

GOVERNMENT ADMINISTRATION AND ELECTIONS COMMITTEE

Friday, March 2, 2012 at 1 p.m.

TESTIMONY OF ATTORNEY WILLIAM R. BREETZ

RE: Governor's Bill 5027 [LCO #539] - An Act Implementing the Governor's Budget Recommendations Concerning the Elimination, Consolidation and Modification of Various Boards and Commissions

Specifically, Sections 38, 39 and 40 that Consolidate the Law Revision Commission and the Commission on Uniform Legislation

Good afternoon, Senator Slossberg, Representative Morin and members of the Committee:

My name is William Breetz and I have lived and worked in Hartford in a variety of capacities since 1968.

Thank you for this opportunity to speak briefly about the proposed consolidation of the Law Revision Commission ('LRC') and the Commission on Uniform Legislation, known nationally as the Uniform Law Commission ('ULC'). The Uniform Law Commission was organized in 1892 and Connecticut has participated in that organization from the outset. The Connecticut Law Revision Commission was created by statute in 1974. While I testify today solely as an individual, I have been honored to serve for many years on both bodies, entirely as an unpaid volunteer. I was first appointed to the Law Revision Commission by Governor Grasso in 1977 and to the Commission on Uniform Legislation by Governor Weicker in 1991. I've been regularly re-appointed to both bodies since then.

It is from that perspective that I offer these observations regarding the proposed consolidation of these two commissions, as proposed in Sections 38, 39 and 40 of Bill 5027.

As a general matter, I agree with the Governor that the State likely has more boards and commissions than are necessary. I also acknowledge that, superficially, one might conclude by reading our statutes that there is an apparent overlap in the roles that both the LRC and the ULC play in reviewing uniform laws.

However, I believe that this overlap is only superficial, that this so-called 'overlap' takes place at very different points in the life cycle of each uniform act; and in any case, the overlap has nothing to do with the other and very different roles that both bodies separately play.

This General Assembly, the other two branches of our government, and the citizens of Connecticut have been well served over these many years by both organizations and by the hundreds of volunteer lawyers and lay experts that have served on and advised these bodies – at little or no cost to the citizenry. Over the years, many individual legislators in this General Assembly have had occasion to seek assistance from both bodies, and I believe they have invariably received the assistance they sought. To the best of my knowledge, there has never

been an allegation of wrong doing by either body. I have not read or heard of any suggestion that either body has failed in its statutory obligation, nor any suggestion of how the work of either body would be enhanced by the proposed consolidation.

I SUMMARY OF REMARKS

My written testimony details the several reasons why I believe the proposal to consolidate the two commissions should be reconsidered and I hope you might review all this written testimony at a later time. Recognizing today's time constraints, however, let me summarize my written testimony. I make four main points:

First there are several significant functional differences between the two commissions. Because all the work of both groups is done by volunteers, I fear that increasing the statutory duties of both groups of volunteers through consolidation would likely result in a net loss of total volunteer effort. Moreover, consolidation surely would erode the effectiveness of the bodies' separate roles if the identical persons were statutorily required to perform both functions that the 2 separate groups perform today.

Second, the current 'two commission' system imposes no costs on the State that will be avoided in the consolidation contemplated in Bill 5027. Indeed, for the reasons detailed below, the consolidation could impose some additional costs on the State and may in any case require a fiscal note.

Third, I am concerned that the consolidation may jeopardize the tradition of encouraging volunteer lawyers and laypersons to assist in the working of the Law Revision Commission.

Finally, no one has demonstrated any economic or other benefits that would accrue to the State or its constituent parts from the consolidation that would offset the clear costs to the State from forcing this consolidation.

For the foregoing reasons, it seems to me that a consolidation of the two bodies as contemplated by Sections 38, 39 and 40 of Bill 5027 would be counter-productive. I respectfully suggest that the Governor, his staff and this General Assembly should reconsider the proposal.

I would be happy to respond to any questions that any member of the Committee may have. If there are none, thank you for your attention to this matter.

The remainder of my written testimony details the summary statements that appear above.

II FUNCTIONAL DIFFERENCES BETWEEN THE COMMISSIONS

In my experience, the functional differences between the two groups are far more important than the fact that both the ULC and the LRC may consider a few of the same uniform acts at different points in the life cycles of those particular acts.

A. The Uniform Law Process The principal functional difference is that very few of Connecticut's uniform law commissioners are involved in the detailed drafting of any

particular uniform act as that act makes its way through the drafting process of the ULC. That process is both time consuming and complex, and is accomplished by a broad group of volunteer uniform law commissioners drawn from around the nation, invariably advised by national stakeholders and by paid staff from the ULC's Chicago office; the dues paid by Connecticut and other states fund that staff. The entire Connecticut delegation considers all of the uniform acts only at the annual week-long meetings of the entire ULC, when each act being considered that year is read aloud and debated on the floor of the annual meeting.

Further, the ULC has a separate elected leadership and committee structure drawn from a national constituency; the members of Connecticut's delegation – like all ULC commissioners – are both active in and responsive to that leadership.

B. The Law Revision Process In contrast, the Law Revision commissioners do not review all uniform acts and they are appropriately responsive only to Connecticut's needs. Only after the process within the ULC has been completed on any particular act does the LRC have any role whatsoever regarding a uniform act. And when the LRC does consider uniform acts through its traditional study committees, those study committees invariably suggest amendments to the uniform acts before them, resulting in legislation that, while benefitting from the work of the ULC, is far more responsive to the legal and political realities of Connecticut than could possibly occur at the ULC drafting level.

Beyond that, the LRC has also considered many legal issues that were not the subject of uniform acts. Historically - both when the LRC had paid staff and since that time - individual members of this General Assembly as well as members of the LRC, suggested topics that might be suitable for the LRC to consider. As a consequence, the LRC has been far more able to respond to requests from the General Assembly to consider complex legislative proposals that were not uniform law products. Finally, unlike the Uniform Law Commission leadership structure, the Law Revision Commission elects its own Chair and other officers, making it solely responsible to Connecticut's citizens.

C. Different Groups Of Volunteers Will Best Perform These Separate Functions The fact that different individuals who were NOT members of the ULC are engaged in the discretionary consideration of Connecticut's laws in the Law Revision Commission provides a significant leavening process for the work of both groups as Connecticut considers the best possible laws for its citizens.

Stated differently, I believe that, as a general matter, the two bodies best accomplish their separate missions by having different individuals serve on those different bodies. While I believe some overlap in personnel has proved useful – and I am one of only 2 individuals serving on both bodies - this dual membership is not nearly as important to the process as having substantially different sets of eyes focused on uniform acts at different points in time, and different groups of people responding to the General Assembly and to the leadership of the ULC. In my judgment, consolidation would tend to lose the benefit of these functional differences and I believe our State would not be well served by that outcome.

D. A Smaller Pool of Volunteers Will Provide Fewer Benefits to Connecticut

Finally, the work in both bodies can entail substantial time commitments and those commitments are not always at different times in the calendar year. Given the different, complimentary and often time consuming roles that both bodies play, it is not clear that the same group of individuals would be able or willing to devote the necessary time and resources to both bodies as the separate groups now generally play. To the extent this hypothesis proved true, both bodies would suffer to some degree through a lack of attention from commissioners now statutorily limited to serving different roles.

III NO APPARENT BENEFITS FROM THIS PROPOSED CONSOLIDATION

If there were benefits to be gained by a consolidation, those benefits might outweigh the potential disadvantages described above. Speaking with respect, I believe that no one has demonstrated what the perceived benefits of consolidation might be.

A. No Cost Savings; Possible Fiscal Note The usual benefit of any merger or consolidation is a dollar cost saving. If there were to be a dollar cost saving here, especially in these times, I would want to carefully balance that saving against the lost functional benefits that I anticipate. But in this case, no dollar cost saving will be realized; instead, there may well be a need for a fiscal note resulting from potential increased costs resulting from the consolidation. This result would flow from the continuation of the existing law in C.G.S § 2-80, which is not repealed in the current draft of Bill 5027 but whose language is repeated in § 39 at line 1193.

B. Connecticut's Annual Dues to the Uniform Law Commission Are Unchanged Under Section 39(c) of Bill 5027, the State would continue to pay the same annual dues to the Uniform Law Commission as it does today.

C. Mandated Travel Expenses for Uniform Laws Could Increase In addition, at least in theory, since Section 39(c) of the new text also continues the existing requirement in § 2-80 that the State will reimburse "Members....for their actual traveling and other expenses while engaged in the performance of their duties under section 2-87", and since the number of members of the Uniform Law Commission is apparently being increased to 16, it seems there would be at least the theoretical statutory obligation on the State to pay twice the number of individuals to attend the annual meeting of the Uniform Law Commission as is the case today. I describe this as only 'theoretical' because for the last two years, despite the statutory requirement, the State has not reimbursed uniform law commissioners for their travel expenses to the annual meeting. As a result, the members of the Connecticut delegation have either paid their own way to the annual meeting or have chosen not to attend.

D. The Law Revision Commission Costs Taxpayers Nothing Beyond that, the only remaining significant consideration at work here is that the current operation of the LRC is done entirely without cost to the State. Indeed, the tradition of the LRC to engage volunteer advisors to its study committee, over the 40 years of its existence, has successfully encouraged more than 500 volunteer attorneys and laypersons with specific expertise to assist the LRC on matters that have come before it. This change in the LRC structure, even if done from the best of motives, might have the unintended consequence of disrupting an exceptional tradition of legal service that has accrued to the State at no cost.