers against corruption. This legislation strengthens provisions protecting school districts against acts of fraud in the making of false claims and provides appropriate civil penalties to encourage prosecution of fraud. Public funds must be protected, particularly in times of financial distress and our public schools are grateful for this additional means of ensuring the appropriate use of public money entrusted to us for the education of our state’s children.”

Florence Johnson, Buffalo Board of Education and President of NYSSBA said, “On behalf of the school districts of New York State, NYSSBA is grateful to Senator Schneiderman for his dedication in this effort to allow school districts and other local governments to deter fraudulent practices and to recover civil penalties for fraudulent acts committed against our schools. This legislation strengthens provisions protecting school districts against acts of fraud in the making of false claims and provides appropriate civil penalties to encourage prosecution of fraud. Public funds must be protected, particularly in times of financial distress and our public schools are grateful for this additional means of ensuring the appropriate use of public money entrusted to us for the education of our state’s children.”

Thomas D. Thacher II, former Inspector General of the New York City School Construction Authority and current President and CEO of Thacher Associates LLC said, “As the former Inspector General of the New York City School Construction Authority, I completely support Senator Schneiderman’s Fraud, Enforcement and Recovery Act. It would provide New York State with a powerful and needed tool for exposing and prosecuting those who steal public dollars. Without question, it represents state of the art legislation for fighting fraud against taxpayer dollars. I know first-hand that successfully fighting school construction fraud leads to safer school buildings as well as saving tax
dollars. Senator Schneiderman’s bill, by further empowering whistleblowers to pursue citizen initiated cases, will step up that fight not only in the school construction area, but in all areas of fraud against state taxpayer funds. It is a great step forward in improving the False Claims Act to protect all our state public works projects from fraud and corruption.”

This month Senator Schneiderman reintroduced his bill along with Assembly Speaker Sheldon Silver. The bill Wednesday passed both houses unanimously. Of over 24 states that have adopted False Claims Act, Senator Schneiderman’s bill would, if signed, create the most powerful False Claims Act in the country.

In accordance with the now-amended Federal False Claims Act, Senator Schneiderman’s bill would, among other things:

- Ensure that subcontractors that receive government funds continue to be liable under the False Claims Act for defrauding the state (as they have been since 1863 when Abraham Lincoln passed the original False Claims Act to address civil war era contracting fraud);
- Expand liability for conspiracies to defraud taxpayers;
- Crack down on those who defraud the government by using a false record or statement to avoid paying an obligation to the government;
- Protect and reward whistleblowers that provide useful information to law enforcement, even if they do not know the full extent of the fraudulent scheme;
- Expand protections against whistle-blowers from retaliation by employers.

In addition to cracking down on government fraud and corruption, by adopting these amendments, Senator Schneiderman helped ensure that the federal government does not penalize the state with a loss of Medicaid Funds for having a False Claims Act weaker than the federal government.

Related information
Senator:
Eric T. Schneiderman [1]
Authored by Senator
District:
District 31 [11]
Other information
Thu, 07/01/2010

Cities Consumer Protection Local Government
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Disposition: 13-32B-06

SSL Committee Meeting: 2012B
( ) Include in Volume
( ) Defer consideration
 ( ) next task force mtg.
 ( ) next SSL mtg.
 ( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This “State Measurements for Accountable, Responsive, and Transparent (SMART) Government Act” requires the joint budget committee of the general assembly to consider for recommendation to the general assembly any report approved by the office of state planning and budgeting from a department that suggests improved budgetary efficiency or administrative flexibility through line item consolidation in the annual general appropriation bill.

The Act establishes a new performance-based budgeting program that includes the following:

- each principal department of the executive branch and the judicial branch of state government must develop a strategic plan, which will then be posted on the official web site of the department and of the office of planning and budgeting;
- a department's presentation to the assigned legislative committees of reference must include information about the department's strategic plan, a review of the department's performance-based goals and performance measures, and a report on the actual outcomes;
- such committees may hold meetings to hear public testimony about the department's strategic plans;
- legislators from such committees and the joint budget commission will be liaisons to the department with respect to the performance-based budget program;
- the committees will provide any written recommendations to the department within 30 days after the department presentation;
- each department may implement the recommendations in the strategic plan for the following state fiscal year and must provide the committee a written explanation for any of the recommendations are not implemented;
- the state auditor will conduct a performance audit of one or more specific programs or services in at least 2 departments and will continue to annually conduct performance audits so that all departments are audited in a 9-year cycle;
- the state auditor will present, along with any other audit reports that they deem relevant, the audit report to the appropriate committee within the first 15 days of the legislative session, and
- each affiliated committee must consider the department's strategic plan and other factors and may report to the joint budget committee recommendations to change the department budget request for the upcoming state fiscal year.

The office of state planning and budgeting must publish an annual performance report for each department except the department of state, the department of the treasury, the department of law, and the judicial branch. These agencies are responsible for publishing their own reports. The annual performance reports must include summaries of each department’s strategic plan, must be clearly written and easily understood and limited in length, and must be distributed to the members of the general assembly to help members making decisions about the annual general appropriation bill.

All state agency budget submissions will be distributed in an electronic format, and the department of state, the department of the treasury, the department of law, and the judicial branch will use the state agency budget submissions as a guideline for the submission of their budgets to the joint budget committee.

The office of information technology must conduct a feasibility and requirements study to determine the cost to build an electronic budgeting system for the state, provide a copy of the
study to the joint budget committee, and make a request for funding for the system to the joint budget committee.

The Act increases the statewide limit for interdepartmental transfers from $2 million to $5 million but does not change any other parts of the structured approval process or change limits for specific agencies. Departments are no longer prohibited from using the interdepartmental transfer authority to transfer dollars from a nonpersonal services line item (such as operating) into a personal services line item; transfer dollars between personal services line items; and transfer dollars from an operating line into a utilities line or lease space line, or between utility line items.

The controller's authority is increased to allow, upon approval of the governor, a department to make an expenditure in excess of the amount authorized in an appropriation up to a limit of $3 million.

Submitted as:
Colorado
Chapter 340 of 2010
Status: Enacted into law in 2010.

Comment:

Disposition:

SSL Committee Meeting: 2012B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject

Comments/Note to staff:
Pedicabs are foot-operated bicycle taxis that carry their passengers in open-air seating. Pedicabs are pollution free and provide an alternative to regular taxicabs for short-distance travel. This Act defines pedicab for purposes of the state Vehicle Code. The bill authorizes a city or county to adopt rules and regulations, by an ordinance or resolution, licensing and regulating the operation of pedicabs for hire, and operators of pedicabs for hire, including requiring a valid driver’s license; proof of successful completion of a bicycle safety training course certified by the League of American Bicyclists or an equivalent organization as determined by the local authority; or a valid state identification card and proof of successful completion of the written portion of the state driver’s license examination.

Under existing law, every person riding a bicycle upon a highway has all the rights of, and is subject to specified provisions in, the Vehicle Code, including rules of the road, that are applicable to the driver of a vehicle. This bill makes those provisions also applicable to a person operating a pedicab.

Submitted as:
California
CH 614 of 2010
Status: Enacted into law in 2010.

Comment:

Disposition:

SSL Committee Meeting: 2012B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject

Comments/Note to staff:
14-32B-02 Careless or Inattentive Driving  DE

This Act defines vulnerable uses in public right of ways and enhances the penalty for a careless or inattentive driver who contributes to the serious physical injury of a vulnerable user in a public right of way.

Submitted as:
Delaware
SB 269
Status: Enacted into law in 2010.

Comment:

Disposition:

SSL Committee Meeting: 2012B
(  ) Include in Volume
(  ) Defer consideration
   (  ) next task force mtg.
   (  ) next SSL mtg.
   (  ) next SSL cycle
(  ) Reject

Comments/Note to staff:
This Act regulates obstructions to air navigation and use of land in close proximity to public-use airports. The Act requires owners of proposed structures within a three-mile area surrounding a public-use airport to obtain a permit from the state aeronautics commission prior to construction. The bill does not affect municipalities from regulating land use near public-use airports and it does not apply to existing structures.

Submitted as:
Oklahoma
HB 2919 (Enrolled version)
Status: Enacted into law in 2010.

Comment:

Disposition:

SSL Committee Meeting: 2012B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This Act provides that any person who knowingly and without consent credibly impersonates another actual person through or on an Internet Web site or by other electronic means, as specified, for purposes of harming, intimidating, threatening, or defrauding another person is guilty of a misdemeanor. The bill, in addition to the specified criminal penalties, authorizes a person who suffers damage or loss to bring a civil action against any person who violates that provision.

Submitted as:
California
Chapter 335 of 2010
Status: Enacted into law in 2010.

Comments/Note to staff:
(32A-c) Add other state legislation about this and related topics (e.g., anonymous postings) to the next docket.

Comment:

Per 32A-c, CSG staff only found legislation in Kentucky and New Jersey which addresses posting information anonymously on the Internet.

Kentucky HB 775 of 2008 requires “An interactive service provider shall establish, maintain, and enforce a policy to require information content providers to register a legal name, address, and valid electronic mail address as a precondition of using the interactive service. An interactive service provider shall establish, maintain, and enforce a policy to require information content providers to be conspicuously identified with all information provided by, at a minimum, their registered legal name.” Kentucky HB775 did not pass.

New Jersey ASSEMBLY No. 1327 of 2006 requires “The operator of any interactive computer service or an Internet service provider shall establish, maintain and enforce a policy to require any information content provider who posts written messages on a public forum website either to be identified by a legal name and address, or to register a legal name and address with the operator of the interactive computer service or the Internet service provider through which the information content provider gains access to the interactive computer service or Internet, as appropriate.” A1327 did not pass.

Per 32A-c, according to Nicole Julal, Legislative Counsel to The Uniform Law Commission, while most states have an offense of criminal impersonation, only four have enacted laws which directly criminalize the offense of cyber impersonation -- California, New York, Hawaii and Texas. Massachusetts criminalizes such conduct if it is within the context of school bullying (see chart).

CALIFORNIA

Section 528.5 of the California Penal Code (Chapter 335 of 2010):
(a) Notwithstanding any other provision of law, any person who knowingly and without consent credibly impersonates another actual person through or on an Internet website or by
other electronic means for purposes of harming, intimidating, threatening, or defrauding another person is guilty of a public offense punishable pursuant to subdivision (d).

(c) For purposes of this section, “electronic means” shall include opening an e-mail account or an account or profile on a social networking Internet Web site in another person’s name.

NEW YORK

Section 190.25 Criminal Impersonation in the second degree (Chapter 304 of 2008):
A person is guilty of criminal impersonation in the second degree when he:
4. Impersonates another by communication by internet website or electronic means with the intent to obtain a benefit or injure or defraud another, or by such communication pretends to be a public servant in order to induce another to submit to such authority or act in reliance on such pretense.

HAWAII

Section 711-1106.6 Harassment by impersonation (Act 133 of 2008):
(1) A person commits the offense of harassment by impersonation if that person poses as another person, without the express authorization of that person, and makes or causes to be made, either directly or indirectly, a transmission of any personal information of the person to another by any oral statement, or any statement conveyed by any electronic means, with the intent to harass, annoy, or alarm any person.

TEXAS

Section 33.07 Online Harassment (HB 2003 of 2009 - rejected by SSL Committee on docket 32A):
(a) A person commits an offense if the person uses the name or persona of another person to create a web page on or to post one or more messages on a commercial social networking site:
(1) without the other people consent; and
(2) with the intent to harm, defraud, intimidate, or threaten any person.
(b) A person commits an offense if the person sends an electronic mail, instant message, text message, or similar communication that references the name, domain address, phone number, or other item of identifying information belonging to any person:
(1) without obtaining the other person’s consent;
(2) with the intent to cause a recipient of the communication to reasonably believe that the other person authorized or transmitted the communication; and
(3) with the intent to harm or defraud any person.

MASSACHUSETTS

Section 71 Section 370. School Bullying Prohibited (Chapter 92 of the Acts of 2010):
“Cyber-bullying,” bullying through the use of technology or any electronic communication, which shall include, but shall not be limited to, any transfer of signs, signals, writing, images, sounds, data or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photo electronic or photo optical system, including, but not limited to, electronic mail, internet communications, instant messages or facsimile communications.
Cyber-bullying shall also include (i) the creation of a web page or blog in which the creator assumes the identity of another person or (ii) the knowing impersonation of another person as the author of posted content or messages, if the creation or impersonation creates any of the conditions enumerated in clauses (i) to (v), inclusive, of the definition of bullying. Cyber-bullying shall also include the distribution by electronic means of a communication to more than one person or the posting of material on an electronic medium that may be accessed by one or more people, if the distribution or posting creates any of the conditions enumerated in clauses (i) to (v), inclusive, of the definition of bullying.

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Disposition: 15-32A-01A

SSL Committee Meeting: 2012B
(  ) Include in Volume
(  ) Defer consideration
   (  ) next task force mtg.
   (  ) next SSL mtg.
   (  ) next SSL cycle
(  ) Reject

Comments/Note to staff:
This Act defines cyberbullying as the transmission of any electronic textual, visual, written, or oral communication with the malicious and willful intent to coerce, abuse, torment, or intimidate a person under the age of 18. It provides that whoever commits the crime of cyberbullying shall be fined not more than $500, imprisoned for not more than six months, or both. When the offender is under the age of 17, the disposition of the matter shall be governed exclusively by the state Children’s Code.

Submitted as:
Louisiana
Act 989 of 2010
Status: Enacted into law in 2010.

This Act adds the word electronic to the definition of bullying in state law and the Act defines cyberbullying.

Submitted as:
Kansas
Chapter 77 of 2008

This Act enhances penalties under the state criminal code for harassing someone electronically. The Act clarifies that electronic harassment may also create a civil cause of action.

Submitted as:
Utah
SB 91 of 2009 (Enrolled version)
Status: Enacted into law in 2009.

This model Act by the Anti-Defamation League requires school districts to adopt an anti-bullying policy in their schools that is comprehensive, practical and effective. The policy gives schools the resources they need to combat and respond to bullying and cyberbullying. A strong and comprehensive anti-bullying statute will:

- include a strong definition of bullying, which includes cyberbullying;
- address bullying motivated by race, religion, ethnicity, sexual orientation and other personal characteristics;
- include notice requirements for students and parents;
set out clear reporting procedures, and
require regular training for teachers and for students about how to recognize and respond to bullying and cyberbullying.

Submitted as:
Model
Status:

Comment: Per 32A-c, access an NCSL overview of state cyberstalking, cyberharassment and cyberbullying laws and cyberbullying legislation; and CSG facts about cyberbullying laws.

Disposition: 15-32B-01A
SSL Committee Meeting: 2012B
( ) Include in Volume
( ) Defer consideration
( ) next task force mtg.
( ) next SSL mtg.
( ) next SSL cycle
( ) Reject

Comments/Note to staff:

Disposition: 15-32B-01C
SSL Committee Meeting: 2012B
( ) Include in Volume
( ) Defer consideration
( ) next task force mtg.
( ) next SSL mtg.
( ) next SSL cycle
( ) Reject

Comments/Note to staff:

Disposition: 15-32B-01B
SSL Committee Meeting: 2012B
( ) Include in Volume
( ) Defer consideration
( ) next task force mtg.
( ) next SSL mtg.
( ) next SSL cycle
( ) Reject

Comments/Note to staff:

Disposition: 15-32B-01D
SSL Committee Meeting: 2012B
( ) Include in Volume
( ) Defer consideration
( ) next task force mtg.
( ) next SSL mtg.
( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This Act revises state-policy objectives for the provision of telecommunications service and repeals the law governing alternative regulation of telephone companies and rescinds related Public Utilities Commission of Ohio (PUCO) rules. An Ohio legislative analysis outlines the Act’s provisions as follows:

**PUCO jurisdiction over telecommunications**

This Act specifies that the PUCO, except as provided in the Act and federal law, has no authority over an interconnected voice over internet protocol-enabled service or a telecommunications service that is not commercially available on the Act's effective date and that employs technology that became available for commercial use after that date, unless the PUCO determines the exercise of authority is necessary for the protection, welfare, and safety of the public and adopts necessary regulations, and specifies that the Office of the Consumers’ Counsel (OCC) has authority to assist and represent residential customers to the extent that the PUCO adopts those regulations.

The bill makes consumer purchases of telecommunications services not commercially available on the Act's effective date and that employ new technology subject to the Consumer Sales Practices Act (CSPA), notwithstanding any provision of the CSPA to the contrary, and only if the PUCO does not exercise jurisdiction over such services.

The bill provides that the PUCO does not have jurisdiction over wireless service, resellers of wireless service, or wireless service providers, except as pertaining to telecommunications relay service, 9-1-1 service, certain penalties, and carrier access policy and the creation and administration of mechanisms for carrier access reform, including high cost support.

Under the Act, the PUCO has authority over wireless service and wireless service providers as follows, but only to the extent authorized under federal law to the extent the PUCO carries out:

- rights and obligations under the federal Telecommunications Act of 1996;
- the authority to mediate and arbitrate disputes and approve agreements under the federal Act;
- administration of telephone numbers and number portability;
- certification of telecommunications carriers eligible for universal-service funding under applicable federal law;
- administration of customer proprietary network information in applicable federal law, and
- as provided under the new telecommunication provisions in the Act pertaining to registration of wireless service providers, compliance with applicable PUCO orders, directions, and requirements, and adjudication of disputes.

This law specifies that requirements regarding assessments supporting the PUCO and the OCC, as well as the filing of annual reports for assessments, apply to wireless service providers. It specifies that a number of statutes, many unchanged by the Act, do not apply to telephone companies, including statutes pertaining to PUCO jurisdiction, service discrimination, accounting requirements, charging tariffed rates, the issuance of stocks, bonds, and notes, uniform pricing, and other statutes, unless necessary, in some cases, for the PUCO to enforce the provisions of the Act.

The Act specifies that, with certain exceptions, the new telecommunications provisions in the Act do not prevent any public utility or railroad from granting property for public purposes. It
redefines “public utility” to exclude internet protocol-enabled services, including voice over internet protocol services, and providers of advanced services, broadband service, information service, and any telecommunications service that is not commercially available on the Act's effective date and that employs technology that became available for commercial use after the Act's effective date.

The bill provides that the PUCO has no authority over the quality of service and the service rates, terms, and conditions of telecommunications service provided to end users by a telephone company, except as provided in the Act. It permits the PUCO to adopt various rules that it finds necessary to carry out the provisions of the Act, including rules that address the removal from tariffs of services that were required to be filed in tariffs prior to the Act's effective date. It directs the PUCO to adopt any rules required under the Act no later than 120 days after the Act's effective date.

The Act vests the PUCO with the authority to perform federal obligations and carry out the acts of a state commission, including rights and obligations under the federal Telecommunications Act of 1996, arbitrating disputes and approving agreements under the federal Act, administering truth-in-billing, and other federal obligations and acts of a state commission.

Certification or registration in order to operate in Ohio

This legislation requires, as a condition of operating in Ohio, that a telephone company obtain a certificate from the PUCO and that a wireless service provider register with the PUCO. It requires a certificate application and registration to include the telephone company's or wireless service provider's name and address, a contact person's name and contact information, a service description, evidence of registration with the Secretary of State, evidence of notice of intent to provide telecommunication service to the Public Utilities Tax Division of the Department of Taxation, and with respect to certification only, evidence of financial, technical, and managerial ability to provide adequate service.

It exempts incumbent local exchange carriers (ILECs) from the certification requirements with respect to their geographic service areas as those areas existed before the Act's effective date.

The law permits the PUCO to suspend or reject a telephone company's certification application if it determines the applicant lacks financial, technical, or managerial ability sufficient to provide adequate service. It requires, if any of the application information changes, a telephone company to update its certification and to provide any necessary notice to customers and requires a wireless service provider to update its registration.

The Act requires the PUCO to adopt rules governing certification and registration update requirements.

Unfair or deceptive acts or practices

This bill prohibits telephone companies, but not wireless service providers, from committing certain unfair or deceptive acts or practices regarding the offer or provision of telecommunications service in Ohio. It states that a consumer purchase of wireless service is subject to the Consumer Sales Practices Act (CSPA) notwithstanding any provision of the CSPA to the contrary.

The Act makes failure to include the following in a telephone company solicitation, offer, contract, or other communication as provided in the Act an unfair or deceptive act or practice
truthful, clear, conspicuous, and accurate disclosure of any material terms and conditions of service and any material exclusions or limitations and disclosure of the company's name and contact information.

This bill permits the PUCO to prescribe a review process to determine when disclosure of the above information is not practicable and therefore nondisclosure would not be an unfair or deceptive act or practice. It requires a telephone company to inform its customers of their rights and responsibilities regarding inside wire, repair and maintenance of customer-owned equipment, and use of a network interface device, and diagnostic visit charges, consistent with rules the PUCO adopts. The Act permits the PUCO to determine by rule or adjudication under the terms of the Act what constitutes an unfair or deceptive act or practice in connection with the offer or provision of telecommunications service in Ohio.

It requires the PUCO to notify telephone companies specifying the acts, practices, or omissions that the PUCO determines by rule or adjudication to be unfair or deceptive and states that such companies are not liable absent notice and adequate implementation time.

Service withdrawal/abandonment

This bill permits a telephone company, except for an ILEC providing basic local exchange service, to withdraw or abandon service upon 30-days notice to the PUCO and customers. It specifies that the Act's withdrawal and abandonment provisions do not apply to interconnection and resale agreements approved under the Telecommunications Act of 1996, pole attachments, and conduit occupancy. It prohibits, without PUCO approval, a telephone company from withdrawing any tariff filed with the PUCO for pole attachments or conduit occupancy under the continuing pole attachment and conduit occupancy law or abandoning service provided under that law.

Basic local exchange service

This Act requires telephone companies providing basic local exchange service to ensure available, adequate, and reliable service. It requires the PUCO to adopt rules prescribing the following standards for the provision of basic local exchange service:

- installation of service within five days of receipt of an application;
- outages fixed within 72 hours (and reasonable efforts made to repair outages within 24 hours) and automatic customer credits for all affected customers, of which the telephone company is aware, in the amount of one month's charges per customer for basic local exchange service if an outage is reported and not fixed in 72 hours, with no requirement to credit a customer who caused an outage;
- disconnection for nonpayment not earlier than 14 days after a bill due date;
- the establishment of a billing due date not earlier than 14 consecutive days after the date the bill is postmarked for basic local exchange service provided to end users;
- permitting a utility to require a deposit not to exceed 230% of a reasonable estimate of one month's service charges for the installation of service, and
- reconnection of customers with past-due charges one business day after receipt of the first payment under a payment plan or the full amount due.

The bill requires the PUCO to provide for a waiver of the standards prescribed in rule for basic local exchange service when the PUCO determines it appropriate. It requires an ILEC to provide basic local exchange service to all people or entities in its service area requesting that service, and to provide that service on a reasonable and nondiscriminatory basis, except for the
provision of basic local exchange service or any service to occupants of multitenant real estate in
certain circumstances where a real estate owner takes action to benefit another service provider.

It permits an ILEC to apply to the PUCO for a waiver of the requirement to provide basic
local exchange service to all people or entities in its service area requesting service and requires
the PUCO to grant the waiver within 120 days if it finds it to be just, reasonable, not contrary to
the public interest, and that the applicant demonstrates a financial hardship or unusual technical
limitation, but after the carrier has notified affected people or entities in its service area and after
the people or entities have been afforded a reasonable opportunity to comment, including a
public hearing.

The bill permits an ILEC to alter rates for basic local exchange service based on 12-
month intervals relating to when the last rate increase occurred and, in certain cases, depending
on whether the ILEC's local exchange area qualified for alternative regulation under the PUCO
rules. It prohibits banking of upward rate alterations. It permits ILECs owned and operated
exclusively by and for their customers to alter basic local exchange service rates at any time by
any amount.

Lifeline service

The Act requires an ILEC eligible for universal-service support to implement lifeline
service for eligible customers, defined as either being at or below 150% of the federal poverty
level or participating in any low-income assistance program that is specified in PUCO rules, and
permits an ILEC to offer lifeline customers bundles and packages at prevailing rates less the
lifeline discount.

It requires the PUCO to work with appropriate state agencies administering federal or
state low-income assistance programs, and with carriers, to obtain information necessary for
eligibility and automatic enrollment, requires the PUCO to establish requirements for the
implementation of automatic enrollment, and requires ILECs to implement automatic enrollment
in accordance with those requirements.

The legislation provides for situations in which an individual is determined ineligible or
no longer eligible and provides opportunities to prove eligibility.

It provides that lifeline service must consist of flat-rate, monthly, primary access line
service with touchtone service at a monthly discount, a waiver of all nonrecurring service order
charges for establishing service, but not more than once per customer at a single address in a 12-
month period, and free blocking of toll, 900, and 976 service.

The bill requires that ILECs offer special payment arrangements to lifeline customers
with past-due bills with an initial payment not to exceed $25 before the installation of service
and the balance for regulated service charges to be paid over six monthly installments.

This Act provides that lifeline customers with past due toll service bills are to have toll-
restricted service until the past due charges have been paid or until service is established with
another toll service provider.

It requires every ILEC with 50,000 or more access lines that is required to provide
lifeline service to establish an annual marketing budget for promoting, marketing, and
performing outreach regarding lifeline service.

The law requires all funds in the lifeline marketing budget to be spent for promotion,
marketing, and outreach of lifeline services, and prohibits their use for any administrative costs
for lifeline implementation.

This Act creates a Lifeline Advisory Board composed of staff of the PUCO, the OCC,
consumer groups representing low-income constituents, two representatives from the Ohio
Association of Community Action Agencies, and every ILEC with 50,000 or more access lines that is required to implement lifeline service to coordinate all activities relating to the promotion and marketing of and outreach regarding lifeline service, and permits the PUCO to review and approve, in accordance with PUCO rules, the decisions of the advisory board, including decisions on how lifeline promotion, marketing, and outreach services are implemented.

It prohibits ILECs required to implement lifeline service from recovering lifeline marketing, promotion, and outreach expenses from end users.

It permits ILECs required to implement lifeline service to recover from end users of the carriers' telecommunications service other than lifeline service customers, by a method approved by the PUCO, lifeline service discounts and any other lifeline service expenses (except for marketing, promotion, and outreach expenses) that the PUCO prescribes by rule and that are not recovered through federal or state funding, and requires a carrier seeking recovery of these discounts or expenses to apply to the PUCO, in accordance with PUCO rules, for approval of its method of recovery.

The law requires the PUCO, if an ILEC's method of recovery of lifeline discounts or expenses includes a customer billing surcharge, to prescribe how the surcharge is to be identified on customer bills.

It requires every ILEC required to implement lifeline service to file an annual report with the PUCO identifying how many customers receive the service.

Rates, terms, and conditions for certain services

This Act requires that the rates, terms, and conditions for 9-1-1 service provided by a telephone company or a telecommunications carrier, and for carrier access, N-1-1 services (other than 9-1-1 services), pole attachments and conduit occupancy, pay telephone access lines, toll presubscription, and telecommunications relay service, all provided by a telephone company, be approved and tariffed in the manner prescribed by PUCO rule, and be subject to the applicable laws, including PUCO and FCC rules, regulations, and orders.

It permits the PUCO to order changes in a telephone company's rates for carrier access, but specifies that if the PUCO reduces a telephone company's rates for carrier access that are in effect on the Act's effective date, the reduction must be on a revenue-neutral basis under terms and conditions established by the PUCO.

The bill prohibits the PUCO from establishing any requirements for the unbundling of network elements, for the resale of telecommunications service, or for network interconnection that exceed or are inconsistent with or prohibited by federal law. It prohibits the PUCO from establishing pricing for unbundled elements, resale, or interconnection that is not in compliance with federal law.

The law requires a telephone company, except with regard to rate alterations made under the Act's provisions where 30-days notice is required, and except, if applicable, with regard to the Community-voicemail Service Pilot Program, to provide at least 15-days advance notice to its affected customers of any material change in the rates, terms, and conditions of a service and any change in the company's operations “that are not transparent to customers and may impact service.”

This Act requires telephone companies to inform customers of the PUCO's toll-free number and e-mail address on all bills and disconnection notices, and residential customers of the OCC's toll-free number and e-mail address on all residential bills and disconnection notices.

The law authorizes the PUCO to adopt rules requiring telephone companies that provide telephone toll service to offer discounts for operator-assisted and direct-dial services for people
with communication disabilities. It authorizes the PUCO to adopt rules regarding the rates, terms, and conditions of intrastate telecommunications service initiated from an inmate telephone instrument.

Investigations and adjudications

This Act permits the PUCO to investigate or examine the books, records, or practices of any telephone company. It permits any person to file with the PUCO, or the PUCO to initiate, a complaint alleging that any rate, practice, or service of a telephone company other than a wireless service provider is unjust, unreasonable, unjustly discriminatory, or in violation of or noncompliance with any of the Act's provisions or a PUCO rule or order.

The law permits any dispute between telephone companies, between telephone companies and wireless service providers, or between wireless service providers that is within the PUCO's jurisdiction under the Act's provisions, to be brought by a complaint filed under the Act's complaint procedure.

Various telecommunication and other changes

The bill requires every telephone company providing telephone exchange service to maintain access to 9-1-1 service on a residential customer's line for at least 14 days immediately following any disconnection for nonpayment of telephone exchange service.

It requires the PUCO to implement, in at least one urban area and one rural area, a two-year Community-voicemail Service Pilot Program, for those who have no traditional access to telephone service, through a competitive-bidding process for selection of vendors to implement the program, requires the imposition of an assessment on all local exchange carriers for the cost of providing the service, and authorizes forfeitures for carriers who do not comply with the assessment requirements.

The law requires, to the extent they are subject to the PUCO's jurisdiction under the Act's provisions, every telephone company, including every wireless service provider, every telecommunications carrier, and every provider of internet protocol-enabled services, including voice over internet protocol, to comply with every order, direction, and requirement of the PUCO made under authority of the Act's provisions.

It limits the information required in a telephone company's and wireless service provider's annual report to information necessary for the PUCO to calculate the PUCO assessment.

It eliminates authority for the PUCO to require a telephone company to file supplemental reports of each exchange area it owns or operates and eliminates the requirement that the PUCO require such supplemental report if 15% of the subscribers of an exchange request it.

It requires the PUCO to adopt rules that require a telephone company subject to continuing law governing pole attachments and conduit occupancy to include in its annual report information required by the PUCO to calculate pole attachment and conduit occupancy rates and any other information the PUCO determines necessary and requires by rule for the PUCO to fulfill its responsibility under the pole attachment law.

It requires that a telephone company's lines and facilities not unreasonably interfere with the practical uses of the property on which they are located and requires a telephone company to repair defective lines and facilities.

It alters the applicability of telephone law regarding electricity service and automatic package carriers.
It eliminates law that stated that unless otherwise ordered by the PUCO each telephone company must file a copy of any contract, agreement, note, bond, or other arrangement entered into with any telephone management, service or operating company.

The bill eliminates law that required every telephone company to carry a proper and adequate depreciation or deferred maintenance account.

It requires telephone companies to file rate schedules only for the following rates: charges for use of attachment of any wire, cable, facility, or apparatus to its poles, pedestals, or placement of attachments in conduit duct space, basic-local-exchange-service rate changes authorized under the Act, lifeline service, discounts for operator-assisted and direct-dial services for people with communication disabilities, carrier access and other services, inmate telephone instruments, and 911 service.

It establishes requirements regarding the approval of domestic telephone company mergers by the PUCO and provides for the enforcement of PUCO rule violations by the Attorney General and Ohio courts.

The law creates a Select Committee on Telecommunications Regulatory Reform to review the economic benefits of the Act and its impact on jobs, telephone company rates, telephone company quality of service, lifeline program customers, rural markets, rural broadband deployment, the Community-voicemail Service Pilot Program, and carrier access to private property, and requires the Committee to submit a written report of its findings and recommendations to the General Assembly and the Governor no later than four years after the effective date of the Act, at which time the Committee will cease to exist.

The bill requires the PUCO to cooperate with the Committee and provide reports and any other information the Committee requests, and permits the Committee to request assistance from the Legislative Service Commission.

It requires an offender-monitoring device to be designed for electronic monitoring and not be a converted wireless phone or tracking device not designed for this purpose and requires the device to provide a means of text-based or voice communication.

Submitted as:
Ohio
SB 162 (Enrolled version)
Status: Enacted into law in 2010.

Comment:
FOR IMMEDIATE RELEASE
Thursday, June 3, 2010
Contact: Kim Wheeler
(614) 466-8150

BUEHRER’S TELECOM REFORM BILL HEADS TO THE GOVERNOR

Senate Bill 162 modernizes outdated telecom regulations to create more opportunities for high-tech jobs, while protecting Ohio consumers

COLUMBUS

Legislation sponsored by State Senator Steve Buehrer (R-Delta), which modernizes Ohio’s regulation of the changing telecommunications industry, has passed the Ohio General
Assembly and now heads to the Governor for his signature. In Senate Bill 162, Senator Buehrer has worked to put forth a balanced bill that will encourage greater competition between telephone service providers to attract new investments and create jobs, while preserving important protections and services for Ohio consumers.

“Current Ohio law was written to regulate the telegraph and service for grandma’s old black phone on the hallway table, not to account for the hundreds of services available through today’s advanced communication devices. As a result, traditional telephone companies have been subject to rules that don’t apply to their competitors,” Buehrer said. “By leveling the playing field, this bill will encourage advancement and investment in Ohio, leading to new services and products for consumers, as well as a better infrastructure and more good-paying jobs.”

Senate Bill 162 works to revamp much of Ohio’s traditional telecom regulatory framework and moves to a more market-oriented, yet consumer-friendly approach. The bill would eliminate many rules at the Public Utilities Commission of Ohio (PUCO) that are no longer necessary or appropriate in a competitive environment, thereby bringing regulation of traditional telephone service providers more in line with wireless, cable and internet telecommunications companies. The PUCO, however, will continue to regulate basic dial tone telephone service, including access to 9-1-1, operator services and caller ID blocking. It will also maintain its authority over certification of new telephone companies, telephone number administration, local number portability and emergency outage reporting.

Under the bill, telephone services will now be held to standards that closely resemble the Ohio Consumer Sales Practices Act. The PUCO will retain oversight of complaints and investigations.

Also to protect consumers, SB 162 ensures that if a telephone company fails to respond to a customer’s report of an outage within 72 hours, that customer’s account would automatically be credited for one month of service.

To help ensure low-income Ohioans and those in transition have access to basic services, SB 162 would expand the enhanced Lifeline program to include all basic telephone service providers in Ohio. Lifeline helps reduce the cost of basic telephone rates for people at or below 150 percent of the federal poverty level. The bill will also establish a single Lifeline advisory board to handle the promotion, marketing and outreach to ensure increased awareness of those in need of these services.

SB162 also establishes a two-year community voicemail pilot program, administered by the PUCO, to help Ohioans in transition in both rural and urban areas.

“I am pleased that legislators could come together to agree on a regulatory framework that reflects the dramatic changes in technology, puts consumers first and better positions Ohio for economic investment and job creation in a growing field,” Buehrer said.

Upon the Governor’s signature, SB 162 will take effect in 90 days.

Disposition: 15-32B-02
SSL Committee Meeting: 2012B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject
Comments/Note to staff:
This Act requires population counts used to create legislative districts for the U.S. Congress, General Assembly, and county and municipal governing bodies, exclude incarcerated people who were not state residents prior to their incarceration in either state or federal correctional facilities in the state. It also requires that incarcerated people be counted as residents of their last known address before their incarceration in a state or federal facility if they were state residents prior to their incarceration.

Submitted as:
Maryland
Chapter 66 of 2010
Status: Enacted into law in 2010.

Comment:

Disposition:

SSL Committee Meeting: 2012B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This Act defines a vote center as a polling place where a voter who resides in the county in which the vote center is located may vote without regard to the precinct in which the voter resides. This Act establishes vote centers as an option for all counties.

It requires the county election board to adopt an order designating a county a vote center county, adopt a plan to administer the vote centers, and file the order and the plan with the state election division. The bill requires the board to accept and consider public comment before adopting an order designating the county as a vote center county. A plan must provide that at least one vote center be established for early voting on the two Saturdays immediately preceding an election day.

The bill provides that designation of a county as a vote center county remains in effect until the board rescinds the order designating the county as a vote center county and files a copy of the rescission with the election division.

Submitted as:
Indiana
SENATE ENROLLED ACT No. 32
Status: Enacted into law in 2011.

Comment:

Disposition:

SSL Committee Meeting: 2012B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This Act provides that legislative statements of economic interests are not required to report gifts made to the filer or purchases by a lobbyist from the filer's business. It requires legislative branch lobbyists to report such gifts and purchases. The bill requires the state lobby registration commission to compile reports of these gifts and purchases and provide them to the legislator or candidate. It provides that legislators may not accept honoraria for appearances or speeches but may accept payment or reimbursement of travel expenses for appearances or speeches.

The bill reduces the amount of a single gift or expenditure that must be reported by a lobbyist from $100 to $50. It reduces the calendar year threshold of gifts and expenditures that must be reported from $500 to $250. It provides that a lobbyist may not make a gift with a value of more than $50 to a legislative person unless the lobbyist receives the approval of the legislative person before making the gift and informs the legislative person of the cost of the gift the lobbyist wants to make at the time the lobbyist seeks consent to the gift.

The Act provides that a lobbyist may not pay expenses for out-of-state travel for a legislative person with exceptions for public policy meetings approved by speaker of the house of representatives or the president pro tempore of the senate or expenses that are associated with the legislative person's service as an officer, member of the board of directors, employee, or independent contractor of the person paying the expenses.

The law provides that the definition of a legislative branch lobbyist does not include public officials, public employees, or a national organization established for the education and support of legislative leadership, legislators, legislative staff, or related government employees. It requires expenditures that can be clearly and reasonably attributed to a particular legislative person to be reported with respect to that legislative person. It requires that a lobbyist's expenditure report must include expenses for a function or activity to which all of any of the following are invited:

- members of the general assembly;
- members of the house of representatives;
- members of the senate;
- members of a standing or other committee established by the rules of the house of representative or senate;
- members of a study committee, or
- members of a caucus of the house of representatives or the state senate.

The bill establishes rules for reporting an expenditure made by more than one lobbyist, the reporting of expenditures with respect to a particular legislative person, and allocation of expenditures made with respect to several legislative people.

It changes the time during which a lobbyist must report certain expenditures with a legislator from seven days to 15 business days.

The bill increases the daily penalty for failure to file lobbyist registration statements and activity reports from $10 per day to not more than $100 per day. It increases the maximum penalty for failure to file lobbyist registration statements and activity reports from $100 to $4,500.

It defines a conflict of interest for lobbyists and requires lobbyists to file with the lobby registration commission a description of the procedure that will be utilized if conflicts arise. The Act requires the procedure to be incorporated into the lobbyist's contract with clients. It requires the lobby registration commission to make available on the Internet all reports, statements, and
documents filed with the commission and all manuals, indices, summaries, and other documents the commission is required to compile, publish, or maintain.

The Act requires legislative liaisons of agencies in the executive branch of state government and of state educational institutions to report certain expenditures annually to the lobby registration commission. It provides that people who are candidates for election to the general assembly in 2010 may not become a lobbyist or legislative liaison before June 1, 2011. After December 31, 2011, a legislator must wait 365 days after leaving the general assembly before becoming a lobbyist or legislative liaison.

The Act provides that a state elected official may not use their name or likeness in an audio, video, or newspaper publication paid for entirely or in part with appropriations made by the general assembly, regardless of the source of the money. This prohibition does not apply to a communication made by the governor concerning the public health or safety or by a state elected official for a publication that has a compelling public policy reason that is approved by the budget committee and the budget agency.

The bill provides that a state elected official may use the title of the office the state elected official holds in a communication. It provides that elected state officers and candidates for state office may not raise funds during the same period during long session when legislators are barred from fundraising. It removes a requirement that candidates for the general assembly file candidate documents with the circuit court clerk. It requires the circuit court clerk to provide copies of legislative candidacy documents from the election division's or the secretary of state's web site to a person requesting to see these documents.

Submitted as:
Indiana
House Enrolled Act 1001
Status: Enacted into law in 2010.

Comment:

Disposition: 16-32B-03

SSL Committee Meeting: 2012B
( ) Include in Volume
( ) Defer consideration
( ) next task force mtg.
( ) next SSL mtg.
( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This Act allows courts when issuing a civil protection order or emergency protection order to include restraining someone from taking or harming animals owned by the person seeking the order.

Submitted as:
Colorado
SB 10-080 (Enrolled version)
Status: Enacted into law in 2010.

Comment:

Disposition:
SSL Committee Meeting: 2012B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject

Comments/Note to staff:
17-32B-02 Crimes Against Children by People in Positions of Trust

This Act consolidates certain provisions in state law about rape and unlawful sexual conduct into a single crime known as “Sexual Abuse of a Child by a Person in a Position of Trust, Authority or Supervision.” The Act clarifies who is in a position of trust, authority or supervision over a child and is therefore subject to enhanced penalties associated with sexually abusing children. The Act further applies the position of trust classification to other acts of sexual abuse that do not currently have any enhancement when perpetrated by a person in a position of trust. Those include sexual extortion, sexual harassment, and indecent exposure.

Submitted as:
Delaware
CH 318 of 2010
Status: Enacted into law in 2010.

Comment:

Disposition:

SSL Committee Meeting: 2012B
( ) Include in Volume
( ) Defer consideration
( ) next task force mtg.
( ) next SSL mtg.
( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This Act creates a state-wide system to speed the apprehension of violent criminals who kill or seriously injure local, state, or federal law enforcement officers.

Submitted as:
Georgia
**SB 397 (As passed version)**
Status: Enacted into law in 2010.

Comment:

Disposition:

SSL Committee Meeting: 2012B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject

Comments/Note to staff:
The Act regulates civil litigation funding companies doing business in the state. Nonrecourse civil litigation funding means a transaction in which a civil litigation funding company purchases and a consumer assigns the contingent right to receive an amount of the potential proceeds of the consumer’s legal claim to the civil litigation funding company out of the proceeds of any realized settlement, judgment, award, or verdict the consumer may receive in the legal claim.

Submitted as:
Nebraska
LB 1094 (As approved by governor)
Status: Enacted into law in 2010.

Comment:

Disposition:

SSL Committee Meeting: 2012B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This Act amends state law relative to DNA testing, preservation of biological evidence, and other procedures related to criminal investigations. It requires an arresting law enforcement agency to collect a DNA sample from anyone 18 years of age or older who is arrested for a felony offense. If the sample is not collected at the time of arrest, a sample is to be taken at the time of conviction.

This Act expands the categories of convicted felons for whom the DNA application process is available to include;

- convicted felons who were sentenced to a prison term but who have been paroled, are under probation, are under post-release control, or have been released from prison and are under a community control sanction regarding the felony;
- convicted felons who were not sentenced to a prison term or sentence of death, but were sentenced to a community control sanction and are under that community control sanction, or
- convicted felons whose offense was a sexually oriented offense or child-victim oriented offense and who have duties under the Sex Offender Registration and Notification Law relative to the felony.

The bill creates a Preservation of Biological Evidence Task Force within the state bureau of criminal identification and investigation. The task force will consist of officers and employees of the bureau, and representatives from four associations (coroners, prosecutors, chiefs of police, and sheriffs) and the state public defender's office. The task force is charged with establishing a system regarding the proper preservation of biological evidence in the state. Specifically, this means devising standards regarding the proper collection, retention, and cataloguing of biological evidence for certain ongoing investigations and prosecutions and recommending practices, protocols, models, and resources for the cataloguing and accessibility of preserved biological evidence already in the possession of governmental evidence-retention entities.

The Act requires the state division of criminal justice services of the department of public safety, in consultation with the Preservation of Biological Evidence Task Force, to administer and conduct training programs for law enforcement officers and other relevant employees who are charged with preserving and cataloguing biological evidence.

This legislation requires preserving biological evidence for certain specified offenses for certain periods of time by governmental evidence-retention entities. These offenses include aggravated murder, murder, voluntary or involuntary manslaughter, reckless or negligent homicide, aggravated vehicular homicide, rape or attempted rape, sexual battery, and certain cases of gross sexual imposition (generally pertaining to cases where the victim is less than 13 years old). Biological evidence is defined as the contents of a sexual assault examination kit, or any item that contains blood, semen, hair, saliva, skin tissue, fingernail scrapings, bone, bodily fluids, or any other identifiable biological material that was collected as part of a criminal investigation or delinquent child investigation and that reasonably may be used to incriminate or exculpate any person for an offense or delinquent act.

The Act permits a governmental evidence-retention entity that possesses biological evidence to destroy the evidence before the expiration of the applicable period of time only if certain conditions are met. It also provides that, under certain circumstances, a governmental evidence-retention entity may destroy biological material held as evidence five years after a person pleads guilty or no contest to an offense specified by the bill.
The Act allows for the early destruction of biological evidence, after giving notice by certified mail to certain parties, including but not limited to the person who was required to provide a DNA sample, the attorney of record, the state public defender, the prosecutor of record, and the state attorney general.

The Act contains provisions to govern the conduct of lineups for purposes of the identification by an eyewitness of people suspected of committing an offense. It specifies that, prior to conducting any live lineup or photo lineup, any law enforcement agency or criminal justice entity in the state that conducts live lineups or photo lineups must adopt specific procedures for conducting the lineups.

The bill also enables the attorney general to adopt rules prescribing specific procedures law enforcement agencies must follow for photo lineups, live lineups, and showups (an identification procedure in which an eyewitness is presented with a single suspect). The bill asks the state Supreme Court to review existing jury instructions as pertaining to eyewitness identification.

This Act states that when a custodial interrogation for certain offenses occurs in a place of detention, any statements made are considered to be voluntary. If these statements are recorded, the bill requires law enforcement personnel to clearly identify and catalogue every electronic recording of a custodial interrogation and every recording of a part of a custodial interrogation recorded under the audio recording exception. The law enforcement agency must preserve the recording until the later of when all appeals, post-conviction relief proceedings, and habeas corpus proceedings are final and concluded or the expiration of the period of time within which such appeals and proceedings must be brought. Recordings may be discarded if no criminal proceeding is brought against a person who was the subject of the custodial interrogation.

Custodial interrogation is defined as any interrogation involving a law enforcement officer's questioning that is reasonably likely to elicit incriminating responses and in which a reasonable person in the subject's position would consider himself or herself to be in custody, beginning when a person should have been advised of the person's right to counsel and right to remain silent and of the fact that anything the person says could be used against the person and ending when the questioning has completely finished.

Submitted as:
Ohio Substitute Senate Bill Number 77 (Enrolled version)
Status: Enacted into law in 2010

Comment: Read the CSG October 2010 Stateline Midwest article “Protecting the Innocent Ohio” for more information about Ohio SB Sub. S. B. No. 77.
This Act directs that certain criminal case restitution orders include restitution from the offender to the state Medical Assistance Program to pay expenses their victims charged to the program because of the offender’s crime against them.

Submitted as:
Iowa
House File 2307 (Enrolled version)
Status: Enacted into law in 2010.

Comment:

Disposition:

SSL Committee Meeting: 2012B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This Act requires the state department of children and families to get a free credit report for every foster child age sixteen and older and review it for evidence of identity theft. If the department finds such evidence, it must, within five days of receiving the credit report, report this to the chief state's attorney and advise the affected youth and their foster parent, caseworker, and legal representative, if any, about this finding at the youth's next biennial treatment plan meeting. The department must ask for a free credit report within fifteen days after a foster child turns sixteen.

Submitted as:
Connecticut
Public Act No. 10-157
Status: Enacted into law in 2010.

Comment:

Disposition:

SSL Committee Meeting: 2012B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This Act directs the state department of human services to operate a program to identify professional knowledge guidelines and credentials for practitioners serving children and youth. The Act directs the department to award Gateways to Opportunity credentials to early care and education, school-age, and youth development practitioners. The credentials shall validate an individual’s qualifications and shall be issued based on a variety of professional achievements in field experience, knowledge and skills, educational attainment, and training accomplishments. The department must adopt rules outlining the framework for awarding credentials.

Submitted as:
Illinois
Public Act 096-0864
Status: Enacted into law in 2010.

Comment:

Disposition:

SSL Committee Meeting: 2012B
( ) Include in Volume
( ) Defer consideration
(   ) next task force mtg.
(   ) next SSL mtg.
(   ) next SSL cycle
(   ) Reject

Comments/Note to staff:
This Act authorizes a church to provide shelter or housing to homeless people on property owned or controlled by the church whether within buildings located on the property or elsewhere on the property outside of buildings. It prohibits a county, city, or town from enacting an ordinance or regulation or taking any other action that:

- unreasonably interferes with the decisions or actions of a church regarding the location of housing or shelter for homeless people on property the church owns or controls;
- prohibits or attempts to regulate the housing of homeless people on church property based upon the property's proximity to a school or day care center;
- requires a church to maintain property and casualty insurance, or
- requires a church to obtain insurance pertaining to the liability of a municipality with respect to homeless people housed on church property or otherwise requires the church to indemnify the municipality against such liability.

Submitted as:
Washington
Chapter 175, Laws of 2010
Status: Enacted into law in 2010.

Comment:

Disposition:

SSL Committee Meeting: 2012B
(   ) Include in Volume
(   ) Defer consideration
   (   ) next task force mtg.
   (   ) next SSL mtg.
   (   ) next SSL cycle
(   ) Reject

Comments/Note to staff:
The Act defines veteran mentor as an individual who is a veteran, is authorized by a circuit court judge to provide assistance and advice in a Veterans Mentoring Program, has successfully completed judicially approved training, and has completed a background information form approved by a circuit court judge. A Veterans Mentoring Program is a program approved by a circuit court judge to provide assistance and advice about court-related matters to veterans and current members of the Armed Forces.

This Act creates an evidentiary privilege against disclosure of communications made by a veteran to a veteran mentor. That is, a person will have a privilege to refuse to disclose, and to prevent another from disclosing, a confidential communication by the person to a veteran mentor. The privilege may be claimed by the person making the communication, by certain representatives of the veteran, or by the veteran mentor to whom the communication is made.

Submitted as:
Wisconsin
2009 Wisconsin Act 210
Status: Enacted into law in 2010.

Comment:

Disposition:
SSL Committee Meeting: 2012B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject

Comments/Note to staff:
The Act establishes criteria for designating employees in certain state agencies as liaisons to work with faith- and community-based organizations to increase the capacity of those organizations, help promote faith- and community-based initiatives, and foster partnerships between state government and those agencies.

Submitted as:
Texas
HB 492
Status: Enacted into law in 2009.

Comment:

Disposition:

SSL Committee Meeting: 2012B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This Act provides that government may not substantially burden a person’s exercise of religion, even if the burden results from a facially neutral rule or a rule of general applicability, unless it demonstrates that application of the burden to the person is essential to further a compelling governmental interest and is the least restrictive means of furthering that compelling governmental interest. The legislation applies to all state laws and local ordinances. Burdened parties may assert their violation as a claim or defense in judicial proceedings including injunctive/declaratory relief and actual damages including reasonable attorney fees and costs. The bill describes procedures required to bring an action to court. The law provides that it shall not affect, interpret, or in any way address that portion of the First Amendment to the U. S. Constitution.

Submitted as:
Louisiana
Act 793 of 2010
Status: Enacted into law in 2010.

Comment:

Disposition:

SSL Committee Meeting: 2012B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This Act reforms the state’s spousal maintenance awards by providing consistency and predictability in calculating temporary spousal maintenance awards, revising the state's laws on final maintenance awards by incorporating factors that reflect the experiences of divorcing couples. The Act establishes a process for determining the presumptive amount of temporary maintenance awards with factors for deviation where the award is unjust or inappropriate. The Act directs the state Law Revision Commission to assess the economic consequences of divorce on married couples, to review the spousal maintenance laws of the state and to submit a preliminary and a final report to the legislature and the governor with recommendations for revisions to spousal maintenance laws.

Submitted as:
New York
Chapter 371 of 2010
Status: Enacted into law in 2010.

Comment:

According to a New York legislative analysis:

JUSTIFICATION:
Serious concerns have been raised regarding our divorce laws and the ineffectiveness of New York State's spousal maintenance provisions in achieving fair and equitable outcomes for divorcing couples post divorce. Spousal maintenance is often not granted, and where it is granted, the results are inconsistent and unpredictable. In other cases, individuals forego maintenance because the process of obtaining it is too complex.

In its review of our state's divorce laws, the Matrimonial Commission, established in 2004, by then Chief Judge Judith Kaye, that included in its 32 member body, judges, and members of the private and non-profit bar, found that there was significant dissatisfaction by the public and the bar with respect to maintenance awards and the perception that these awards vary unpredictably from court to court with little or no guidance, often resulting in feelings of injustice and unequal treatment.

Families often do not have substantial assets to divide upon the dissolution of a marriage - the greatest asset of the marriage is frequently the income of the more-monied spouse. The less-monied spouse often invests time and energy supporting their spouse's career, raising the children, and taking care of the home. Current law is based on an un-prioritized list of factors and does not provide adequate guidance on how to consider each of these factors, resulting in varying monetary and durational awards for couples with similar incomes and similar length of marriage. This lack of consistency and predictability in maintenance awards undermines confidence in the judicial system and encourages costly litigation by impeding the settlement of cases.

Addressing some of these concerns, some states have adopted numerical guidelines for calculating temporary maintenance awards. Some formulas have a long history; for example, California's formula has been in place since 1977 and Pennsylvania's has been in place since 1989. This measure would create numerical guidelines for calculating the presumptive amount of the temporary maintenance awards with deviation factors to be employed by the court in its discretion where the presumptive amount of the award is unjust or inappropriate. These deviation
factors include a catch-all “any other factor” that the court may apply if it chooses to adjust the presumed award. The numerical guidelines proposed in this measure are similar to the recommendations of the American Academy of Matrimonial Lawyers based on their study of approaches in numerous jurisdictions across the country. The duration of the temporary award under this measure would be determined by considering the length of the marriage. However the temporary award would end upon the issuance of the final award or the death either party, whichever occurs first.

The temporary maintenance guidelines would only result in an award when there is an income gap between the two parties such that the less-monied spouse's income is less than two thirds of the more-monied spouse's income. For instance, if the payor's annual income is $90,000 a year, the guidelines will only result in an award if the payee's annual income is less than $60,000. The numerical guideline is only applied to the payor's income up to $500,000 of her/his income, with a set of factors to be applied by the court to determine any additional amount of temporary maintenance on the payor's income above this $500,000 cap. The guidelines also include protections for individuals whose annual income is less than the self-support reserve (135% of the Federal Poverty Guidelines - currently $14,620/year).

To determine the guideline amount, the court must compare two calculations of the spouses' annual incomes. For both of these calculations, any income of the payor's that exceeds $500,000 is not included.

* 30% of the payor's income minus 20% of the payee's income, OR
* 40% of the combined income of the two spouses. The payee's income is then subtracted from this figure.

The court must select the lesser of these two figures as the guideline amount. If the payor has an annual income exceeding $500,000, the judge may adjust the amount. This proposal would provide consistency and predictability for temporary maintenance awards similar to the child support guidelines in the Child Support Standards Act. It would also help bring parties to the table and facilitate settlement of cases.

This measure does not make any statutory change to the current law on determining final or post-divorce maintenance awards, except for revising the statutory factors to better reflect divorcing couple's life circumstances. The amount and duration of the final or post-divorce maintenance awards would still be determined based on a list of statutory factors.

While adopting numerical guidelines for temporary maintenance awards would be a tremendous step toward addressing the concerns raised about the state's maintenance laws, by providing consistency; predictability and bringing parties to the table as a starting point for settlement, there is a continuing need to assess the state's maintenance laws to ensure that the economic consequences of a divorce are fairly and equitably shared by the divorcing couple upon divorce.

This measure would charge the New York State Law Revision Commission to undertake an in-depth review and assessment of the economic consequences of divorce on the parties, along with an in-depth review and assessment of the maintenance law of our state. This proposal further charges the Commission to make recommendations, including revisions to the law, to help guide the legislature in arriving at a resolution to improve the effectiveness of our spousal maintenance laws in furtherance of achieving the state's policy goals of ensuring that parties and their children do not fall into poverty post divorce and that the economic consequences of a divorce are fairly and equitably shared by a divorcing couple.
Disposition: 19-32B-02

SSL Committee Meeting: 2012B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This Act enables a putative father’s name to be put on a birth certificate if paternity has been otherwise determined by a court of competent jurisdiction or the child's mother, mother's husband, and putative father complete an affidavit acknowledging paternity. The affidavit must contain the following information:

- a sworn statement by the mother consenting to the assertion of paternity by the putative father and declaring that the putative father is the child's natural father;
- a sworn statement by the putative father declaring that he believes he is the natural father of the child;
- a sworn statement by the mother's husband consenting to the assertion of paternity by the putative father;
- information explaining in plain language the effect of signing the affidavit, including a statement of parental rights and responsibilities and an acknowledgment of the receipt of this information;
- the social security numbers of the putative father, mother, and mother's husband, and
- the results of a DNA test that has confirmed the paternity of the putative father.

Submitted as:
North Carolina
SESSION LAW 2009-285
Status: Enacted into law in 2009.

Comment:

Disposition:

SSL Committee Meeting: 2012B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This Act directs local school boards to annually evaluate all teachers and administrators regardless of years of employment in such positions. It requires that beginning teachers be provided with professional development opportunities and assistance designed to enhance teaching competencies in accordance with state board of elementary and secondary education rules and regulations.

The bill provides that the elements of evaluation and standards for effectiveness shall be defined by the board by rule and that such rules shall require local evaluation plans contain specified minimum elements. It requires by the 2012-2013 school year, 50% of each evaluation shall be based on evidence of growth in student achievement using a value-added assessment model as determined by the board for grade levels and subjects for which value-added data is available.

The legislation requires the board to establish measures of student growth for grade levels, subjects, and personnel for which value-added data is not available. It provides such measures take into account certain student factors, including but not limited to special education, eligibility for free or reduced price meals, student attendance, and student discipline. The legislation requires the board develop and adopt a policy to invalidate such student growth data for teachers for temporary school closures due to natural disasters or other unexpected events. It requires the board determine a standard for highly effective teachers for use by local school boards.

Submitted as:
Louisiana
Act 54 of 2010
Status: Enacted into law in 2010.

Comment:

May 27, 2010
Governor Jindal Signs Groundbreaking Teacher Evaluation Bill into Law

BATON ROUGE – Today, Governor Bobby Jindal announced that he has signed HB 1033 by Rep. Frank Hoffman into law which enacts the use of value-added data to improve teaching, student achievement, and communication about school performance.

Governor Jindal said, “Louisiana has taken a huge step forward today in ensuring that every child is taught by an effective teacher and that every public school is led by effective instructional leaders. This groundbreaking law will incorporate student growth data as a component of teacher and administrator evaluations – and this evaluation system will enable school districts to identify and reward highly effective teachers and deliver targeted professional development to teachers and school leaders who need it. The data used in this evaluation system will also account for a portion of schools’ performance scores in our accountability system, giving credit to all schools for the hard work they have put into improving student achievement.”

Specifically, this new law calls for value-added assessment and works by establishing expectations for what students should learn throughout the year. Actual performance of students is then assessed and results are compared to what students with similar characteristics statewide learn on average. This model helps to identify teaching strengths and weaknesses so that teachers
can be rewarded for strong performance and receive targeted professional development if they need help improving their instructional techniques.

Rep. Frank Hoffman said, “Value-added or student growth data is used to more accurately measure student growth, but it is also a powerful tool for teachers and school administrators. Incorporating this important information into their evaluations gives us an objective way of measuring their effectiveness and recognizing their hard work in a very positive way.”

Governor Jindal worked with the Legislature to provide $580,000 in Fiscal Year 2010 for the Louisiana Department of Education to develop a value-added assessment system for practicing teachers.

The new law will require the use of value-added assessment data by 2011-2012 for school accountability and by 2012-2013 for teacher and administrator evaluations. School performance will no longer be measured solely by comparing one year of student test scores to the previous year’s scores. With this new component, performance will be measured in a more reliable way, taking into account how well students meet growth expectations.

Teacher evaluations in all public schools, including charter schools, will be based at least at 50 percent on growth in student achievement using the value-added assessment model. For grades and subjects for which value-added data is not available, the State Board of Elementary and Secondary Education will adopt policies to measure student growth. Both will be developed and implemented based on recommendations from an advisory committee comprised of a majority of practicing classroom educators.

School governing authorities will be required to evaluate all teachers and administrators yearly and make school-level effectiveness data – student achievement growth data that comprise 50 percent of the evaluation - available to the public.

Disposition: 20-32B-01

SSL Committee Meeting: 2012B
( ) Include in Volume
( ) Defer consideration
  ( ) next task force mtg.
  ( ) next SSL mtg.
  ( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This Act amends state law to:

- modify the definition of harassment, intimidation, and bullying;
- provide additional details about procedures for reporting and investigating cases of harassment, intimidation, and bullying that must be included in school districts’ policies;
- require schools to implement, document, and assess bullying prevention programs or approaches;
- stipulate that a school principal appoint a school staff member to serve as the school’s anti-bullying specialist and to form a school safety team that includes the principal (or the principal’s designee), a teacher, the anti-bullying specialist, a parent, and anyone else chosen by the principal;
- require that the school district superintendent appoint, preferably from among current personnel, an anti-bullying coordinator;
- provide for more frequent reporting of incidents of harassment, intimidation, and bullying to the district board of education and requires the inclusion of data on harassment, intimidation, and bullying in the School Report Card and the violence, vandalism, and substance abuse report issued annually by the state department of education;
- establish harassment, intimidation, and bullying training requirements for teachers, as part of their two hour training requirement in suicide prevention, new school board members, school leaders, safe schools resource officers and public school liaisons to law enforcement, and individuals seeking certification in instruction or administration;
- require the department of education develop guidance documents explaining how complaints regarding harassment, intimidation, and bullying are to be resolved, establish in-service workshops to train anti-bullying specialists and coordinators, and create an Internet based tutorial on harassment, intimidation, and bullying;
- direct the commissioner of education to establish a formal protocol for the executive county superintendents of schools to address complaints of harassment, intimidation, and bullying incidents not being adequately addressed by schools and districts;
- create a Bullying Prevention Fund within the department of education for the purpose of providing grants for training related to harassment, intimidation, and bullying prevention, and
- require public institutions of higher education to adopt a policy in the code of student conduct prohibiting harassment, intimidation, and bullying.

Submitted as:
New Jersey
P.L.2010, CHAPTER 122
Status: Enacted into law in 2011.

Comment:
This Act requires school districts to revise their codes of conduct and adopt policies intended to create a school environment free from harassment and discrimination. School districts must also adopt guidelines to be used in school training programs to raise awareness and sensitivity of school employees to these issues and to enable them to respond appropriately and designate at least one staff member in each school to be trained in non-discriminatory instructional and counseling methods and handling human relations.

The Act defines harassment as creating a hostile environment that unreasonably and substantially interferes with a student's educational performance, opportunities or benefits, or mental, emotional or physical well-being, or conduct, verbal threats, intimidation or abuse that reasonably causes or would reasonably be expected to cause a student to fear for their physical safety.

The bill prohibits harassment and discrimination of students with respect to certain non-exclusive protected classes, including, but not limited to, a student’s actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender or sex.

Submitted as:
New York
Chapter 482 of 2010
Status: Enacted into law in 2010.

Comment:

Disposition: 20-32B-02A
SSL Committee Meeting: 2012B
( ) Include in Volume
( ) Defer consideration
( ) next task force mtg.
( ) next SSL mtg.
( ) next SSL cycle
( ) Reject
Comments/Note to staff:

Disposition: 20-32B-02B
SSL Committee Meeting: 2012B
( ) Include in Volume
( ) Defer consideration
( ) next task force mtg.
( ) next SSL mtg.
( ) next SSL cycle
( ) Reject
Comments/Note to staff:
This Act defines a college partnership laboratory school as a public, nonsectarian, nonreligious school established by a public institution of higher education that operates a teacher education program approved by the state board of education.

The Act authorizes college partnership laboratory schools to:

- stimulate the development of innovative programs for preschool through grade 12 students;
- provide opportunities for innovative instruction and assessment;
- establish alternative student instruction and school scheduling, encourage the use of performance-based educational programs;
- establish high standards for both teachers and administrators;
- encourage greater collaboration between educators from preschool to the postsecondary level, and
- develop models for replication in other public schools.

Submitted as:
Virginia
Chapter 871 of 2010
Status: Enacted into law in 2010.

Comment:

Disposition:

SSL Committee Meeting: 2012B
( ) Include in Volume
( ) Defer consideration
(    ) next task force mtg.
(    ) next SSL mtg.
(    ) next SSL mtg.
(    ) next SSL cycle
(    ) Reject

Comments/Note to staff:
This Act establishes an Open Education Curriculum Board to designate qualifying entities as Open Education Consortiums and set the standards to submit education materials and subsequent licensing of educational curriculum developed by the consortiums. Materials submitted to a consortium can be edited in any manner and released under a Creative Commons license or licensed for use as a commercial product, subject to restrictions developed by the board. Consortia may offer incentives to encourage people to submit educational materials to the consortium.

Submitted as:
Virginia
Chapter 787 of 2010
Status: Enacted into law in 2010.

Comment:

Disposition:

SSL Committee Meeting: 2012B
( ) Include in Volume
( ) Defer consideration
  ( ) next task force mtg.
  ( ) next SSL mtg.
  ( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This Act promotes and encourages the use of 529 savings plans by adults already in the workforce (lifelong learners) and creates a new state income tax deduction. It directs the nonprofit entity within the state department of education that manages 529 plans to develop procedures to allow an employer to make a matching contribution to a lifelong learner's account for any contribution made by the lifelong learner. Adult lifelong learners may deduct any amount received as employer matching contributions from state income taxes. The bill directs that proceeds from the sale of student loans held by the state department of higher education will be used to offset the revenue impact of the new deduction.

Submitted as
Colorado
SB10-202
Status: Enacted into law in 2010.

Comment:

Disposition:

SSL Committee Meeting: 2012B
( ) Include in Volume
( ) Defer consideration
( ) next task force mtg.
( ) next SSL mtg.
( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This Act creates an Alternative School Funding Model pilot program to encourage school districts and charter schools to test alternative models of school funding by collecting data to show the effects a model would have if it were implemented, while continuing to receive actual funding. The Act encourages school districts and charter schools to consider funding models that may address, at a minimum, the unique challenges of funding students who are significantly at risk of academic failure, students who are gifted and talented, students enrolled in on-line programs, students who return to public school after dropping out, and students concurrently enrolled in high school and higher education classes. School districts and charter schools are also encouraged to consider models of education funding based on achievement rather than attendance or hours of participation.

The Act creates an advisory council to review applications submitted by school districts and charter schools to participate in the pilot program and recommend applicants to the state board of education for selection. The state board will select the participants.

A participating school district or charter school may request waivers of certain education statutes. The state board may grant such waivers except those that establish performance targets or statutes pertaining to licensure, evaluation, or employment of teachers. Any waivers the state board grants expire if the pilot program is repealed.

A participating school district or charter school must participate in the pilot program for a minimum of two school years and annually submit to the advisory council the data it collects about funding.

The advisory council must submit to the state board, the governor, and the general assembly an annual summary report of the data received from the pilot program participants.

The advisory council and participating schools can accept and expend gifts, grants, donations, and services in kind to offset the costs incurred to implement the pilot program.

Submitted as:
Colorado
Chapter 174 of 2010
Status: Enacted into law in 2010.

Comment:

Disposition:

SSL Committee Meeting: 2012B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This Act directs each local school administrative unit to provide a reproductive health and safety education program to students starting in the seventh grade. The program must teach that abstinence from sexual activity outside of marriage is the expected standard for all school-age children. It must present techniques and strategies to deal with peer pressure and offering positive reinforcement. It must outline reasons, skills, and strategies for remaining or becoming abstinent from sexual activity. It must teach that abstinence from sexual activity is the only certain means of avoiding out-of-wedlock pregnancy, sexually transmitted diseases when transmitted through sexual contact, including HIV/AIDS, and other associated health and emotional problems.

Submitted as:
North Carolina
Session Law 2009-213
Status: Enacted into law in 2009.

Comment:

Disposition:

SSL Committee Meeting: 2012B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This Act authorizes two or more school districts and an area education agency to establish innovation zone schools. The goals of such schools are to encourage diverse approaches to learning and education within individual schools. Like charter schools, these schools are exempted from certain state rules and regulations governing traditional public schools.

The Act directs the department of education to require a school district with one or persistently lowest-achieving schools to implement one or more of the four interventions mandated by the U.S. Department of Education. The school district and the employee organization representing the school district's teachers must meet at reasonable times to negotiate a memorandum of understanding (MOU) that contains an agreement on the specific intervention to be implemented and a provision stating that the terms of any collective bargaining agreement between the parties shall remain in effect and unaltered except as specifically agreed to in the MOU. If the parties are unable to reach an agreement within 45 days, they must pursue mediation. If mediation fails after 30 days, the school district is barred from receiving any federal school improvement funds for persistently lowest-achieving school.

The Act adds a provision to state law that a charter school contract may be revoked when an assessment of student progress administered in accordance with state and locally determined indicators does not show improvement in student progress over that which existed in the same student population prior to establishment of the charter school.

Submitted as:
Iowa
**Senate File 2033**
Status: Enacted into law in 2010.

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This Act allows for waivers to certain state laws, rules and policies to give teachers and principals greater local control over the curriculum, schedule and staffing in their schools. Schools designated as Innovation Zones essentially become learning laboratories with the flexibility to try innovative teaching strategies.

Submitted as:
West Virginia
**HB 109 (Enrolled version)**
Status: Enacted into law in 2009.
Comment:
This Act requires hospitals and certain health clinics which use Computed Tomography (CT) X-ray systems for human use to record the dose of radiation on every CT study produced during the administration of a CT examination. The Act requires such doses be verified annually by a medical physicist unless the facility is accredited. The Act directs that beginning July 1, 2013, facilities that furnish CT X-ray services must be accredited by an organization that is approved by the federal Centers for Medicare and Medicaid Services, the state medical board, or the state department of public health.

Submitted as:
California
**CH 521 of 2010**
Status: Enacted into law in 2010.

Comment:

Disposition:

SSL Committee Meeting: 2012B
( ) Include in Volume
( ) Defer consideration
    ( ) next task force mtg.
    ( ) next SSL mtg.
    ( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This Act changes the way insurance companies give incentives or rewards for participating in a wellness and prevention program. The Act allows such incentives and rewards to be based on satisfying a standard related to a health risk factor if the incentive or reward is consistent with the nondiscrimination requirements of the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA). Health risk factors include health behaviors such as smoking, diet, alcohol consumption, exercise, and exposure to UV radiation.

General requirements for wellness programs that base an incentive or reward on satisfying a standard related to a health risk factor are:

- the incentive or reward is reasonably related to the wellness and prevention program and does not exceed 20 percent of the cost of employee-only coverage;
- the wellness program is consistent with evidence-based research, has a reasonable likelihood of improving health, contains culturally and linguistically appropriate programs and materials, and is not overly burdensome;
- the wellness program must give individuals eligible to participate the opportunity to qualify for the incentive or reward upon enrollment and at least once per year thereafter;
- the program must be available to all similarly situated individuals and must allow a reasonable alternative standard, and
- the incentives or rewards are not based on a person’s health status.

Insurance companies must submit proposed incentives or rewards to a nationally recognized nonprofit entity that accredits wellness programs for review and determination as to whether the HIPAA and bill requirements are met.

Submitted as:
Colorado
HB10-1160 (Enrolled version)
Status: Enacted into law in 2010.

Comment:

Disposition:

SSL Committee Meeting: 2012B
(  ) Include in Volume
(  ) Defer consideration
    (  ) next task force mtg.
    (  ) next SSL mtg.
    (  ) next SSL cycle
(  ) Reject

Comments/Note to staff:
This Act directs the executive director of the state department of health care policy and financing to establish a task force of industry and government representatives to develop a standardized set of payment rules and claim edits to be used by payers and health care providers in the state. The task force is to work in tandem with a national initiative.

The executive director must designate a nonprofit or private organization to prepare an operating budget and serve as the custodian of funds for the task force. This organization is authorized to solicit and collect monetary, and in-kind gifts, grants, and donations to fund the task force. If sufficient funding is not received by June 30, 2012, the Act will not be implemented.

The task force is to report its recommendations to the executive director of the department and the General Assembly by November 30, 2012. If the national initiative is successful in developing a complete or partial set of standardized payment rules and claim edits that the task force determines to be in the best interests of the state, the task force shall recommend that they be implemented in the state. Commercial health plans will have until January 1, 2014, and nonprofit health plans will have until January 1, 2015, to implement the rules and edits. If the national initiative fails to reach consensus, the task force will continue to develop rules and edits to be implemented by January 1, 2015, by commercial health plans and January 1, 2016 by nonprofit health plans. In this instance, if national standards are identified later, payers in the state will have 24 months in which to comply with those standards.

As part of its recommendations, the task force is to address implementation, updating, and dissemination of the standardized set of payment rules and claim edits, including identifying who is responsible for establishing a central repository for the rules and edits.

Submitted as:
Colorado
HB 10-1332 (Enrolled version)
Status: Enacted into law in 2010.

Comment:

Disposition:

SSL Committee Meeting: 2012B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This Act authorizes hospital pharmacists to collaborate with members of the medical staff in certain institutions about drug therapy management for patients in those institutions.

Submitted as:
Georgia
House Bill 361 (AS PASSED HOUSE AND SENATE)
Status: Enacted into law in 2010.

Comment:

Disposition:

SSL Committee Meeting: 2012B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This Act requires a physician or physician's assistant treating a person fifteen years or younger to have another adult in the room when that child is disrobed, partially disrobed or otherwise undergoing certain physical examinations. That additional adult may be either a family member or other caretaker, or an adult staff member, or colleague of the licensee.

Submitted as:
Delaware
HB 456
Status: Enacted into law in 2010.

Comment:

Disposition:

SSL Committee Meeting: 2012B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This Act directs that no health care plan required to be established in the state through an exchange pursuant to federal health reform legislation enacted by the 111th Congress shall offer coverage for abortion services.

Submitted as:
Louisiana
Act 941 of 2010
Status: Enacted into law in 2010.

Comment:

Disposition:

SSL Committee Meeting: 2012B
( ) Include in Volume
( ) Defer consideration
  ( ) next task force mtg.
  ( ) next SSL mtg.
  ( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This Act defines a health care clearinghouse and a standard transaction. It requires health care providers, clearinghouses, and group purchasers to provide a standard, electronic acknowledgment when processing health care claims, payments and remittances. It limits who can impose fees on such transactions.

The law requires health care clearinghouses to use suitable tracking mechanisms when processing certain electronic transactions and to provide instructions to respond to questions from providers and group purchasers about processing electronic transactions.

It generally requires health care clearinghouses to make and provide electronic connections with other clearinghouses or trading partners that request a connection and that meet the standard business terms and conditions of the clearinghouse.

The Act states that acceptance of a compliant standard transaction may not be contingent on the purchase of additional services and that a clearinghouse may not condition acceptance of a compliant standard transaction to pay for an additional service.

It permits the state insurance commissioner to require information and data from clearinghouses to ensure that requirements of the Act are met. It requires clearinghouses with websites to post, maintain, and regularly update their websites’ point-of-contact information and other information needed to obtain answers to questions or to conduct business. It requires all clearinghouses provide timely, clear, accurate, reliable information to their clients, potential clients, or interested parties regarding their products or services, and other business and services information.

Submitted as:
Minnesota
Chapter 243 of 2010
Status: Enacted into law in 2010.

Comment:

Disposition:

SSL Committee Meeting: 2012B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This Act establishes criteria to require companies that discontinue a particular class or group health insurance policy continue the same benefits to policy holders of the discontinued policy who have serious medical conditions and would lose such benefits when their policy is discontinued.

Submitted as:
New York
Chapter 398 of 2010
Status: Enacted into law in 2010.

Comment:

August 19, 2010
Governor Paterson Signs “Ian's Law” to Enhance Health Insurance Protections

Governor David A. Paterson today announced he has signed “Ian’s Law” into law, which will enhance protections for consumers in case a health insurer or health maintenance organization (HMO) discontinues a class of policies or contracts. Governor Paterson was joined by the Pearl family, Senator Eric Schneiderman and Assemblyman Daniel O'Donnell in highlighting the passage and enactment of this legislation.

“With this legislation, New York consumers have one more weapon in their arsenal of legal defenses against unscrupulous insurance practices,” Governor Paterson said. “Inspired by Ian's courageous fight, this law fortifies consumer protections in the event a health insurer terminates coverage without offering replacement. Namely, this law will prevent insurance companies from discontinuing an entire class of policies as a pretext to avoid paying one person's medical claims.”

Bill S.6263-C/A.9243-B, known as “Ian's Law,” will amend the New York State Insurance Law to require insurers to certify the following to the Superintendent of Insurance:
Written notice of pending discontinuation has been provided to all insured individuals covered by a group plan at least 90 days prior to the date of discontinuation of coverage;
All policyholders under a discontinued plan have been sufficiently notified of their option to purchase alternative, replacement health insurance products offered by the insurer; and a group plan has not been discontinued specifically to drop an individual high-cost policyholder from the plan.

This bill, effective January 1, 2011, also establishes a review process for the Superintendent to ensure that policyholders with serious medical conditions who have utilized related insurance benefits in the 12-month period preceding the discontinuation of their group plan keep their present coverage if similar coverage is not made available in the insurer's replacement plan. It will not affect State finances.

Senator Eric Schneiderman said: “Because of Ian Pearl and his courageous family, New York State is now putting patients before insurance company profits. The practice of terminating an insurance policy line as a pretext to dropping coverage for individuals who need it most is not only unconscionable – it's a matter of life and death. Ian's Law holds the insurance industry accountable and protects patients like Ian – and other families who have played by the rules – from being thrown off when they get sick. This is a major breakthrough for patients' rights.”
Assemblyman Daniel O'Donnell said: “Ian's Law closes the loophole that has endangered the lives of so many vulnerable New Yorkers like Mr. Ian Pearl, and allows our State to protect these individuals from the abuses of insurance companies. Contrived money-making schemes must not dictate who receives medical coverage.”

The legislation resulted from the experience of Ian Pearl, who suffers from muscular dystrophy and requires 24-hour nursing care. While Ian’s insurer initially provided coverage for 24-hour care, the insurer later terminated the coverage without providing a replacement policy that covered Ian for this treatment. In response, Mr. Pearl and his family filed a lawsuit against his insurer, advocating for the rights of the insured at a time when the national discussion of federal health care reform has focused intensely on the relationship between insurers and their customers. Although the court upheld the discontinuance, Ian's lawsuit against his insurer later revealed that the group health plan through which his coverage was provided was cancelled as a pretext for discontinuining his high-cost coverage.

New York State has been a leader in consumer protections, due to Governor Paterson's efforts throughout his term. In June 2010, the Governor signed his Program Bill No. 278, which is part of his successful health insurance reform agenda and requires health insurers and HMOs to make an application to the Insurance Department to implement premium increases.

Disposition: 21-32B-08

SSL Committee Meeting: 2012B
( ) Include in Volume
( ) Defer consideration
    ( ) next task force mtg.
    ( ) next SSL mtg.
    ( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This Act makes it unlawful for any person to solicit or receive remuneration in return for referring any individual to a person for the furnishing of any item or service subject to reimbursement by Medicaid, or in return for purchasing, leasing, ordering any good, facility, service or item subject to reimbursement by Medicaid. It also makes it unlawful to offer or pay remuneration for such referrals or purchases, leases or orders and specifies exceptions.

Submitted as:
North Carolina
SESSION LAW 2010-185
Status: Enacted into law in 2010.

Gov. Perdue signs new law to fight Medicaid fraud, kickbacks

Gov. Bev Perdue today signed Senate Bill 675, the Medicaid Anti-Kickback law, part of her proposed package of initiatives to fight fraud, waste and abuse in the state’s Medicaid system. These actions, announced in the spring with Department of Health and Human Services Secretary Lanier Cansler and included in the governor’s budget and legislative package, could potentially save millions by ferreting out unethical providers that bill Medicaid for services their patients did not need.

Officials with the state Medicaid office have identified the unethical – and illegal – scheme of providing kickbacks to patients who come in to a provider’s office for Medicaid-eligible services. The providers, who give out such freebies as turkeys, appliances, even cash, encourage patients to use services they do not need. The provider then files for Medicaid reimbursement.

“In tough economic times, we have an obligation to save every penny possible for the most crucial, essential services that are truly needed by our Medicaid patients,” said Gov. Perdue. “Those unscrupulous providers who defraud the state and cost us millions every year won’t be tolerated. This law is just another way we will fight Medicaid fraud, waste and abuse – another way we are setting government straight.”

The first kickback cases were identified as early as 2005, and this practice is recognized as a national problem. In North Carolina, cases include:
- A pharmaceutical supply company that paid kickbacks to nursing homes in exchange for referrals to the company for drug purchases. Amount recovered: $2.8 million.
- A pharmaceutical manufacturer that paid physicians to prescribe the company’s drugs. Amount recovered: $8.8 million.
- Another pharmaceutical manufacturer that paid physicians to prescribe its drug for uses not approved by the FDA. Amount recovered: $40,980.
The DHHS is already acting on a series of initiatives announced by Gov. Perdue in March. They include stronger investigation and prosecution of potential abusers, new Medicaid SWAT teams, better use of technology to detect and prevent abuse, and a campaign to encourage the public and providers to report suspected abuse. The Medicaid fraud prosecution unit under the Attorney General nearly doubled thanks to the Governor’s proposals, and the savings to the state are expected to be in the millions of dollars.

Disposition: 21-32B-09

SSL Committee Meeting: 2012B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This Act enables caregivers to consent to medical care of minors under their care under certain conditions. The Act defines caregivers as any person at least eighteen years old and is related by blood, marriage or adoption to the minor, but who is not the legal custodian or guardian of the minor; or has resided with the minor continuously during the immediately preceding period of six months or more.

This bill details duties of health care facilities or practitioners concerning caregiver consent. It provides requirements for Affidavits of Caregiver Consent and for revoking or terminating consent.

Submitted as:
West Virginia
Enrolled Committee Substitute for HB 4374
Status: Enacted into law in 2010.

Comment:

Disposition:

SSL Committee Meeting: 2012B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This Act directs that no person shall perform or induce or attempt to perform or induce an abortion upon a woman when it has been determined, by the physician performing or inducing the abortion or by another physician upon whose determination that physician relies, that the probable post fertilization age of the woman’s unborn child is twenty or more weeks unless, in reasonable medical judgment she has a condition which so complicates her medical condition as to necessitate the abortion of her pregnancy to avert her death or to avert serious risk of substantial and irreversible physical impairment of a major bodily function or it is necessary to preserve the life of an unborn child.

Submitted as:
Nebraska
LB 1103
Status: Enacted into law in 2010.

Comment:

Disposition:

SSL Committee Meeting: 2012B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This Act requires a medical facility in which abortions, other than those necessary to prevent the death of the mother, are performed to post a sign stating that it is against the law for anyone, regardless of their relationship to the pregnant woman, to coerce her into having an abortion or to perform an abortion on her against her will. The Act contains provisions for the format of such signs and requirements about where to place such signs. It creates a civil penalty of $2,500 for a facility that fails to post the required signage and establishes that each day an abortion is performed in which the facility has not met the signage standards is considered a separate violation.

Submitted as:
Tennessee
Public Chapter 790 of 2010
Status: Enacted into law in 2010.

Comment:

Disposition:

SSL Committee Meeting: 2012B
(  ) Include in Volume
(  ) Defer consideration
   (  ) next task force mtg.
   (  ) next SSL mtg.
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(  ) Reject

Comments/Note to staff:
This Act empowers the department of economic development and commerce, through the Puerto Rico Motion Picture Arts, Sciences, and Industry Development Corporation, to grant incentives to develop a world-class film and television industry in Puerto Rico and to build state-of-the-art production facilities in Puerto Rico.

Generally, anyone engaged in an “Infrastructure Project” or “Film Project” can apply for a grant under the Act. The Act generally defines “Infrastructure Project” as developing or expanding studios, labs, or other facilities to internationally transmit television images or other media. It includes special provisions for a “Large-Scale” studio, which is a comprehensive purpose-built, high-capacity film and television production studio developed and operated within a “Film Development Zone” created under the Act. “Film Project” means:

- Feature length films;
- Short films;
- Documentaries;
- Series in episodes, miniseries and television programs of a similar nature, including pilots;
- Music videos;
- National and international commercials;
- Video games;
- Recorded live performances, and
- Original soundtrack and dubbing recordings for any of the above.

The Act directs the secretary of development and secretary of the treasury to develop regulations and criteria to apply for and award a grant. These include:

- The possibility that, in the absence of the incentives granted by this Act, a project would be undertaken in a location other than Puerto Rico;
- The extent to which a project promotes Puerto Rico as a tourist destination;
- The extent to which a project promotes economic development and creates jobs in Puerto Rico;
- The extent to which the tax incentives granted by this Act to a project attracts private investment to Puerto Rico;
- The record of the person applying for a grant for keeping their commitments to other grants and projects, and
- Other factors established by the secretary of development necessary to further the best interests of Puerto Rico.

Grants issued under the Act are considered contracts between the grantee, its stockholders, members, investors, partners and/or owners, and the government of Puerto Rico. Such contracts shall be considered the law between the parties.

Grantees are eligible for a variety of tax benefits under the Act. These include tax credits, exemptions from income taxes, exemptions from taxes on dividends, and exemptions from municipal taxes on real and personal property. Film project grantees must pay a fee equal to one percent of the Puerto Rico Production Expenses qualifying for a credit. Fees will go into a special fund set up by the Act to help pay to administer the Act. Puerto Rico Production Expenses are payments made to Puerto Rico residents and nonresident talent for services physically performed in Puerto Rico that are directly attributable to the preproduction, production and postproduction of a Film Project. The Act requires grantees be audited to ensure they make appropriate payments to Puerto Rico.
This Act authorizes the secretary of development to designate a parcel or parcels of land as a Film Development Zone. Such geographical area shall consist of real property acquired to develop, construct and operate a Large-Scale Studio as defined in the Act and related developments consistent with the purposes of and as provided in this Act. Parcels of land designated or to be designated as forming part of a Film Development Zone owned by the government of Puerto Rico shall be transferred upon such consideration, terms and/or conditions as agreed to by the owner of the parcels in question and the secretary of development.

Upon establishment of a Film Development Zone, the secretary of development, together with the President of the Puerto Rico Planning Board shall promulgate and adopt a joint zoning regulation that shall govern all development and land use within the parcels of land designated by the secretary as a Film Development Zone. All development and land use within the Film Development Zone will then be governed only by such joint zoning regulation and shall not be subject to any other existing zoning law, rule, regulations, policy, norm or guideline issued by the Puerto Rico Planning Board or by surrounding municipalities. Establishment and operation within a Film Development Zone provides access to a variety of tax incentives. Transactions executed in connection with parcels of land located within a Film Development Zone shall be fully exempt from the payment of stamps, presentation and recordation vouchers.

Submitted as:
Puerto Rico
S.B. 1833 of 2010
Status: Enacted into law in 2010.

Comment:

**Puerto Rico Film Industry Economic Incentives Act**
(S.B. 1833)
Executive Summary

This Act has two principal objectives: (1) bringing Puerto Rico’s production cost structure in line with other leading jurisdictions through competitive tax incentives and (2) promoting the development of related infrastructure, specifically high-capacity production studios. The Act replaces Act No. 362 of December 24, 1999, which set forth the previous incentives framework for the film and television industry in Puerto Rico. The principal changes to the current incentives as provided in Act. No. 362 includes the following:

1. **Production Incentives:** The definition of qualifying expenses is expanded to include payments to non-resident talent. Payments to such people are eligible for a 20% credit subject to a special withholding of 20% over their PR income (currently, qualifying expenses are eligible for a 40% credit, but only include payments to PR residents). The definition of qualifying media projects is also expanded to include: (a) feature films; (b) short films; (c) documentaries; (d) television projects; (e) music videos; (f) national and international commercials; (g) video games; (h) recorded live performances and (i) original sound track recordings and dubbing for any of the above. Minimum spend requirements are reduced to $100,000 per project ($50,000 for short films); principal photography requirements are eliminated. The annual credit cap is also increased from $15 million to $50 million (and may be expanded up to $350 million as set forth below).
Qualifying media projects which incur a portion of their expenses within a Large-Scale Studio located within a Film Development Zone shall be eligible for an additional annual credit cap of: (a) $50 million; (b) an additional $150 million, if the investment in the corresponding Large-Scale Studio exceeds $200 million; and (c) a further $100 million if the caps described above are reached for two consecutive years.

2. **Infrastructure Incentives:** The current credit for eligible infrastructure projects is increased to 25% of development or expansion costs. This credit would be subject to a minimum investment of $5 million per project, a maximum aggregate annual cap of $10 million and lifetime cap of $150 million for all infrastructure credits. Such credits shall only be available when a project is completed and ready for use and may be carried forward only if the corresponding project is in operation pursuant to the terms of its grant.

3. **Preferential Tax Treatment:** Studio Operators (studios with a budget equal to or greater than $50 million) and Large-Scale Studio Operators (studios with a budget equal to or greater than $100 million) shall be eligible for the following preferential tax rates or exemptions: (a) fixed income tax rate of between 4% and 10%; (b) 100% exemption on dividends; (c) 90% exemption from municipal and state taxes on property; and (d) 100% exemption from municipal license taxes, excise taxes and other municipal taxes. This tax treatment is also available to strategic suppliers of Large-Scale Studio Operators.

4. **Creation of Film Development Zones:** The DEDC is authorized to designate certain geographic areas to be determined in the future as Film Development Zones. The Act also creates the first such Film Development Zone in the Municipality of San Juan. The DEDC may enter into agreements with private parties for the development and operation of such zones, including the development of a Large-Scale Studio. The transfer of properties within Film Development Zones shall be eligible for a 100% exemption from stamp and similar taxes. Film Projects incurring a portion of their expenses within such zones shall also be eligible for the expanded annual credit caps as discussed above.

Disposition: 22-32B-01

SSL Committee Meeting: 2012B
(  ) Include in Volume
(  ) Defer consideration
   (  ) next task force mtg.
   (  ) next SSL mtg.
   (  ) next SSL cycle
(  ) Reject

Comments/Note to staff:
This Act provides protection to consumers concerning a short-term loan product commonly known as a title loan, under which a borrower provides a motor vehicle as collateral for the loan. The Act requires the significant terms of such loans be conspicuously disclosed to potential borrowers. It creates a right to rescind such loans and limits extending such loans.

The Act limits the duration and amount of interest that can be charged when a title loan is in default, and requires lenders to offer a workout agreement to consumers. The bill limits a lender’s recourse on a title loan to the proceeds from the sale of the motor vehicle. It requires lenders to provide borrowers with a written explanation about the proceeds from such sales.

The Act requires lenders licensed by the state bank commissioner pay an annual high-cost loan license fee surcharge of $1,500 for each licensed office for making title loans or short-term consumer loans, commonly known as pay-day loans. It directs fees from such loans to be used to fund a Financial Literacy Education Fund under the administration of the state banking commissioner and secretary of education. That fund will pay for financial literacy education programs to consumers and in schools in the state.

Submitted as:
Delaware
CH 164 of 2009
Status: Enacted into law in 2009.

Comment:

Disposition:

SSL Committee Meeting: 2012B
( ) Include in Volume
( ) Defer consideration
    ( ) next task force mtg.
    ( ) next SSL mtg.
    ( ) next SSL cycle
( ) Reject

Comments/Note to staff:
This Act establishes a way for people to have certain information removed from their credit reports when they are the victims of identity theft.

Submitted as:
New Mexico
HB 131
Status: Enacted into law in 2010.

Comment:

Disposition:

SSL Committee Meeting: 2012B
( ) Include in Volume
( ) Defer consideration
   ( ) next task force mtg.
   ( ) next SSL mtg.
   ( ) next SSL cycle
( ) Reject

Comments/Note to staff: