STATE OF CONNECTICUT
OFFICE OF STATE ETHICS

OFFICE OF STATE ETHICS' STATEMENT IN SUPPORT OF
RAISED BILL No. 6273
AN ACT CONCERNING THE OFFICE OF STATE ETHICS
FEBRUARY 7, 2011

The primary purpose of this bill is to provide critical revisions to the Codes of Ethics concerning the governance of the Citizen's Ethics Advisory Board ("CEAB") and important due process safeguards to those who are subject to the Codes of Ethics. The enclosed proposals do not have any significant fiscal impact. The Office of State Ethics ("OSE") supports passage of Raised Bill No. 6273, and respectfully requests that the following comments be considered.

Raised Bill No. 6273 addresses several issues concerning the governance of the CEAB. The CEAB is the governing body of the OSE, which is statutorily tasked with the interpretation of the Codes of Ethics through the issuance of Advisory Opinions and adjudication of ethics enforcement matters brought under the ethics laws. Members of the CEAB hail from all areas of the state and all walks of life. In 2010, the CEAB issued eight Advisory Opinions, approved 32 audits of registered client and communicator lobbyists, and was responsible for overseeing numerous settlements and Uniform Administrative Procedures Act (UAPA) Hearing matters related to disclosures. In addition, in 2010, the CEAB finalized its first adjudicatory board hearing where it acted as a fact finder under the direction of judge trial referee. There are currently many pending enforcement matters that can potentially lead to additional adjudicatory board hearings.

The CEAB cannot act unless it has a quorum of six members. Pursuant to section 1-82 and section 1-93 of the general statutes, the CEAB members must be physically present in order to vote on whether a violation of the Codes of Ethics has occurred. Lack of a quorum in CEAB proceedings would have devastating consequences to the operations of the agency.

The proposed revision under section 1 of Raised Bill No. 6273 will minimize the possibility of a lack of a quorum and provide for more gradual replacement of its members through a staggering of terms. The amendment would alter the replacement of members so only two, and in one instance three members, would be replaced each year. The revision clarifies the CEAB appointments by changing the term of members appointed by the Governor and the Senate president pro tempore beginning on October 1, 2009 to a term of five years. Subsequent appointments by the Governor and the Senate president pro tempore will revert to a four-year term.

The OSE also supports the language in section 1 of Raised Bill No. 6273 that will permit CEAB members to continue serving for the limited purpose of adjudicating at a board hearing. Similar

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language can be found in general statutes § 51-50e, under which judges may complete pending matters after expiration of their assignment. In addition, the OSE is supportive of the language that excludes from the term "public office" a justice of the peace or a notary public and thus permits such individuals to serve on the CEAB. The language in essence mirrors a similar provision that is found in the elections statutes. This amendment to the term "public office" will expand the pool of qualified candidates who could be eligible to serve on the CEAB, without diluting the conflict of interest requirements for such appointments.

The OSE supports the amendment to clarify the extent to which the staff of the OSE and members of the CEAB may make political contributions. Current law prohibits CEAB members and OSE employees from making political contributions to any person whom the state Ethics Code covers. The term "person" includes communities, companies, corporations, public or private, limited liability companies, societies, and associations. This proposal narrows the restriction to public officials, state employees, and candidates for public office who are subject to the jurisdiction of the Code of Ethics for Public Officials. The OSE also supports the proposal to restrict CEAB members and OSE staff from participating in political campaigns of individuals who are subject to the jurisdiction of the Code of Ethics for Public Officials. The purpose of this amendment is to further strengthen public confidence in the integrity and impartiality of the CEAB and the OSE.

The OSE also supports the language that would require prospective members of the CEAB to certify that they are aware of special restrictions imposed on board members under the Code of Ethics for Public Officials.

The OSE is supportive of section 2 of Raised Bill No. 6273, which amends § 1-84(q) of the general statutes by adding the word "knowingly" to the prohibition wherein "no public official or state employee shall counsel, authorize or otherwise sanction action" that violates the codes. As currently in effect, the prohibition is overly broad and could result in a violation by an agency counsel's good faith interpretation of the Code of Ethics.

Finally, section 3 of Raised Bill No. 6273 is supported by the OSE as it clarifies that when a person is found in violation of § 1-101nn of the general statutes such person may be deemed a nonresponsible bidder by governmental bodies. The current language of subsection (c) of section 1-101nn does not make a distinction that there must be a finding of violation of § 1-101nn pursuant to § 1-82 of the general statutes. The language may be misinterpreted that those who are subject to § 1-101nn are not afforded administrative review before they are deemed a nonresponsible bidder. The amendment will provide greater clarity to the regulated community and governmental bodies alike that violations of ethics codes are established through the administrative process set forth in § 1-82.

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