



STATE OF CONNECTICUT

OFFICE OF STATE ETHICS

OFFICE OF STATE ETHICS' STATEMENT ON RAISED BILL No. 366 AN ACT CONCERNING PARTICIPATION BY THE STAFF AND MEMBERS OF THE CITIZEN'S ETHICS ADVISORY BOARD IN POLITICAL CAMPAIGNS

The purpose of this bill is to restrict the staff of the Office of State Ethics ("OSE") and members of the Citizen's Ethics Advisory Board ("CEAB") from participation in political campaigns of individuals who are subject to the jurisdiction of the Code of Ethics for Public Officials. The OSE respectfully requests that the following comments be considered.

The OSE absolutely supports the concept of placing restrictions on participation by OSE staff and members of the CEAB in political campaigns of individuals who are subject to the jurisdiction of the Code of Ethics for Public Officials and will work closely with the sponsors of the bill to achieve this goal. However, the OSE has strong reservations concerning the currently proposed language in Raised Bill No. 366, especially since the amendment touches upon the sensitive area of protected constitutional rights. The following points raised by the OSE are provided for the purpose of strengthening the proposed law.

First, we believe the General Assembly should provide greater clarity regarding the current language concerning the prohibition on contributions. Presently, the language states that the OSE staff and members of the CEAB are prohibited from making contributions *to any person subject to the provisions of this part*. (Emphasis added). "Any person" may potentially include a charity that has a contractual relationship with a state agency. Under the Code of Ethics for Public Officials, in which this particular prohibition is located, such charity potentially would be considered a "person subject to the provisions of this part," because it is doing business with the state. In order to avoid an overbroad application of the restriction, we would like to recommend the following language, which will maintain the desired goal of restricting political contributions to individuals who are subject to the jurisdiction of the Code of Ethics: "No member or employee of the board or Office of State Ethics may (1) make a contribution, as defined in section 9-601a, to any public official, state employee, or candidate for public office subject to the provisions of this part."

Second, the proposed restrictions extend to the political campaigns of any candidate for state or municipal public office. Presently, the OSE does not have jurisdiction over municipal matters. The issues surrounding volunteer political activity of the OSE staff and members of the board focused on the appropriateness of involvement in political campaigns of those individuals over whom the OSE has jurisdiction under the Codes of Ethics. We understand that some aspects of the

Code of Ethics already have been extended to certain municipal political activities. In fact, in Advisory Opinion No. 2009-4, the Citizen's Ethics Advisory Board concluded that its members, as well as OSE staff members, may not hold or campaign (i.e., be a candidate for) local elective office. Still, the proposed language in subsection (i) of Raised Bill No. 366 contains one obvious inconsistency. On the one hand, the phrase "contribution, as defined in section 9-601a, to any person subject to the provisions of this part," excludes municipal officials and candidates for municipal office. On the other hand, OSE staff and members of the board are prohibited from volunteering for such municipal officials and candidates for municipal office. In short, the proposed language permits political contributions to those who seek municipal office, but forbids volunteering for their political campaigns.

Third, in subpart (A) of Raised Bill No. 366, the phrase "publicly endorsing" is ambiguous. Does the phrase prohibit political discussion among a group of friends regarding two candidates for attorney general? More importantly, does it prohibit the discussion of issues which may be identified with a certain candidate? Such ambiguity may subject the proposed language to overbroad interpretation with excessively negative impact on constitutional rights. We believe that adding the phrase "on behalf of a political campaign of a candidate for public office" may help reduce the negative impact.

Fourth, we believe subpart (C) is also too broad as it may restrict activities completely unrelated to the jurisdiction of the OSE. As written, it is unclear what the phrase "contributions or other funds for a political purpose" means. It certainly captures contributions and funds to be used by a candidate for public office, but it could also apply to the collection of funds by a fraternal organization, a club, a religious organization or any other organization not formed primarily for lobbying or political purposes. Thus, for example, would the collection of funds by members of a local Elks Club for the purpose of defeating a municipal zoning proposal be captured by the above restriction? Would handling of funds by a member of a local conservancy group be prohibited if those funds are used to buy out farmland to preserve open space, because such activity is or may be considered political? Limiting the phrase to "contributions or other funds for a political campaign of any candidate for public office" would again prevent overbroad application of the law without sacrificing the policy goals of ensuring that public confidence in the integrity and impartiality of the CEAB and the OSE is maintained.

Fifth, in subpart (D), the OSE recommends the addition of the word "publicly" to the phrase "soliciting votes in support of or in opposition to a candidate." As proposed, the language could potentially preclude one from expressing political views in a private setting with family and friends.

Finally, in subpart (E), which states "providing any other compensated or uncompensated services for a political campaign," we would suggest adding the phrase "of any candidate for public office." This way, the language will focus on the subject matter over which OSE has jurisdiction. A broad reading of the provision could restrict, for example, participation in local referenda, such as opposition to a creation of a municipal waste disposal facility or an amendment to property tax rates – matters clearly outside of the OSE's jurisdiction.

Statement on Raised Bill No. 366

3/8/2010

Page 3 of 3

Undoubtedly, the drafters' intent is to prohibit participation in political campaign of candidates for public office over whom this agency has jurisdiction. Removing the ambiguity currently present in the language will help avoid any unintended consequences and prevent excessively burdening protected speech.

For further information please contact: Carol Carson, Executive Director, Office of State Ethics, or Peter Lewandowski, Staff Counsel, Office of State Ethics, at 860-263-2400; 860-263-2402 (fax).

