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**Testimony of Mary Alice Leonhardt**  
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**In SUPPORT of**

**HB5481, An Act Establishing the Central Office of Administrative Hearings.**

Government Administration and Elections Committee  
March 10, 2014

Senator Musto, Representative Jutila, members of the GAE Committee:

In 2009, in accordance with Section 155 of Public Act 09-07 of the of the September Special Session, the president of the Connecticut Bar Association appointed me to serve on a task force to develop recommendations for the establishment of a Division of Administrative Hearings to conduct impartial hearings of contested cases brought by or before the Department of Children and Families, Transportation and Motor Vehicles and the Commission of Human Rights and Opportunities. This task force's work encompasses consideration of the model for the implementations of a "central hearing office" or "central panel" for administrative hearing officers similar to those set up in more than 30 states, the District of Columbia, New York City and the City of Chicago. I have met with the Chief Administrative Law Judges from these states and they have offered their support to ensure Connecticut's Division of Administrative Hearings is properly modeled and to facilitate the implementation of the central office. This proposal has been refined over several years and it is the product of a consolidated effort aimed at ensuring a

seamless transition of the hearings. It also incorporates several provision suggested by the collective bargaining units which represents the hearing officers and staff involved with these contested case hearings to ensure that such matters as seniority and status, among other rights and entitlements are respected.

The CBA has pursued this legislation for more than a decade because it believes this central hearing office will provide the public, consumers, regulated individuals and businesses, with an impartial forum in which to secure fair hearings to dispute and address agency regulatory action.

The Administrative Law Section suggests that the division be established within the Office of Governmental Accountability.

We are also **RECOMMENDING AN AMENDMENT TO HB5481** *in Section 8 by eliminating the Freedom of Information Commission, the State Elections Enforcement Commission, the Office of State Ethics, and the Judicial Review Council. We would ask that the Office of Consumer Protection and the Department of Social Services be included in this bill.*

So initially, the contested cases concerning the chosen agency hearings would be the Department of Social Services, Department of Children and Families, Transportation, Consumer Protection, the Commission on Human Rights and Opportunities and cases concerning retaliation for whistleblower complaints, would be transferred into the Division. Other agencies may elect to utilize the hearings unit as appropriate and the unit will also conduct mediation and pre-hearing settlement conferences for the assigned agency cases or those of other agencies who may opt in from time to time.

The Division of Administrative Hearings of Administrative Hearings should be established because it would foster the use of a more effective operational and financially accountable business model for these hearings. It will provide:

- **Efficiency:** A central office of administrative law adjudicators would consolidate support services and systems within one agency, thereby generating efficiencies in time and cost savings. Flexibility in case assignments would predominate to ensure that appropriate administrative adjudicators would be assigned both to specific kinds of cases or particular agencies to apply the necessary expertise, and to meet the “feast or famine” fluctuation caseloads of the various agencies. Staff would easily be assigned where the need exists and cases would be handled in less time. Fewer administrative law adjudicator would be needed to hear more cases. Attorneys and members of the public would have a central location from which to obtain copies of the administrative law adjudicator’s decisions, the procedural regulations established by the office of administrative hearings and the substantive regulations of the departments. It will eliminate a process that currently puts professionals, consumers, businesses and other parties through a prolonged hearing process.
- **Cost and Economics of Scale:** The experience in other states which have pioneered the central hearings units demonstrates that ac enteral independent hearings unit sis inherently more cost-effective than independent hearing units sprinkled throughout a multitude of state agencies. This is achieved by economics of scale and flexibility in case assignment. For example, in Oregon, where the office of administrative hearings was established approximately 7 years ago, the savings were measurable:
  - In 2000-01, its first fiscal year after implementation, Oregon’s OAH reported the average number of OAH hours per referral was 8.55. By 2002-03, the number had been reduced by striking 17% to 7.13 hours. Similarly, in 2001-01, the average cost of a referral was \$322. In 2002-03. It was \$285, a saving of 11%. The total cost savings to Oregon in 2002-03 was \$1.4 million.
  - The average cost of Department of Transportation referrals dropped by 6%; the average cost per referral dropped by 9%; and in 2002-03, the Department saved \$232,158.
  - The average cost of Department of Human Services referrals (about 3000-4000 annually) dropped by 23% in 2002-03; the average numbers of hours per referral dropped by 26%; and in 2002-03, the Department saved \$371,600.

Other states have had similar success in driving the cost down:

- In late 1994, Texas reported a savings of 70% in costs associated with agency hearings. In the second year of its operation of a centralized hearing unit, Maryland's office saved the state almost \$828,000. Our near neighbor, New Jersey spent only \$7.5 million in its administrative hearings after implementing its central hearing units, as compared to the \$20 million it would have spent in the hearings. Minnesota reported its hearings costs for public utility commission hearings dropped in two years from \$400,000 to \$234,000.
- Massachusetts, having staggered the transition of agency hearings into its central hearing office, has experienced more than \$1 million in savings each year as more and more agencies have been transitioned into the unit.
- **Impartiality:** A centralized panel of administrative law adjudicators sitting in an impartial agency would provide fundamental fairness and due process; apply agency policy and regulations without being subjected to advancement or penalty by the agency for their cooperation or lack of cooperation; and enhance public trust and confidence in the process and in decisions rendered. Consequently, an office of administrative hearings would foster trust and confidence in state government.
- **Expertise:** The expertise applied by the current hearing officers would be retained and hearing officers would enhance their skills, training and knowledge base. Administrative law practice and procedures in accordance in a uniform administrative law practice and procedures in accordance with rules of practice which would bring more uniformity to the agency hearing process. All present full-time agency hearing officers of the department included in the bill would be transferred into the new hearing office and available for the suitable assignment of cases for their training and expertise. In other words, the same hearing officers would be available to bring their expertise to bear in the same types of cases, as were previously assigned to them at their former agency. At the same time, opportunities to hear other types of cases and receive appropriate training, would stimulate and sharpen and administrative law adjudicator's intellect, encourage creative inquiry into novel issues, provide for peer consultation and attract the most qualified people to the administrative bench. The proposed legislation also provides for consistent training of the administrative law adjudicators in procedural and substantive law, ensuring competence and enhanced professionalism, particularly in those agencies that currently use contractual hearing officers.
- **Uniformity and consistency:** The administrative hearing and enforcement process used by the state agencies, except where governed by the UAPA, vary unnecessarily and often for no apparent reason. Uniformity can be achieved by adopting a single process under a central hearing office that can be varied in limited circumstances to address agency needs. A central hearing office could establish uniform hearing procedures.

The CBA appreciates your consideration and support of this important legislation that will bring Connecticut on par with the majority of other states, will establish an appropriate "wall of ethics" and ensure integrity and efficiencies in contested case proceedings in Connecticut. On behalf of the CBA and Administrative Law Section, I respectfully request that this proposed bill receive your support and endorsement.



General Assembly  
February Session, 2014

**Raised Bill No. 5481**

LCO No. 2116



Referred to Committee on GOVERNMENT ADMINISTRATION  
AND ELECTIONS

Introduced by:  
(GAE)

**AN ACT ESTABLISHING THE CENTRAL OFFICE OF ADMINISTRATIVE  
HEARINGS.**

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

Section 1. (NEW) (Effective October 1, 2014) (a) There is established a Central  
Office of Administrative Hearings within the Office of Governmental  
Accountability for administrative purposes only. The Office of Governmental  
Accountability of Administrative Hearings shall conduct impartial hearings of  
contested cases in accordance with the provisions of sections 2 to 9, inclusive,  
and section 20 of this act and chapter 54 of the general statutes.

(b) For purposes of sections 2 to 9, inclusive, and section 20 of this act, (1)  
"administrative law judge" means a person whose primary duties are to conduct  
hearings in contested cases and issue final decisions or proposed final decisions  
and who is transferred to the Central Office of Administrative Hearings pursuant  
to section 4 of this act or appointed by the Chief Administrative Law Judge  
pursuant to chapter 67 of the general statutes; and (2) "Chief Administrative Law  
Judge" means the administrative law judge appointed by the Governor in  
accordance with section 2 of this act to serve as Chief Administrative Law Judge.

Sec. 2. (NEW) (Effective October 1, 2014) (a) On or after October 1, 2014, the  
Governor shall nominate the Chief Administrative Law Judge to serve a term  
expiring on March 1, 2015. Thereafter, the Chief Administrative Law Judge shall  
serve a term of six years, or until a successor is qualified. Any person nominated  
under this section shall have been admitted to the practice of law in the state for

The order shall incorporate by reference such stipulation, agreed settlement or consent order which shall be attached to such order. The order shall further provide that no findings of fact or conclusions of law have been made regarding any alleged violations of the law. The order and stipulation, agreed settlement or consent order may be enforceable by any party in the superior court for the judicial district of New Britain. A party may petition said court for enforcement of the order and stipulation, agreed settlement or consent order and for appropriate temporary relief or a restraining order.

Sec. 8. (NEW) (*Effective January 1, 2015*) (a) Notwithstanding any provision of the general statutes, and except as otherwise provided in section 9 of this act, on and after January 1, 2015, the Central Office of Administrative Hearings shall conduct hearings and render proposed final decisions or, if authorized or required by law, final decisions in contested cases:

(1) Pursuant to subdivision (3) of subsection (b) of section 4-61dd of the general statutes, as amended by this act;

(2) Brought by or before the Department of Children and Families;

(3) Brought by or before the Department of Transportation;

(4) Brought by or before the Commission on Human Rights and Opportunities;

(5) Brought by or before the Office of Consumer Protection;

(6) Brought by or before the Department of Social Services;

(7) Pursuant to cases involving transfers or discharges from nursing facilities or the preadmission and annual resident review requirement of section 1919 9e)(7) of the Social Security Act, pursuant to 42 C.F.R. §431.220(a)(3) and (4).

[(5) Brought by or before the Freedom of Information Commission;

(6) Brought by or before the State Elections Enforcement Commission;

(7) Brought by or before the Office of State Ethics;

(8) Brought by or before the Judicial Review Council; and

(9) Involving transfers or discharges from nursing facilities under section 19a-535 of the general statutes or preadmission screening or annual resident review under subsection (i) of section 17b-359 or section 17b-360 of the general statutes.]