

## 2016 State Legislative Session

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May 19, 2016 (with updates as of June 21)

The state legislature concluded most of its 2016 business by the constitutionally-mandated adjournment time of midnight on May 4. A special session then followed on May 12 and 13 to adopt a revised state budget for its fiscal year beginning July 1, 2016. This report summarizes the state budget, which monopolized most of the discussion this session, and the non-budget bills that affect our industry.

**State Budget Summary:** The revised \$19.76 billion budget passed the Senate along party lines, 21 Democrats for and 15 Republicans against. A day later it passed the House by the slimmest of margins, with 74 Democrats in favor and 70 opposed (62 Republicans joined by 8 Democrats). While the new budget does not contain any new taxes, those voting against it argue that it does not contain the structural changes required for long-term fiscal stability, which is needed to foster predictability and certainty for businesses and residents. The new budget led to a downgrade in the state's bond rating by two wall street rating agencies the following week, which could lead to future higher borrowing costs.

In the 2017 legislative session, the legislature will have to adopt a new two-year budget with even larger projected deficits. So, the budget fights will only become more difficult. Numerous legislators have already announced they are not seeking reelection (21 Reps and 2 Senators as of this writing). Thus, the November 2016 elections, while certainly huge on the national stage with Trump vs Clinton, will also determine much for CT's future direction since all 187 state legislative seats are up for election.

**Regular Session Summary:** The 2016 regular session began in early February and immediately it was difficult to break through the budget "noise" to discuss other issues. Nonetheless, the HBRA of CT read every introduced bill (1,000+) and countless amendments. We testified on many bills impacting our industry, wrote talking points and our own amendments to fix legislation, talked with legislators and their staff and advocated for and against many proposed new laws.

One of the significant pieces of our advocacy effort is an organized "Home Building Industry Day at the Capitol" or HBID. Held mid-session when we know the more important bills that survived the initial process, HBID in 2016 brought to the State Capitol 72 members and guests who met with over 35 legislators to discuss over a dozen important bills. Half of the bills on our HBID list were pro-business bills we supported, while the other half we either opposed or worked on to amend to our favor.

I am pleased to report that we won several of the pro-business bills and defeated all but one of the anti-business bills. We also successfully amended two major bills of concern to our industry. The anti-business bill on our HBID list that passed is the retirement plan mandate (see HB 5591 below).

**Priority bills that passed:** (HB means House Bill; SB means Senate Bill; PA means Public Act, i.e., a bill that passes both the House and Senate receives a PA number; AAC means An Act Concerning; Effective upon passage means effective on the date the Governor signs the bill – otherwise a specific effective date is noted in the bill.)

- HB 5180, [PA 16-45](#), AAC the Documentation of Concrete Foundation Applications. The primary vehicle to address the crumbling concrete foundation issue that has plagued hundreds (and potentially several thousand) home owners in the northeast quadrant of CT. The concrete company known to be involved, JJ Mottes, blamed builders and foundation installers for the failing foundations. There were also outrageous proposals, such as Rep. Kelly Luxenbergs's (D) demand to have home builders post a 30-year performance bond to guarantee foundations. The affected homes were built in the 1980s and 1990s. The HBRA opposed the original bill and successfully argued that foundation pours are done the same way everywhere yet the problems have occurred only, to the best of anyone's knowledge, in pours using Mottes' concrete. Also, the underlying

problem has been traced to the mineral pyrrhotite found in the aggregate used by the company. An ongoing Dept. of Consumer Protection (DCP) investigation is expected to report by the end of 2016.

The real estate market in the impacted area has been in turmoil. Buyers of homes and their banks are balking at closing or lending on homes unless the seller can identify the supplier of their concrete and who installed their foundations. Given the damages suffered by affected home owners (each fix is \$100,000 to \$250,000), there was much political pressure to do something. So, under the new law, home builders must report to local building officials as a condition for getting a C.O. the name of the supplier and installer of concrete foundations poured on or after 10-1-16. This may help set new homes apart from existing sales, promoting new home sales. The bill also provides some property tax assessment relief to affected home owners and has other provisions to encourage home owners to come forward and report foundation problems to state officials. Once the DCP investigation report is complete, we expect further legislation next year that may require concrete companies to meet certain ASTM aggregate standards to avoid the pyrrhotite problem.

- SB 388, [PA 16-215](#), AAC the Adoption of the State Building Code and State Fire Codes. The state agency that adopts these statewide codes, Dept. of Administrative Services (DAS), proposed to allow the codes to be adopted without the normal rulemaking process applicable to all state agency regulations, and bypass approval by the legislature's Regulation Review Committee. The bill was in response to complaints by certain stakeholders that it takes too long to adopt codes in CT, which is not really true. Those complaining either do not understand the code process or have a strong financial interest in adopting new codes as frequently as possible. The HBRA was the only interest group to object to the proposal and key legislators agreed with our concerns. DAS was told to negotiate with us or the bill would not survive. The final bill addresses all the HBRA's concerns by creating a new, more streamlined process with opportunities to comment and testify on code proposals before the Codes & Standards Committee within DAS. And, the final step of approval by Regulation Review Committee (i.e., legislative oversight) is also preserved. Effective upon passage.
- SB 302, [PA 16-32](#), AAC the Fiscal Impact of Proposed Legislation and Regulations on Businesses. A pro-business bill we supported, the final bill addresses the impact analysis state agencies must conduct when proposing new regulations. Effective 10-1-16, the bill requires agencies to assess a proposed regulation's impact on small businesses (less than 250 employees) including whether such businesses must 1) create, file or issue additional reports, 2) implement additional record-keeping procedures, 3) provide additional administrative oversight, 4) hire additional employees, 5) hire or contract with additional professionals, such as lawyers, accountants, engineers or inspectors, 6) purchase any product or make any additional capital investment, 7) conduct additional training, audits or inspections, or 8) pay additional taxes and fees. In addition, agencies must also identify whether and to what extent the agency communicated with small businesses or their organizations in developing proposed regulations, and whether and to what extent the regulations provide alternative compliance methods for small businesses. **Unfortunately, VETOED by Governor Malloy on May 31, as "overly broad and will place an undue burden on our agencies." Fortunately, the bill was repassed over his veto by the House and Senate on June 20.**
- HB 5498, [PA 16-58](#), AAC Review of Existing Agency Regulations. The HBRA also supported this companion bill to SB 302 (above). It establishes a new process for all state agencies to review existing regulations and provides oversight to the legislature's standing committees to hold agencies, within the committee's jurisdiction, accountable for conducting their regulatory reviews.
- SB 303, [PA 16-1](#), An Act Establishing an Entrepreneur Learner's Permit Program. Another pro-business bill the HBRA supported, this one provides assistance to first-time business owners by reimbursing (from Connecticut Innovation, Inc.; not the state budget) state fees to set up a business. The original bill applied to all first-time businesses. The bill that passed applies to first-

time businesses only in information services, bio-technology and green technology, and women and minority owned businesses are given priority. While more limited than the original bill, it's a start to promote entrepreneurship. And, more new businesses means more new jobs, which means more households and potentially more home buyers.

- SB 220, [PA 16-169](#), AAC Unemployment Comp Appeals and Hearings, Employee Pay Periods and Minor, Technical Changes to Labor Statutes. This bill primarily served as a vehicle for the business community to include a provision that allows employers to pay employees on a biweekly basis without requesting a waiver of the weekly pay requirement from DOL. Effective upon passage.
- HB 5591, [PA 16-29](#), An Act Expanding Retirement Security. While a large business coalition, including the HBRA, opposed the bill, this bill was a top priority for House Majority Leader, Rep. Joe Aresimowicz (D), and Senate President Marty Looney (D). Thus, there was too much leadership support for it to fail. It requires not later than Jan 1, 2018, businesses with 5 or more employees that do not have a retirement savings plan in place to enroll all employees into a new state-run retirement plan. A new CT Retirement Security Authority is created, which is to develop the program, including accepting bids from vendors who offer approved Roth IRAs to be included in the program's investment vehicles. Employers do not have to contribute to an employee's plan but must set up payroll deduction systems for their employees' contributions. All covered employees are to be automatically enrolled, but employees can opt out of the program. It passed the House with 76 Democrats in favor and 63 against (57 Republicans joined by 6 Democrats). In the Senate, 3 Democrats (Paul Doyle, Joan Hartley and Gayle Slossberg) joined all 15 Republicans to vote against, while 18 other Democrats voted for, creating an 18-18 tie. Under the rules, the Lt. Governor breaks tie votes in the Senate and Lt. Gov. Nancy Wyman (D) then voted for the bill. After changes were made in the special session to the makeup of the new Authority's board, the Governor is expected to sign it.

#### **Priority bills that did not pass:**

- HB 5278 and SB 238, companion bills we strongly opposed would require fire sprinklers systems be installed in all two-family homes (HB 5278) or allow municipalities to vary the statewide building code to require fire sprinkler systems in all new 1&2 family homes (SB 238). The fire sprinkler coalition, made up of fire marshals and fire fighters, sprinkler manufacturers and both union and nonunion sprinkler installers mounted another all-out effort to pass this mandate in CT (the 7<sup>th</sup> time in about a dozen years they have tried). However, despite the support for the mandate by Public Safety Committee co-chairs, Sen. Tim Larson (D) and Rep. Steve Dargan (D), SB 238 was defeated in committee on a strong 7-18 vote. HB 5278 was not brought to a vote.
- HB 5549, AAC the Codes & Standards Committee. Another bill strongly supported by fire marshals and opposed by us, this would add 2 more fire marshals to the 21-member state Codes & Standards Committee, the well-balanced statutory body of volunteers that writes the State Building Code and State Fire Safety Code. Upset that they keep losing votes for certain code changes before Codes & Standards, including the fire sprinkler mandate for 1&2 family homes, we argued that fire marshals should be more reasonable in their code proposals rather than seek to change the makeup of the Codes & Standards Committee.
- SB 124, An Act Requiring Smoke Detectors in Residential Buildings, this bill was not as simple as the title sounds. Another proposal from fire marshals, this repealed the existing exemption for 1&2 family homes in the State Fire Safety Code, reaching much further than merely requiring smoke detectors in all homes. There's been a requirement to install hard-wired, battery backup smoke detectors in all new homes since 1984. So, the intent of the bill was to require detectors in all existing homes. We agreed with its intent but opposed the bill's language. Unanswered

questions about how fire marshals would enforce this new requirement on existing home owners is what defeated the proposal.

- HB 5561, a bad business bill promoted by Banking Committee co-chair, Rep. Matt Lesser (D), would automatically make a number of provisions in business' consumer contracts unconscionable and void. It could have impacted contract provisions such as arbitration or mediation clauses, or liquidated damages clauses. The bill also created a "private attorney general" provision that would allow consumers who have a claim for damages against a business to also assert claims against the business for all similarly situated consumers. It passed the Banking Committee on a 10-8 vote, and a large business coalition, in which the HBRA took a leading role, worked the legislative leadership to oppose the bill. It was referred to Appropriations where it also passed on a 30-25 vote, but the bill was not called in the House.
- SB 221, AAC Paid Family and Medical Leave. This bill, passed by the Labor Committee, would have required businesses with 2 or more employees to allow employees to take up to 12 weeks of family or medical leave per year, at 100% of their pay, to deal with their own or family member's illness. Employees would self-fund the leave by paying a new payroll tax into a new state fund managed by DOL. While employers would not have to fund wages for an employee out on leave, they would have to keep paying for nonwage benefits, like health insurance, in addition to paying for replacement workers while the employee was out. DOL would have to hire 120 new state employees at a cost of \$18 million to support the program, which ultimately killed the bill.
- SB 223, a bill originally allowing businesses to pay employees on a biweekly basis without seeking a DOL waiver (see SB 220 above), substitute language that never had a public hearing was adopted by the Labor Committee that would allow employees who have a claim for wages against a business to file a lien on the real and personal property of the business to satisfy the wage claim. A business coalition, in which the HBRA took a lead with CBIA, later killed the bill in Judiciary on a 2-28 vote (with Sen. Gary Winfield (D) and Rep. Roland Lemar (D) voting for it).
- HB 5363, AAC the Affordable Housing Appeals Act. One of many 8-30g bills filed this year, 5363 became the vehicle for amendments to the act that was passed by the Housing Committee. The HBRA was OK with the minor changes to the Act in this bill while opposing any further amendments to the Act. The Dept. of Housing opposed the bill and it was not called in the House.
- HB 5367, AAC Changes to the Unemployment Comp System. A CBIA proposed bill, this would have adopted several positive changes to CT's UC system, including changing the calculation of benefits, and placing a three-year cap on the maximum UC benefit. While it passed the Labor Committee, the bill was never called in the House.
- HB 5377, AAC the Prevailing Wage. Would have required all construction contractors and subcontractors working on a project that receives any financial assistance from the state in the form of a grant or loan guarantee to pay prevailing wages, artificially high wages set by DOL. Prevailing wage laws also require contractors and subs to submit certified payrolls to prove they are paying prevailing wages. Since a number of housing assistance programs do not currently require the payment of prevailing wages, this bill would have made affordable housing immediately unaffordable and likely remove private for-profit home builders from participating in all state housing programs.
- HB 5500, An Act Requiring Suspension of Administrative Penalties. Would have suspended financial penalties on first-time violators of state agency regulations, provided the violation was remediated and it did not cause death or bodily injury or a penalty was not required by federal

law. Strongly opposed by environmental groups and the Dept. of Energy & Environmental Protection (DEEP), while supported by CBIA, the HRBA and other business interests, the bill passed the House 132-8 but was not called in the Senate.

**Some other bills that the HBRA monitored that passed:**

- SB 152, [PA 16-16](#), requires the Commission on Human Rights and Opportunities (CHRO) to post a notice on its web site regarding housing discrimination laws, and 60 days after such posting requires landlords or sellers of 2-family or more housing units to attach a copy of such notice to lease or sales agreements.
- SB 191, [PA 16-3](#), establishes a residential stair lift technician's license.
- SB 211, [PA 16-125](#), allows employers to pay employees using payroll cards.
- SB 301, [PA 16-199](#), requires DEEP to adopt regulations specifying numerical thresholds for reporting to DEEP discharges, spills or other releases of specified substances, materials or waste. Current law is vague as it requires reporting when human health or the environment is "threatened" regardless of the amount.
- SB 330, [PA 16-9](#), prevents demolition work from proceeding during the statutory waiting period when municipalities require a wait period when issuing demolition permits. Under current law, municipalities may already condition demolition permits with a waiting period.
- HB 5237, [PA 16-83](#), AAC Fair Chance Employment. This bill prevents employers from requiring prospective employees to check a box or otherwise answer on an employment application whether they have a criminal background. Employers may ask legitimate criminal background questions during the interview process.
- HB 5327, [PA 16-35](#), requires restoration service providers, i.e., companies that clean up and restore homes after fire, flood or other damage, to register as home improvement contractors.
- HB 5435, [PA 16-69](#), makes several changes to heating fuel dealer contract requirements for selling, leasing or renting a propane tank.
- HB 5425, [PA 16-115](#), adopts more major changes to CT's brownfields program (**Vetoed by Governor Malloy; the legislature did not override the veto of this bill**).

The complete list of almost 200 bills we tracked is not noted above. So, HBRA members should let me know if you have any questions about an issue you may have heard about but does not appear above. For copies of any bills or new laws, our testimony or talking points on any legislation, or for any questions or comments about the HBRA's advocacy efforts, please do not hesitate to contact me at 860-216-5858, or [bethier@hbact.org](mailto:bethier@hbact.org), or visit [www.hbact.org/2016Session](http://www.hbact.org/2016Session).

Many thanks go out to members who serve on the HBRA of CT Government Affairs Committee, led by its chairman, Bob Wiedenmann, Jr., and which helps set our advocacy agenda. Thanks also to Nort Wheeler, the HBRA of CT's 2015-2016 Board Chair & President, who leads our Board of Directors and is another champion of our advocacy work. Both Bob and Nort came to the capitol at key public hearings to testify with me on critically important bills. And, thanks go out also to T.J. Casey and the team at Gaffney Bennett & Associates, the HBRA's outside contract lobbyists who help me keep track of the hundreds of bills that would have some impact on our industry each year, and last but not least to Joanne Hoerrner, the HBRAC's Director of Administration & Events, who provides great office assistance as well as organization for our Day at the Capitol.

To all our members across the state, thank you very much for your membership. Keep building CT's economy, communities and better lives for all. With your support, we'll keep using effective advocacy and new knowledge to solve our member's problems.