



Office of State Ethics' Statement in Support of
Raised Bill No. 7002
"An Act Concerning Ethics"

Prepared by: Office of State Ethics

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RAISED BILL No. 7002
AN ACT CONCERNING ETHICS**

The primary purpose of this bill is to provide needed technical and substantive revisions to the existing Codes of Ethics. The Office of State Ethics (OSE) supports passage of Raised Bill No. 7002, and respectfully requests that the following comments be considered with respect to the thirteen (13) sections contained in the bill.

The OSE supports the entire Bill No. 7002 and its specific support is noted by sections below.

The OSE supports sections 1, 5, 6, 7, 8, 9, 12 and 13 of Raised Bill No. 7002 – which largely make minor necessary changes to the existing law – without further comment, except to note that the extension of the “the cooling off” period from one to two years (section 6) will further ensure that public officials and state employees who participated substantially, or who supervised the negotiation or award of a state contract valued at \$50,000 or more, are unable to unfairly profit from their previous state positions by going to work for a party to the contract soon after they have departed state service.

The OSE also supports sections 2 and 10 of Raised Bill No. 7002 which make certain changes to sections 1-81 and 1-92 of the Connecticut General Statutes. Sections 2 and 10 make clear that the OSE’s jurisdiction includes Parts III and IV of Chapter 10 (The Codes of Ethics) of the General Statutes. Currently, the OSE is charged with enforcing Parts III and IV of the Codes of Ethics. However, the present law is silent on the OSE’s authority to interpret such parts. Raised Bill 7002 will eliminate confusion regarding the jurisdiction of the OSE.

The OSE further supports sections 3 and 11 of Raised Bill No. 7002, which make critical changes to sections 1-82 and 1-93 of the Connecticut General Statutes (relating to enforcement actions). First, significantly, these sections would eliminate the requirement that the OSE investigate all public complaints. As of now, the OSE receives a myriad of complaints that, on their face, do not implicate the OSE’s jurisdiction, and are often filed with the OSE by apparent mistake. Nevertheless, because the statute commands that the OSE “shall investigate” each publicly filed complaint, the Enforcement Division must go through the exercise of notifying the target of the complaint and expending resources that cannot reasonably lead to anything but a dismissal. In addition, complaints filed by the public are sometimes used as a method of retaliation or intimidation. These complaints may state a truthful set of facts, but those facts cannot possibly rise to a violation of the Codes of Ethics. However, many of these filers know that the OSE still must investigate the complaint and must notify the target that a complaint has been filed. It should be noted, however, that even under the current proposal, citizens still maintain the ability to make allegations and inform the OSE of any suspected violations, but they cannot compel investigations. Sections 3 and 11 would make our system similar to Illinois (5 ILCS 430/20-45) and California (Call Gov. Code Sec. 91001), where complaints are brought by appropriate officials only, but may be based on information provided by the public.

Second, under sections 3 and 11, the OSE will no longer be forced to provide notice to the subject of an investigation until a complaint is filed. Currently, the Enforcement Officer must

provide notification to a subject if the Officer contacts a third party about the subject, even if the “contact” is as simple as checking to see if someone is a state employee. The requirement jeopardizes the Enforcement Division’s cooperation with other enforcement agencies that must preserve the confidentiality of their investigations. In addition, the notice requirement creates unnecessary burdens for innocent parties without adding any further due process protections. An individual who receives notice under the current requirement may feel the need to hire an attorney, and incur defense costs, even though there may ultimately be no complaint filed or warranted. Bear in mind, however, that anyone who does become the subject of an actual complaint would still retain all of his/her statutory and due process rights.

Third, section 3 would make the important change of eliminating the harsh sanction of attorneys’ fees against the State if the OSE were to ever lose a close case. Such a harsh sanction is inappropriate in the Codes, which now offer extensive procedural safeguards for respondents – arguably greater than those available in any other tribunal in the State. These include confidentiality, right to counsel, right to cross-examine and call witnesses, probable cause hearings with judge trial referees, trials in front of the Citizen’s Ethics Advisory Board (Board) with judge trial referees where the Connecticut code of evidence is used and, even then, full appellate rights to the Superior Court. With all these safeguards, the harsh sanction of attorneys’ fees against the State for any lost case seems an extraordinary and severe penalty – much harsher than the penalties afforded under the civil, administrative and criminal law of the State. We therefore support the language of section 3 that would remove subsection (c) of section 1-82. The sanction of attorneys’ fees provides disincentive for the OSE to vigorously pursue certain investigations, and economic incentive for respondents to hire high-cost lawyers in an effort to turn cases into procedural morasses, in an attempt to transfer the cost to the State.

The OSE supports section 4 of the raised bill, which makes public all information that is filed with statements of financial interest (SFI). At present, debts over \$10,000 are filed in a separate sealed envelope and may not be opened by anyone – even the OSE – without approval of the Board. The purposes of the SFI are: (1) to help the filer identify any conflicts of interest he/she may have and (2) to allow the public to review all relevant information about those who make government decisions. Without the debt information, the SFI disclosure is incomplete. It should be noted, however, that if section 4 is approved, section 1-88 (e) of the General Statutes, which discusses penalties for disclosure of the debt information, would be obsolete and should be repealed. If debt information is public, there is no longer a need for section 1-88 (e).

Finally, although not expressly included in the language of Raised Bill 7002, the OSE respectfully requests that the current subsection (f) of section 1-92 of the General Statutes be deleted. This subsection, which requires the OSE to report to the Governor prior to February 15 of each year, is duplicative of section 1-81 (a) (6), which already requires the OSE to report annually to the Governor prior to April 15.

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