



Senate

General Assembly

File No. 49

February Session, 2012

Substitute Senate Bill No. 263

Senate, March 20, 2012

The Committee on Planning and Development reported through SEN. CASSANO of the 4th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING LIABILITY OF ZONING ENFORCEMENT OFFICERS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 8-12a of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2012*):

3 (a) Any municipality may, by ordinance adopted by its legislative
4 body, establish penalties for violations of zoning regulations adopted
5 under section 8-2 or by special act. The ordinance shall establish the
6 types of violations for which a citation may be issued and the amount
7 of any fine to be imposed thereby and shall specify the time period for
8 uncontested payment of fines for any alleged violation under any such
9 regulation. No fine imposed under the authority of this section may
10 exceed one hundred fifty dollars for each day a violation continues.
11 Any fine shall be payable to the treasurer of the municipality.

12 (b) The hearing procedure for any citation issued pursuant to this

13 section shall be in accordance with section 7-152c except that no zoning
 14 enforcement officer, building inspector or employee of the municipal
 15 body exercising zoning authority may be appointed to be a hearing
 16 officer.

17 [(c) Any zoning enforcement officer who issues a citation pursuant
 18 to an ordinance adopted under this section shall be liable for treble
 19 damages in any civil action if the court finds that such citation was
 20 issued frivolously or without probable cause.]

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2012	8-12a

PD *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact:

Municipalities	Effect	FY 13 \$	FY 14 \$
Various Municipalities	Potential Savings	Potential Minimal	Potential Minimal

Explanation

The bill may result in potential savings to municipalities as it eliminates the penalty of triple damages to zoning enforcement officers. Potential savings may occur to the extent that municipalities are responsible for paying such damages and associated legal costs.

OLR BILL ANALYSIS**sSB 263*****AN ACT CONCERNING LIABILITY OF ZONING ENFORCEMENT OFFICERS.*****SUMMARY:**

This bill eliminates the penalty of triple damages that, under current law, a zoning enforcement official must pay when a court finds that the official levied a fine frivolously or without probable cause against a property owner. By eliminating this penalty, the bill subjects a zoning enforcement official to the same liability as other municipal officials and employees.

EFFECTIVE DATE: October 1, 2012

BACKGROUND***Municipal Officials' and Employees' Liability and Indemnification***

Both statutory and case law provide municipal officials and employees with immunity in various circumstances (e.g., CGS § 52-557n).

Additionally, the law requires each municipality to indemnify municipal officials and employees from financial loss and expense, including legal fees and costs, arising from negligence or infringement of civil rights by the official or employee while acting in the discharge of his or her duties (CGS § 7-101a(a)).

The law also requires each municipality to indemnify municipal officials and employees from financial loss and expense, including legal fees and costs arising out of alleged malicious, wanton, or willful acts, or any act beyond the scope of their authority while acting in the discharge of their duties. But an official or employee who has a judgment entered against him or her for a malicious, wanton, or willful

act must reimburse the municipality for expenses it incurred in providing such defense and the municipality may not be held liable to such official or employee for any financial loss or expense resulting from such an act (CGS § 7-101a(b)).

The law authorizes each municipality to insure against the duty to indemnify or elect to self-insure such liability (CGS § 7-101 a(c)).

COMMITTEE ACTION

Planning and Development Committee

Joint Favorable Substitute

Yea 20 Nay 0 (03/07/2012)