

State of Connecticut

HOUSE OF REPRESENTATIVES STATE CAPITOL

REPRESENTATIVE JOHN T. SHABAN
ONE HUNDRED THIRTY-FIFTH ASSEMBLY DISTRICT

LEGISLATIVE OFFICE BUILDING
ROOM 4200
HARTFORD, CT 06106-1591

TOLL FREE: (800) 842-1423
CAPITOL: (860) 240-8700
HOME: (203) 664-1015
EMAIL: John.Shaban@housegop.ct.gov

MEMBER
ENVIRONMENT COMMITTEE
FINANCE, REVENUE AND BONDING COMMITTEE
JUDICIARY COMMITTEE

March 2, 2012

From: Representative John T. Shaban

Re: **SB 263- AN ACT CONCERNING LIABILITY OF ZONING ENFORCEMENT OFFICERS.**

I would like to thank the Honorable Co-Chairs Senator Steve Cassano and Representative Linda Gentile, the Honorable Vice Chairs Senator Eric Coleman and Representative Audin Grogins, and the Ranking Members Senator Leonard Fasano and Representative Bill Aman, and the entire membership of the Planning and Development Committee for their time this morning.

I offer testimony both in support of SB 263, and to offer a revision to the language that would further the goal of the bill.

Under current law, Zoning Enforcement Officers are subject to a set of rules distinct from similarly situated municipal employees. Pursuant to Conn Gen Stat. §8-12a, a ZEO who issues a municipal citation under §8-12a(a) can be subject to civil suit and treble damages if "the court finds that such citation was issued frivolously or without probable cause."

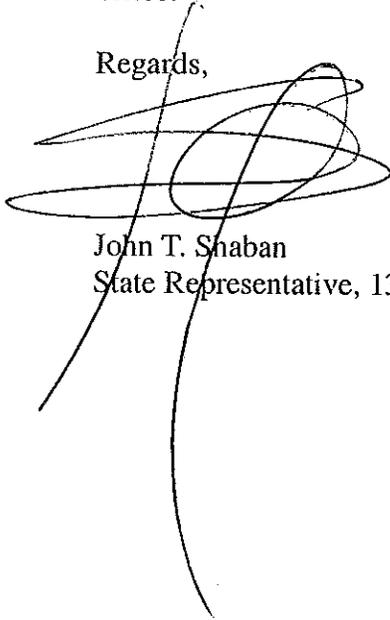
At the same time, under Conn Gen Stat. §7-101a (a), municipalities must protect and hold harmless employees sued for negligence and/or civil rights violations in the performance of their duties. Under §7-101a(b), however, the employee must reimburse the municipality if the employee has committed an *ultra vires* act or been found to have acted in a "malicious, wanton or willful" fashion in the performance of their duties.

The two sections thus create two standards for ZEOs, and expose ZEOs to greater liability than any other municipal officer. This is unfair and counter productive because the increased (and uncertain) exposure has a chilling effect on ZEOs' activities and has prevented many municipalities from instituting needed citation ordinances.

SB 263 tries to rectify this issue by removing the treble damages provision and the different liability standard and replacing it with language that tracks §7-101a(b). While this approach would be a positive step, the better approach would be to strike §8-12a(c) in its entirety. By default, ZEOs would thereby fall back under §7-101a by operation of law. Indeed, as written, SB 263 could be interpreted to create a new and unintended standard for ZEOs – *to wit*, under the new law could ZEOs now only be found liable for malicious and wanton conduct, and/or are ZEO's now liable for a plaintiff's attorney's fees? The confusion is unnecessary. I urge your full support on SB 263 and the revised language I have outlined.

Thank you for your consideration. Should you have any questions please do not hesitate to contact my office.

Regards,

A handwritten signature in black ink, consisting of several overlapping loops and a long vertical stroke extending downwards.

John T. Shaban
State Representative, 135th District