

*TESTIMONY PRESENTED BEFORE THE GOVERNMENT ADMINISTRATION
AND ELECTIONS COMMITTEE*

March 25, 2013

Statement of Michael J. Brandi, Executive Director & General Counsel

House Bill No. 6669

Senate Bill No. 5

House Bill No. 6670

Good morning, Chairperson Musto and Chairperson Jutila, Ranking Members Senator McLachlan and Representative Hwang, and distinguished Committee members. I am Michael Brandi, Executive Director and General Counsel of the State Elections Enforcement Commission. I am honored to speak before this Committee again this morning. Today I will be testifying on behalf of my Commission's legislative initiative contained in House Bill No. 6669 and Senate Bill No. 5 regarding changes to campaign finance laws. Thank you for this opportunity to testify.

H.B. No. 6669: An Act Concerning the Appointment of Members to the State Elections Enforcement Commission

House Bill No. 6669 seeks to restore the full power of appointment to Senate and House leadership, as well as the Governor, and to return the terms of the Elections Enforcement commissioners to the common sense time-frames that had been in place since the Commission's inception in the 1970's until the 2011 consolidation.

As part of the consolidation, the term structure for SEEC commissioners was drastically changed. The statute now dictates that leadership may not reappoint any commissioner, even one that has only served a partial term, and requires leadership to replace every single commissioner every three years.

These changes to the powers of leadership to appoint have begun to dilute the experience of the Commission and could ultimately lead to a Commission without a quorum and/or an entirely inexperienced Commission being charged with administering the Citizens' Election Program or sitting as Hearing Officers in difficult administrative law matters. Because appointments occur in July, the peak of the CEP grant approval process, and leave little to no time to familiarize new members with their duties, we also ask that the appointments be moved from July to April.

As with all things done during the consolidation that have eroded the efficiency and effectiveness of the Elections Enforcement Commission, the adjustments to the Commissioners' terms should be re-examined. Restoring the choice to leadership to re-appoint or not, and returning to the original term of five years will minimize disruption to the agency, ensure that the Commission has continuity and can issue CEP grants within the statutorily required timeframe,

serve as Hearing Officers on complicated administrative law cases and adequately oversee a full enforcement docket.

Senate Bill No. 5: An Act Concerning Changes to Campaign Finance Laws and Other Election Laws

The Commission strongly supports the provisions in Senate Bill No. 5, which provide for greater disclosure with respect to certain independent expenditures. Not only does meaningful disclosure hold candidates and corporations accountable for their positions and for their supporters, but timely disclosure is also necessary to prevent corruption and its appearance and to allow regulatory agencies to enforce the law. In order for the voting public to adequately evaluate a message, it must be able to identify the speaker.

Disclosure of money spent to influence Connecticut elections has been a core goal of this state's campaign finance laws since this agency was created in the wake of the Watergate scandal in the 1970s. Connecticut citizens have a right to know who is providing money to promote or oppose candidates and to influence this state's elections. People should not be able to create sham entities to transfer money to other sham entities in order to hide the true source of the funds being spent to make independent expenditures in Connecticut.

When the United States Supreme Court in *Citizens United* opened up the floodgate to allow corporations and unions to spend directly from their treasuries to make independent expenditures, the Court also reinforced the importance of disclosing the sources of campaign funds. The Court affirmed the importance of rapid and informative disclosure and praised the advent of the internet as a source of the information needed by citizens and shareholders to hold elected officials and corporations accountable. Federal courts across this nation have consistently upheld robust disclosure laws.

Many of the disclosure provisions in Senate Bill No. 5 continue to improve upon Connecticut's independent expenditure disclosure law. In particular, the provisions concerning certain monetary transfers among entities for the ultimate purpose of election spending and attribution of advertisements to individuals rather than entities attempt to address the lack of transparency created when funders of political speech use entities to give funds to another entity, and thereby obscure who is really making the statements. The proposed provisions are crucial to peel back the layers and to provide Connecticut voters with information about the actual sources of the money being donated and used to influence this state's elections.

In the wake of the chaos caused by the *Citizens United* decision, it is imperative to allow the voters of Connecticut all of the transparency and disclosure legally available to them. With this in mind, the Commission strongly urges this Committee to carefully consider its options with respect to disclosure requirements and ensure that the maximum amount of transparency is achieved for the citizens of Connecticut. Specifically, we recommend that the law make clear that groups created primarily to influence the selection, nomination, election, appointment or defeat of candidates, like those formed under section 527 of the Internal Revenue Code, have fuller regulation than those whose purpose is other than participation in elections. Unlike for-profit corporations or labor unions which were created and primarily operate for non-election

related purposes, such 527 groups are formed for the purpose of influencing elections, and accordingly, the Commission believes they may be subject to more comprehensive regulation and disclosure. In addition, the Commission urges the Committee to look at the penalties available for failure to disclose independent expenditures. The penalty for filing a disclosure of a \$500 mailing six hours late should not be the same penalty available for failing to ever disclose a \$2,000,000 television ad campaign.

The Supreme Court has noted “transparency enables the electorate to make informed decisions and give proper weight to different speakers and messages.” The Commission applauds the efforts of this legislature to ensure the citizens of Connecticut have the benefit of transparency in campaign financing and we look forward to assisting this Committee as you work to ensure accurate and timely disclosure to the fullest extent possible under law.

House Bill No. 6670: An Act Concerning Supervised Absentee Voting, Applications for Absentee Ballots and Duties and Responsibilities Assigned to Moderators

The Elections Enforcement Commission opposes the sections in House Bill No. 6670 exempting state-owned institutions from supervised absentee balloting. In our experience as the state’s election law enforcement agency, we have seen that attempts at undue influence or fraud in absentee balloting are most likely to occur where vulnerable populations live in high concentration. Supervised absentee balloting brings the polling place to the voter and in doing so protects the voter’s individual right to exercise their vote in privacy without the threat of outside influence. It is an instrumental tool in the prevention of fraud and absentee ballot abuse. We urge the committee to reject these provisions.

Thank you for your consideration of the Commission’s views on the issues included in this bill.