



## 2014 SESSION CONNECTICUT GENERAL ASSEMBLY

*In its 2014 session, the General Assembly passed a number of new laws affecting employers. Except as otherwise noted, the changes are effective **October 1, 2014**. The following material summarizes these new laws, but the specific provisions should be reviewed in the context of specific situations. These new statutes are available online through the General Assembly website at <http://www.cga.ct.gov/>. We will be happy to send you copies of any of these new Public Acts upon your request.*

### State Minimum Wage to Increase in Steps

Under current law, the state's minimum hourly wage was scheduled to increase from \$8.70 to \$9.00 on January 1, 2015. Instead, Public Act 14-1 increases the minimum to wage \$9.15 on that date, then to \$9.60 on January 1, 2016 and finally to \$10.10 on January 1, 2107. The new act does not change the "tip credit" however. The tip credit will automatically increase, raising the employer's share of the minimum wage for hotel and wait staff from \$5.69 to \$5.78 in 2015; \$6.07 in 2016; and, \$6.38 in 2017. For bartenders the employer's share will be \$7.46 in 2015; \$7.82 in 2016; and, \$8.23 in 2017. Current law left unchanged by the new act still allows learners, beginners, and people under age 18 to be paid 85% of the minimum wage for the first 200 hours of their employment. In effect, the act's minimum wage increases raise this wage to \$7.78 on January 1, 2015; \$8.16 in 2016; and, \$8.59 in 2017. Effective July 1, 2014.

### Paid Sick Leave Law Amended

Public Act 14-128 changes the method for determining if a nonmanufacturing business is exempt from providing paid sick leave. Under current law, the employer must provide paid sick leave if it employs 50 or more people in Connecticut during any of the previous year's quarters. It must determine if it exceeds this threshold

by January 1 annually based on the quarterly reports it submits to the labor commissioner. Under the new act, however, the business must determine if it meets the annual 50-employee threshold based on the number of employees on its payroll for the week containing October 1.

PA 14-128 also prohibits employers from taking certain actions to avoid coverage under the law. Specifically, employers cannot fire, dismiss, or transfer an employee from one job site to another to come under the 50-employee coverage threshold. Workers aggrieved by such practices may file a complaint with the labor commissioner.

In addition, the new act changes the timeframe for accruing paid sick leave. Under current law, employees accrue one hour of sick leave for every 40 hours worked per calendar year. Under PA 14-128 they accrue one hour of paid sick leave for every 40 hours worked during whatever 365-day year the business uses to calculate employee benefits. This allows the employer to start the benefit year on any date, rather than only on January 1.

Finally, the new act adds radiologic technologists to the list of covered service workers who have the right to paid sick leave. Effective January 1, 2015.

The reasons for which covered service workers can use their accrued paid sick leave remain unchanged.

Also unchanged is the requirement that each covered employer must notify each employee when hired about the paid sick leave benefit.

## Home Care Workers

Public Act 14-159 allows a “sleep-time” exclusion from overtime pay requirements for certain employees employed by third-party providers, such as home care agencies, to provide “companionship services” as defined by federal regulations. In general, these regulations define “companionship services” to mean fellowship, protection, and limited care for an elderly person or person with an illness, injury, or disability.

The act’s sleep-time exclusion aligns state law with changes in federal regulations that will take effect at the beginning of next year, as it specifies that it becomes effective on the effective date of the U.S. Department of Labor’s “Final Rule on the Application of the federal Fair Labor Standards Act to Domestic Service,” which was published in the October 1, 2013 Federal Register but does not take effect until January 1, 2015.

Because the state’s overtime law mirrors federal law and regulations regarding domestic workers, the recent changes in federal regulations will expand the range of workers entitled to overtime pay. The current federal regulations do not require overtime pay for any domestic service workers providing companionship services, but the upcoming changes eliminate this “companionship exemption” for third-party providers’ employees. Consequently, these employees will be entitled to overtime pay for any hours worked beyond 40 in a week and could include many who work (and sleep) on at least a 24-hour shift at a worksite. While federal regulations allow a sleep-time exemption from overtime pay for such employees, current state law does not.

The new act allows such an employee and the third-party provider to agree to exclude a regularly

scheduled sleep period of up to eight hours from the work hours used to determine the employee’s overtime pay if:

1. the employee is required to be present at a worksite for at least 24 consecutive hours;
2. adequate on-site sleeping facilities are provided to the employee; and
3. the employee receives at least five hours of sleep-time.

Under Public Act 14-159 the employer cannot exclude more than eight hours from the employee’s work hours even if the sleep period is scheduled for longer than eight hours. If the sleep period is interrupted by a work assignment, the interruption must be counted as hours worked. If the employee receives less than five hours of sleep time during the scheduled sleep period, the entire sleep period must be considered hours worked.

## Protection for Direct Deposit Wages

Public Act 14-9 expands the types of deposits that automatically exempt up to \$1,000 from bank executions against a judgment debtor’s account, to include electronic direct deposits that are readily identifiable as wages. Current law requires this automatic exemption if, within 30 days before the execution order, the judgment debtor’s account received electronic direct deposits readily identifiable as federal veteran’s benefits, Social Security benefits, supplemental security income benefits, or child support payments under the Social Security Act.

The act extends the same exemption, including its notice requirements and limitations, to accounts that received electronic direct deposits readily identifiable as wages within 30 days before the execution order. The notice requirements and limitations include (1) allowing a bank to notify the judgment creditor that funds were left in the debtor’s account; (2) requiring a bank to notify the judgment debtor and any other secured parties if any funds are removed; and (3) allowing a bank to reduce the account balance to less than \$1,000 if it is required to do so by law or a court order.

## Rates for Workers' Compensation Related Medical Services

Public Act 14-167 changes how the default rates for workers' compensation-related services at hospitals and ambulatory surgical centers (ASC) will be determined when an injured employee's employer or workers' compensation insurance carrier (the "payor") does not negotiate rates with the hospital or ASC. Current law requires the payor to pay a hospital for its actual costs of treating an injured worker, as determined by a workers' compensation commissioner. In practice, the payor and hospital or ASC generally negotiate discounted rates for the hospital's or ASC's services. If they do not negotiate, the payor must pay the hospital's or ASC's billed rates.

The new act instead requires the Workers' Compensation Commission chairman, by January 1, 2015, to establish and publish Medicare-based formulas for determining rates for workers' compensation-related services at hospitals and ASCs. The formulas must be for services covered by Medicare. In establishing them, the chairman must consult with employers and their insurance carriers, self-insured employers, hospitals, ambulatory surgical centers, third-party reimbursement organizations, and any other entities the chairman deems necessary. After initially publishing the formulas, the chairman must annually publish them on January 1.

Starting 90 days after the chairman publishes the formulas, the act caps the default rates at the reimbursements listed in the formulas. If the services are not covered by Medicare (and therefore do not have an applicable formula) the rates must be determined by the chairman, in consultation with the above consulting entities. The payor can also negotiate different rates with the hospital or ASC. Effective upon passage.

## Employer Use of Credit Checks

Public Act 14-109 expands the types of employers who can require a credit check of their employees or

prospective employees to include mortgage servicing companies and licensed (1) mortgage brokers, (2) mortgage correspondent lenders, and (3) mortgage lenders. Under the bill, a "mortgage servicing company" is any person who receives payments for a first mortgage, records the payments, and performs other administrative functions to meet the mortgage holder's obligations.

Current law generally prohibits employers from requiring their employees or prospective employees to submit to a credit check unless (1) the employer is a financial institution such as a bank, insurance company, or investment advisor; (2) it is required by law; (3) the employer reasonably believes the employee has violated the law; or (4) it is substantially related to the employee's current or potential position.

## Filing Prevailing Wage Notices Electronically

Public Act 14-44 allows certain records, notices, and certifications required on prevailing wage jobs to be submitted, maintained, or certified electronically. Specifically, it allows:

1. employers to electronically submit their monthly certified payroll records to the contracting state or local agency;
2. employers to keep, maintain, and preserve these payroll records in an electronic format;
3. a contracting state or local agency to electronically notify a contractor that it is terminating the contractor's right to work on the job because of the contractor's (or a subcontractor's) failure to pay the required prevailing wages; and
4. a contracting state or local agency to notify the labor commissioner electronically that it has terminated such a contractor's right to work on a job.

Current law requires an employer submitting a certified payroll to include an original signed statement indicating that the payroll is correct and the employer has met other requirements.

The act removes the requirement for an original statement, thus allowing a statement to be submitted electronically.

In addition, current law requires a contracting state or local agency to certify a prevailing wage job's total cost to the labor commissioner before awarding any contract subject to prevailing wage requirements. The act expands this to require a certification before awarding any of the job's purchase orders, bid packages, or other designations subject to prevailing wage requirements. It allows all of them to be certified electronically. Effective July 1, 2015.

## Programs to Address Unemployment

Public Act 14-225 creates or expands several initiatives for the state's unemployed workers. It broadens eligibility for the Subsidized Training and Employment Program (STEP UP) by eliminating a residency-related requirement for certain subsidized employees. STEP UP provides eligible small businesses and small manufacturers with grants for a portion of an eligible employee's costs of employment, including training, during the first six months of his or her employment.

The new act also requires the Department of Labor (DOL) to lead initiatives for unemployed workers by:

1. promoting the state's apprenticeship programs; and
2. determining whether résumé-writing assistance providers at the CT Works One Stop Career Centers should be credentialed.

In addition, PA 14-225 creates initiatives specifically for unemployed older workers (those who are at least 50 years old), such as requiring DOL to create a quick-reference guide of the resources available to older workers and to publicize the benefits of hiring and retaining older workers on DOL's website.



## Municipal Pension Deficit Funding Bonds

Current law allows municipalities to issue bonds to pay for unfunded past pension obligations. If a municipality issues such bonds, it must contribute to its pension plan at least the actuarially required contribution (ARC) in each fiscal year that it has outstanding bonds for the plan. The ARC is:

1. established by the plan's actuarial valuation;
2. based on generally accepted accounting principles; and
3. generally set according to a fixed payment schedule that cannot exceed the longer of 10 years or 30 years from the date when the bonds were originally issued.

However, the new act exempts any municipality in New Haven County with a population of less than 65,000 that issues pension deficit funding bonds by June 30, 2015 from the ARC requirements for the first four fiscal years of the bond issuance. Instead, it requires such the municipality to make the payments as set out in a schedule included in the act.

If a municipality issuing pension deficit funding bonds under these provisions fails to meet the required ARC in any fiscal year, PA 14-217 authorizes the Municipal Finance Advisory Commission to require the municipality's chief fiscal officer or chief executive official to appear before the commission.

PA 14-217 also creates the Connecticut Retirement Security Board and requires it to do the following:

1. conduct a market feasibility study on implementing a public retirement plan; and
2. develop a comprehensive proposal for implementing the plan that must include certain goals and design features.

The new Board will have 14 members, including the state comptroller, state treasurer, labor commissioner and OPM secretary, or their respective designees.