



# OLR RESEARCH REPORT

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## MAJOR ISSUES FOR 2003

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You asked for a preliminary list and brief description of major issues for the 2003 General Assembly session.

### INTRODUCTION

The following list of issues was compiled by the Office of Legislative Research (OLR), after consultation with the Office of Fiscal Analysis (OFA) and the Legislative Commissioners' Office (LCO). Except for the Appropriations Committee issue description, which was provided by OFA, the issue descriptions below were written by OLR. This report represents the professional, nonpartisan views of the OLR, OFA, and LCO staffs of what the upcoming legislative issues will be. It is based on interim studies, research requests, nonconfidential discussions with legislators and other legislative participants, and subject matter knowledge. It does not represent staff suggestions or recommendations.

As it is still several weeks until the session begins, this report should be considered preliminary. OLR will put out its annual 2003 Major Issues report in mid-January. At that time, the issues may be somewhat different.

We have grouped issues by the committee expected to devote the most attention to them. Since many issues will be considered by more than one committee, there may be some overlap in the descriptions below.

## **AGING**

### ***Long-term Care Issues***

Long-term care for the elderly and disabled could once again be an issue. The main concern will likely be maintaining adequate funding to provide services. But proposals could also involve various measures to improve the quality of care and staffing in nursing homes and for home care, address long-term care worker shortages, and require criminal background checks for long-term care workers. There may also be proposals to save the state money by helping people stay out of nursing homes and other institutions, expanding opportunities for personal care assistance at home and in the community, and assisting people in nursing homes to “transition” to the community, as required in the U.S. Supreme Court’s 1999 *Olmstead* decision.

## **APPROPRIATIONS**

### ***State Budget Adjustments***

Anticipated budget shortfalls for FY 03, FY 04 and FY 05 will focus the legislative spotlight on various spending reduction and revenue enhancement alternatives. Possible spending reductions may be considered in a variety of existing state agency programs and accounts including municipal aid and state employee wage and benefit concessions.

## **CHILDREN**

### ***Juvenile Justice***

All components of the state’s juvenile justice system have recently come under attack. The attorney general and the child advocate released a report in September 2002 that was highly critical of the Department of Children and Families’ (DCF) performance in planning for, opening, and properly overseeing the operation of the Connecticut Juvenile Training School, the state’s facility for treating and educating the most seriously delinquent boys. They have also asserted that Long Lane School, DCF’s primary residential facility for delinquent girls, has serious safety, staffing, and supervision problems. And the Judicial Department’s juvenile detention centers have been criticized for failing to provide mental health treatment for children placed there, in part because DCF could not provide appropriate treatment slots for them. Past calls to move responsibility for juvenile justice from DCF to the Judicial Department or a new agency could resurface.

## ***Child Abuse and Foster Care***

DCF claims that child abuse and neglect has decreased by 46% over the past five years, but that claim may reflect changes in DCF's investigative criteria, not less abuse, according to one legislative critic. Raising the bar for substantiating allegations, he says, may be all that's behind the positive abuse figures since, he notes, DCF is reopening more cases than in the past. And, although it is improving in many areas, a recent federal audit shows DCF still lagging far behind national standards in finding permanent homes for foster children and failing to conform substantially to several national norms on child safety and well being. Both abuse and foster care data may lead legislators to look again at DCF operations.

## ***Connecticut Community KidCare***

The state is beginning to implement the recommendations of the Behavioral Health Partnership, a collaborative effort of DCF and the Mental Health and Addiction Services and Social Services departments. One component will involve redesigning the delivery and financing of services for children and youth involved with the HUSKY A, HUSKY B, and DCF Voluntary Services programs. Major changes will include enhanced community-based programming and greater parental involvement in planning and service delivery. Fiscal impacts will include increased Medicaid reimbursement, which may allow for future service expansions; the integration of funding streams across state agencies, which may change the manner in which behavioral health dollars are appropriated, accounted for, and monitored; and the conversion of previously grant-funded services to a fee-for-service model. Adapting to the new clinical, financial, and administrative systems may present a near-term challenge for private, nonprofit providers. An actuarial analysis, which will compare costs of Connecticut's current public behavioral health system with the Behavioral Health Partnership model, has yet to be completed.

## **COMMERCE**

### ***Enterprise Zones Revisited***

The state's popular enterprise zone program tries to revitalize socially and economically distressed areas by encouraging businesses to relocate or expand in these areas. The legislature launched the program in 1981, when it authorized six zones. Today, there are 17 zones plus many other designated areas where enterprise zone benefits are also available. The legislature may debate whether the state has diluted the program's

impact by increasing the number of zones and extending their benefits to other areas. Legislators may consider bills reducing the number of zones and other designated areas.

## **EDUCATION**

### ***ECS Funding***

Projected state budget deficits mean the General Assembly will likely have to consider how to fund the \$1.5 billion Education Cost Sharing (ECS) grant, which is the state's largest municipal grant. The grant distribution formula could also be an issue, especially as new census data will significantly affect the current formula.

***Foundation Level.*** Under current law, the ECS foundation amount of \$5,891 per student is scheduled to expire as of June 30, 2003. The foundation is a key element of the ECS formula because it theoretically represents the minimum amount of money needed to provide an adequate education for an average pupil in the state. The foundation has been frozen at its current level for four years and is well below the state's actual 2001 per-pupil expenditure of \$9,123.

Municipalities and school boards may seek to increase the foundation level so it is more closely aligned with actual education costs. Increasing the foundation increases the state's share of education spending and would require a larger state ECS appropriation. There could also be proposals to continue the current foundation level for one or two more years because of the state's financial situation.

***Cap.*** Another mechanism holding down ECS costs is the maximum 6% cap on annual ECS grant increases to individual towns. Under current law, the cap is to expire on June 30, 2003. The cap affects 92 of the state's 169 towns. Removing it would cost the state \$52 million next year.

### ***Special Education***

In 2001, the General Assembly mandated an increase in the state's share of funding for high-cost special education students starting on July 1, 2002. In 2002, state budget constraints forced postponement of the change until July 1, 2003. At the same time, the legislature also limited grants for (1) high-cost special education students, (2) expenses for special education students placed by state agencies or residing on state property; (3) costs for no-nexus special education students placed by a state agency in private residential facilities or facilities run by DCF;

and (4) payments for students who need educational services other than special education services and who are placed out by DCF or other agencies in private residential facilities. Pressure on state and local budgets will likely prompt additional discussion on how to fund rising special education costs.

### ***Interdistrict Magnet Schools***

Interdistrict magnet schools are a key component of the state's response to the *Sheff v. O'Neill* school desegregation ruling and will likely play a major role if a settlement of the case is concluded before the 2003 session. But the General Assembly faces many questions about their cost and operation. Several magnet schools run by regional educational service centers say they are in urgent need of additional funds to continue operating. In the coming session, the General Assembly may have to decide on how to fund new magnets, how to divide state subsidies among existing schools, whether and how much tuition schools can charge parents, the funding formula for participating school districts, and whether nonparticipating districts should contribute if their students attend a magnet school. A task force appointed by the governor and legislative leaders is scheduled to report its recommendations for addressing the issue by January 15, 2003.

### ***Testing and Accountability***

The federal "No Child Left Behind Act of 2001" mandates annual testing for students in grades three through eight starting in 2005. The federal law also sets up an accountability system for schools and school districts that requires them to make annual progress towards academic proficiency goals set by the state, with progress measured by the tests. Schools and school districts that fail to achieve the mandated level of annual improvement are subject to sanctions.

Last session, the General Assembly revamped the state's school accountability law to conform to the new federal requirements but it did not change the laws governing the state's mastery testing program. The State Department of Education will almost certainly request changes in the mastery testing law and program in the 2003 session. The proposals may lead to debate about standardized tests, including (1) whether to use student test scores to evaluate teachers; (2) whether to require students to pass a test to graduate from high school; (3) test content, timing, and administration; and (4) whether tests are a valid school accountability tool.

## ***Teacher and Paraprofessional Training and Recruitment***

Although the teacher shortage has eased temporarily because of the state's slow economy, the age of the state's teacher workforce; the need for minority teachers and teachers for inner city schools and subjects like math, music, world languages, and special education; and a new federal law increasing required qualifications for classroom teachers and paraprofessionals could make teacher recruitment and training a major issue once again.

The General Assembly may consider (1) ways to encourage retired teachers to return to work, (2) bonuses to lure new teachers to city schools and shortage subjects, and (3) credentialing flexibility and financial incentives to encourage people to switch to teaching. To increase the pool of minority teachers, the legislature may consider programs to encourage school paraprofessionals to become certified teachers. Proposals for longer-term strategies to encourage interest in educational careers among middle and high school students may also be aired. The federal "No Child Left Behind Act's" mandate for higher standards and pre-employment tests for school paraprofessionals could also lead to proposals for improving their training and retraining.

## **ENERGY AND TECHNOLOGY**

### ***Electric Restructuring***

Connecticut restructured the electric industry in 1998 to permit competition. Since then, rates have remained stable and Connecticut has avoided the crisis that California endured. But very few customers have chosen competitive suppliers, and currently more than 99% of all customers receive fixed price standard offer service from the state's two electric companies. Under current law, the companies must provide service until December 31, 2003. After that, the companies must provide default service to customers who do not choose a supplier, but the law provides no guidance on how to price default service. The legislature may address whether to extend the standard offer requirement and, if not, how to price default service. The legislature may also address whether to extend several of the law's environmental provisions to default service.

## **ENVIRONMENT**

### ***Bethel-to-Norwalk Power Line***

A legislative working group will report January 1 on its findings concerning Northeast Utilities' (NU) application to build a 345-kilovolt

power line between Bethel and Norwalk. The line would travel through five towns and has generated local opposition. NU has suggested three options for the power line, including placing it underground. The task force was to study the economic, environmental and energy considerations for the line, and include in its report any legislative changes it finds necessary. Last session, the legislature prohibited state agencies from giving final approval to the power line plan until February 1, 2003.

### ***Shellfishing Grounds***

Legislators may consider restricting the ability of shell fishermen who lease shellfish beds in Long Island Sound from the state to negotiate with cable or pipeline companies concerning those leases without the knowledge of state officials. Time ran out last year on measures that would have required the agriculture department and attorney general to be parties to, and approve, any negotiations in which a cultivator agreed with a third party to stop cultivating his shellfish beds. It also would have required shellfish beds to revert to the state when the Siting Council approved a permit for a public use structure or utility line to go through them, and required the permittee to pay to offset the cost of, among other things, compensation to affected towns. Another amendment would have charged the cable or pipeline owner an annual rental fee of 25 cents per linear foot for the cable or pipeline.

### ***Indoor Air Quality***

In recent sessions, the legislature has considered measures to improve indoor air quality in public schools by making certain indoor air quality projects eligible for state grants and requiring school boards to regularly inspect and evaluate their schools' air quality. The proposal is likely to resurface this session.

### ***Labeling Genetically Modified Foods***

The General Assembly might consider requiring companies to label genetically modified foods, which has been an issue of growing concern across the country. Oregon voters recently defeated a proposal known as Measure 27 that would have required such labeling after initial support for the measure waned significantly. Labeling advocates cite a \$5.5 million bioscience-industry-led anti-labeling advertising campaign as the cause of the proposal's defeat. Connecticut's Bioscience cluster, Connecticut United for Research Excellence (CURE), supports voluntary labeling, agreeing with a federal Food and Drug Administration's policy

established in 1992 that no special labeling is required for biotech foods that do not differ significantly from their traditional counterparts.

## **FINANCE, REVENUE AND BONDING**

### ***Revenue Enhancements***

Budget pressures and anemic revenue projections for the remainder of FY 03 and FY 04 will likely lead to proposals to increase taxes and a search for other ways to enhance revenue. Proposals could include increases in income tax rates, especially for wealthy individuals; additional limits on, or outright elimination of, business tax credits; decoupling the state's estate tax from the federal inheritance tax to avoid state revenue losses as the federal tax is phased out; extending the sales tax to additional products or services; raising state fees; and once again deferring scheduled reductions in inheritance, gift, income, and sales taxes.

### ***Diesel Tax***

In the 2002 special session, the General Assembly approved an eight-cent-per-gallon increase in the diesel tax effective August 1, 2002. There may be proposals to roll back the increase on the grounds that it leads interstate truckers to avoid buying fuel in Connecticut, thereby undercutting projected revenue gains. Another likely proposal is to adjust the per-gallon tax rate to offset proposed elimination of the 5% gross earnings tax on diesel fuel sold in Connecticut and remove a potential competitive disparity between Connecticut fuel retailers and their out-of-state competitors.

### ***Hospital Patient Care Services Tax***

In 2001, the General Assembly suspended the 5.75% sales and use tax on hospital patient care services for two years. The temporary suspension expires on June 30, 2003. The General Assembly will have to decide whether to continue the exemption for such services or allow it to expire.

### ***Bonding***

State law caps state bonding at 1.6 times the state's estimated General Fund net tax revenue for the year. The cap will likely constrain the state's ability to issue new bonds in 2003. As was the case in 2002, there will likely be calls for limiting new bond authorizations and deferring capital projects previously authorized.



## **GENERAL LAW**

### ***Gasoline Prices***

The General Law Committee has been studying two proposals on gasoline prices. The first would prohibit gasoline companies and distributors from setting their prices to dealers based on the dealer's location. This practice, known as "zone pricing," is common in the industry. The proposal to ban zone pricing has sparked controversy for several years. The second proposal would compel gasoline distributors to sell the gasoline stations they own. The proposal, called "distributor divorcement," would prevent a gasoline wholesaler from also acting as a retailer.

## **GOVERNMENT ADMINISTRATION AND ELECTIONS**

### ***Primary Elections***

In last summer's court case, *Campbell, et al. v. Bysiewicz, et al.*, the U.S. District Court, Judge Peter C. Dorsey, enjoined the secretary of the state from enforcing the state's primary laws on the grounds that they were substantially likely to be unconstitutional. The U.S. Circuit Court of Appeals is expected to rule on the merits of the constitutional question in early December. Depending on the outcome, the legislature may decide to amend the laws in question.

### ***Election Reform***

The federal election reform legislation ([P.L. 107-252](#)) that Congress recently passed requires, among other things, that states establish a computerized statewide voter registry list, provide voting systems that conform to certain standards, allow voters to cast a provisional ballot if their names are not on the voter registry list, and require those voting by absentee ballot for the first time after registering by mail to send a copy of their identification along with the completed ballot. Some statutory changes are required in order for Connecticut to comply with the federal act.

Voting machine selection, testing, and operation has been a particularly important part of the study of elections since November 2000 and, since the federal law has passed with its own requirements and standards, the General Assembly can move forward on this issue if members decide our lever machines should be replaced.

Other likely issues include (1) election day registration, which allows voting age citizens to register to vote on election day with proper identification and (2) absentee voting procedures, including possible restrictions on the distribution of absentee voting applications.

### ***Campaign Finance***

The bill establishing public financing for election campaigns has been considered in prior sessions and is likely to be raised again. Versions of the measure have applied a voluntary “clean elections” program to candidates for statewide and legislative offices. Qualifying contributions, spending limits, and sources of funding for the program must be established as well as other details.

## **HUMAN SERVICES**

### ***Program Reductions***

As many of the human services programs, in particular Medicaid, consume significant portions of the state’s budget, the 2003 General Assembly may discuss reductions to address the looming deficit. The possible cuts could include (1) cutting reimbursements to nursing homes and other health care providers that care for Medicaid-eligible residents; (2) eliminating medical services that the Medicaid and State Administered General Assistance programs cover; (3) increasing the amount clients must pay to participate in Department of Social Services’ medical assistance programs, including ConnPACE and HUSKY B; (4) making it harder for people to qualify for medical assistance by reducing the qualifying program income limits; (5) cutting cash welfare benefit levels; and (6) eliminating funding or tightening eligibility for child care programs.

The legislature may also consider rescinding some recent expansions in the human services area, such as a one-time cost-of-living adjustment for State Supplement recipients and increased payments to physicians that treat people eligible for both Medicare and Medicaid.

### ***Assistance for Legal Immigrants***

Last year, the legislature extended for another year the cutoff date for new applications for state-funded public assistance benefits to legal immigrants ineligible for federal aid. If the legislature does not take additional action in the 2003 session, these programs will no longer accept new applicants after June 30, 2003.

## **HOUSING**

### ***Affordable Housing Appeals Procedure and Impact Fees***

The affordable housing appeals procedure, which gives affordable housing developers the opportunity to appeal to the Superior Court if a zoning board or commission denies a developer's application, will likely generate a number of proposals from both advocates and detractors. Some towns may push for legislation to allow towns to charge large project developers impact fees to cover new education and municipal service costs created by the development.

## **INSURANCE AND REAL ESTATE**

### ***Health Insurance***

The legislature may consider bills on whether treating physicians or health maintenance organizations (HMOs) should make final judgments about the medical necessity of treatment. It could also consider ways to regulate and, thus make accountable, managed care company subcontractors that provide specialty services to health plan subscribers.

### ***Medical Savings Accounts***

The General Assembly is likely to see bills to allow people to establish tax-advantaged custodial accounts in conjunction with the purchase of a qualifying high-deductible health insurance plan.

### ***Property/Casualty Insurance***

The General Assembly may look at whether commercial property and casualty insurance rates should be totally deregulated.

## **JUDICIARY**

### ***Same Sex Marriage/ Civil Unions***

Pursuant to PA 02-105, the Judiciary Committee recently submitted a report to the legislature following deliberations on the public policy reasons for permitting or prohibiting marriages or civil unions of two people of the same sex. The committee will likely consider several bills on this topic during the session.

## ***Crime Victims***

The 2003 legislature will likely consider crime victim legislation that, among other things, improves the criminal record erasure process, establishes an address confidentiality program for victims of domestic violence and related crimes, and alters the duties and responsibilities of victim advocates and the Office of Victim Advocate.

## ***Sex Offender Registry (Megan's Law)***

A legal challenge ended Internet and public access to the state's sex offender registry two years ago. The U.S. Supreme Court is reviewing the lower court actions and could hand down its decision during the upcoming legislative session. Depending how the Court rules, the legislature may consider changing some aspects of the registry law.

## **LABOR AND PUBLIC EMPLOYEES**

### ***State Workforce***

In light of current and projected state budget deficits, the legislature is sure to consider and the executive branch and state employee labor unions will be negotiating cost savings related to state employee wages and benefits. Cost reductions could take the form of employee concessions such as wage freezes, increased health insurance co-payments, or other benefit reductions. Efforts may be made to reduce the size of the state workforce through (1) an early retirement incentive, (2) attrition, or (3) layoffs. The General Assembly will have to approve any settlement agreement reached by the governor and unions.

## **PLANNING AND DEVELOPMENT**

### ***Sprawl/Smart Growth***

Like most states, Connecticut is looking for ways to mitigate or prevent the unintended consequences of new developments and manage the spread of new homes, shopping centers, and office parks in sparsely populated areas in ways that do not clog highways, consume open spaces, spoil scenic views, draw businesses and people from established urban centers, or force towns to spend more on building new infrastructure.

The legislature will again see "smart growth" proposals intended to steer development away from rural areas to already developed places. It may see bills to limit state infrastructure funds to developed areas; strengthen the now largely advisory State Plan of Conservation and

Development; better integrate transportation and economic development planning; and provide land use planners with new, more powerful tools to evaluate development patterns.

### ***Property Tax Reform***

The legislature will again hear calls to reform the property tax system, which critics claim is an obsolete way to fund municipal services and especially burdensome for middle-income families. Legislators are likely to see tax relief proposals, such as establishing graduated income tax credits for property tax payments. They may also see proposals giving towns other revenue-raising options, including charging impact fees for new developments to pay some of the infrastructure costs normally borne by all property owners.

## **PUBLIC HEALTH**

### ***Nursing Shortage***

A number of factors are contributing to the nursing shortage affecting the country, including Connecticut: nursing schools and programs are producing fewer graduates; the nursing workforce is aging; the elderly population needing care is increasing; and there is a waning interest in nursing as a career as other professions increase in popularity. Because of the shortage, many nurses are working extra hours just to maintain staffing levels in health care facilities. While nurses historically worked predominantly in hospitals, the transfer of less acutely ill patients to nursing homes and community-based settings have created different job opportunities while increasing the demand for nurses. The state will most likely continue to look at options and strategies for increasing the state's supply of nurses that could include improved working conditions, incentives to encourage students to undertake a nursing career, flexibility in nursing education programs, and workforce planning initiatives.

### ***Medical Malpractice***

Rapidly rising medical malpractice insurance premiums and the departure of many insurance companies from the medical malpractice market have created problems of affordability and availability in certain parts of the country. The national debate about the malpractice insurance "crisis" has been defined primarily as a battle between physicians, lawyers, and insurers centering on the idea of tort reform (i.e., changes in the legal system that would limit the frequency of litigation and the amount of damage awards). But others view the issue

as one of patient safety and medical errors. A number of states have taken or are considering a variety of reform initiatives to help alleviate the malpractice problem. Connecticut may follow suit.

### ***Bioterrorism***

The need to respond to the September 11 attack, the Fall 2001 anthrax outbreaks, and the threat of terrorist attacks through smallpox or other biological agents prompted many states, including Connecticut, to review laws on quarantine and procedures for declaring and dealing with such emergencies. Last year's bill authorized the governor to declare a public health emergency; required the Department of Public Health (DPH) to develop a public health emergency response plan; and authorized the DPH commissioner to quarantine, isolate, and vaccinate people in the event of such an emergency. The latter provisions proved especially controversial as many people wanted exemptions for reasons of religion or conscience. DPH has received and used millions in federal funds for planning and other preparedness activity. The need to be ready for bioterrorism remains; the legislation, and the controversy, may return.

## **PUBLIC SAFETY**

### ***Firearms***

In light of the Washington, D.C. sniper case, the legislature may revisit the gun control issue, focusing on expanding the 2001 firearm data bank law to include provisions for manufacturers to submit ballistic data from new guns.

### ***State-Tribal Issues***

Many legislators and others, including the new Connecticut Alliance Against Casino Expansion, have expressed concern over potential new casinos in the state. The General Assembly can expect to see legislation on state-tribal issues and proposals to repeal the law allowing certain organizations to hold "Las Vegas" nights.

### ***Office of Emergency Management***

The security risks posed by the September 11 attacks may cause the legislature to direct the Office of Emergency Management to amend the state's emergency management plan to address emergencies from terrorism, including bioterrorism.

## **Veterans**

The continuing struggle in Afghanistan, the possibility of war with Iraq, and a recent report on inadequate medical treatment at the state veterans' hospital have put veterans' issues in the spotlight. As a result, the 2003 General Assembly may see proposals addressing veterans' benefits.

## **TRANSPORTATION**

### ***A Transportation Strategy for Connecticut***

In December, the Connecticut Transportation Strategy Board, created by the legislature in 2001 to develop a comprehensive transportation strategy for Connecticut that integrates transportation and economic development initiatives, will be delivering the final version of its initial transportation strategy to the legislature. During the 2003 session, the legislature must review the plan and the initiatives it proposes and approve it for implementation. This "blueprint" for the future will require decisions on a number of new and perhaps costly initiatives to ease congestion and provide a way for the state's economic development and transportation decision-making processes to work more effectively together.

### ***The New Motor Vehicle Emissions Inspection Program***

Connecticut's emissions inspection program has been suspended since June 28, 2002. Since then, the Department of Motor Vehicles has chosen to move from a centralized inspection system involving 25 locations run by a single contractor to a decentralized system made up of 300 or more licensed motor vehicle dealers and repairers overseen by a single private contractor. The contract has been negotiated and may be signed before the end of the year. The program is projected to resume sometime around July or August of 2003, but it will be radically different from what Connecticut residents have known in the past. During the 2003 session, the program details will likely be a matter of considerable legislative interest and some adjustments to the laws may be required or desired as a result.

### ***Safer Driving***

During every session, the legislature considers a number of proposals on the issue of safer driving and accident reduction. In 2002, for example, the per se level for defining driver intoxication was lowered from .10% BAC to .08%. During the 2003 session, issues could include

restrictions on teenage driving and licensure, use of cell phones while driving, and use of motorized aides by pedestrians, among other things. In 2002, the House passed a ban on use of hand-held cell phones while driving that the Senate did not take up. Since then, New York has become the first state to ban their use.

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