



Higher Education Committee  
February 28, 2012  
Public Hearing  
Testimony  
By  
Rachel Rubin  
Chief of Staff to the President  
University of Connecticut

Co-Chairs, Ranking Members, and Members of the Higher Education Committee, thank you for allowing me to submit written testimony today on Raised Bills 5279, *An Act Concerning Public Institutions of Higher Education* and 5032, *An Act Concerning Technical Revisions to the Higher Education Statutes*.

**Raised Bill 5279, An Act Concerning Public Institutions of Higher Education**

The University is grateful to the Committee for raising House bill 5278, *An Act Concerning Public Institutions of Higher Education*. This legislation which makes the important following changes to Connecticut's public higher education statutes:

1. Conform Public Higher Education Purchasing Statutes with Department of Administrative Services Statutes

The bill conforms public higher education's purchasing statutes with the current Department of Administrative Services' (DAS) practice and statutory framework regarding advertising for competitive bids and proposals for goods and services. In 2009, the Department of Administrative Services changed their statutes (PA 09-07 – section 158) to allow for internet only advertising for competitive bids and proposals for goods and services exceeding \$50,000. Previously, DAS was required to place advertisements in two or more publications and the internet. Currently, public universities and colleges have to advertise competitive bids and proposals exceeding \$50,000 in two or more publications and the internet. Consistent with PA 09-07 section 158, Raised bill 5279 would permit us to post, competitive bids and proposals exceeding \$50,000 only on the internet, thereby achieving advertising costs savings.

2. Change Faculty Consulting Audit from Semi-Annual to Annual

As part of its teaching, research and patient-care mission, the University of Connecticut has a long history of interacting with state, regional and national industry through faculty consulting agreements. These agreements facilitate the pursuit of research excellence, the dissemination of knowledge that emerges from that research, and new innovations and technologies which create jobs and promote economic growth. While taking many forms, faculty relationships with industry provide critical research, technology-transfer, and business development services that make industry more competitive in the global marketplace.

In 2007, the General Assembly recognized the importance of these faculty consulting agreements and set up an oversight framework to monitor these consulting agreements which includes an audit every six months as well as Faculty Consulting Oversight committees, appointed by the University, the Governor and the General Assembly, which monitor compliance with university consulting policies and procedures.

Since the faculty consulting oversight process has been in place, it has become clear that a semiannual audit does not add value to the process. Faculty consulting arrangements are of varying duration ranging from one day to one year, occurring any time between July 1 and June 30<sup>th</sup>. UConn's Oversight Committee has found that auditing faculty consulting requests submitted through just six months of the fiscal year does not allow for a complete picture of activity or a determination of a faculty member's compliance. Moving to an annual audit cycle will:

- Improve our ability to provide an accurate assessment of compliance with the University's consulting policy;
- Provide sufficient time for administration to implement corrective action; and
- Result in a more efficient use of University staff resources which can be deployed to other compliance or audit functions.

It is for these reasons that UConn's Faculty Consulting Oversight Committee is recommending that the audit be changed from semiannual to once per year.

3. Remove the Requirement that Independent Auditors Estimate the Book Value of the UCHC Patient Account Receivables in its Quarterly Reports to the Comptroller, Saving UCHC \$35,000 Annually

Pursuant to CGS Section 10a-128, the UCHC is required to file a report of the book value of its patient account receivables (known as hypothecation reports) with the State Comptroller each quarter. In accordance with the recommendation made by the State Auditors, the UCHC proposes to remove the requirement that independent auditors estimate the book value of its patient account receivables. This amendment will save the UCHC, \$35,000 annually. As presented to UCHC in the Auditors of Public Accounts 2-90 report, the auditors note that "the costs being incurred may be unnecessary, should be avoided and the cost of these reports may exceed their value". They further recommended that the UCHC consider seeking legislation changing the requirements for the quarterly hypothecation reports. The UCHC agrees with this recommendation and is seeking that change.

The hypothecation report is a straightforward calculation that UCHC can provide to the Comptroller on a quarterly basis. The need for an outside/independent auditor to issue an opinion or estimate adds approximately 60 to 180 days to confirm and again, costs the UCHC \$35,000 annually for that review. Both the State Auditors and the State Comptroller are supportive of the bill language.

4. Clarify Statute To Preserve UConn And Employee Rights To Employee Inventions

A recent United States Supreme Court decision puts the rights of the University and employee inventors at risk. In *Stanford v. Roche*, a faculty member was contractually required "to assign" inventions to Stanford University. However, before actually signing an assignment to the University, he signed another document assigning the invention to a private company. As a result Stanford lost its rights to the invention.

Section 10a-110b gives UConn the right to ownership of inventions made by employees in the course of their employment and Section 10a-110c gives the employee a share of the proceeds. But like the Stanford contract, section 10a-110b provides that an employee inventor is obligated "to assign" the invention to UConn. The statute needs to be clarified to make clear that the ownership of the invention automatically vests with UConn and does not depend on an employee actually signing an assignment. The proposed legislation will prevent a result like *Stanford* where UConn – and the employee inventor – lose their rights to an invention.

We respectfully request the inclusion of the following language in the bill as a new section 5:

**(NEW) Section 5. (Effective from passage) The intent of section 10-110b of the general statutes, as amended by section 4 of this act, is to clarify that current law automatically vests in the University title to inventions in the circumstances described in section 4.**

Although a statement of intent is not often used in Connecticut statutes, it has been used to clarify for the courts the legislature's intent in situations where there might be a question about whether the revised language applies retroactively. The revisions are a clarification of – not a change to – existing law. Accordingly it is intended apply to all inventions regardless of whether they were conceived, disclosed or patented before or after the effective date. Without this clear statement of intent in the statute, a court may have to make its own judgment about whether the revised language applies only to inventions conceived after the effective date, or inventions disclosed after the effective date or only inventions patented after the effective date.

An example of language of this type being included in legislation and being utilized by the court may be found in *Greenwich Hosp. v. Gavin*, 265 Conn. 511, 829 A.2d 810 (2003). There, the Connecticut Supreme Court held that the legislature intended retroactive application when a Public Act provided specifically that the intent of the act was clarification of existing law:

In the present case, the legislature has simplified our task of determining its intention in adopting P.A. 00-174 by incorporating into the text of the act an explicit statement of the legislature's intention. As we previously noted, P.A. 00-174, § 70, provides that “[t]he intent of section 12-263a and subsection (29) of section 12-407 of the general statutes, as amended by sections 68 and 69 of this act, is to clarify that current law includes in the base of the hospital gross earnings tax sales of tangible personal property transferred in connection with patient care services.”

*Id.* 265 Conn. at 519-20, 829 A.2d at 815. (Emphasis supplied).

In the event of future litigation, a court would be aided by a clear statement of legislative intent.

It is important to note that the legislation does not change the rights or obligations of UConn employees.

**Raised Bill 5279, An Act Concerning Public Institutions of Higher Education**

In regard to Raised Bill 5032, *An Act Concerning Technical Revisions to the Higher Education Statutes*, the University would like to request an amendment to this legislation which would make it clear that the University of Connecticut Board of Trustees and not the Board of Regents (BOR) will:

1. Approve mission statements for the University of Connecticut and its regional campuses;
2. Make recommendations for the merger and/or closure of UConn's institutions or regional campuses;
3. Report UConn's budget expenditures to OPM; and
4. Report UConn's fundraising activities to the General Assembly.

These changes are consistent with the authority the BOR has for CSU, CCCs and Charter Oak.

As always, I would like to thank the Committee for their continued support of the University of Connecticut. I would be happy to answer any questions or provide you with additional information.

