

Claude Albert, Legislative Chair, Connecticut Council on Freedom of Information

Testimony Opposing Certain Provisions of *House Bill 5481, An Act Establishing the Central Office of Administrative Hearings*

Monday, March 10, 2014

Sen. Musto, Rep. Jutila and members of the Government Administration and Elections Committee:

My name is Claude Albert, and I am the legislative chair of the Connecticut Council on Freedom of Information, an organization committed to furthering government transparency and accountability. We strongly oppose the provisions of House Bill 5481, which would remove authority over contested hearings from the Freedom of Information Commission and give it to a Central Office of Administrative Hearings.

We understand that this bill is the latest offering in an annual attempt to improve the quality and consistency of administrative hearings at state agencies. In the past, these bills have wisely excluded the state watchdog agencies. For some reason, they are included this year, and thus the bill resurrects all the issues raised by previous attempts to undermine these independent agencies.

These agencies are critical to integrity and public confidence in government. Their credibility is essential. Our main focus, the Freedom of Information Commission, polices one of the public's most important rights – the ability to know what government is doing. The FOIC is the court of appeals for ordinary citizens who believe that government has wrongly denied them access to public meetings and documents. Like the courts, the FOIC must be – and must be perceived as – independent and above political manipulation.

This bill offers the antithesis of that independence. In the FOIC's case, it would turn virtually all the agency's staff and control of its core function – adjudicating contested cases – over to an appointee hired, fired and reporting to the governor. This is an unacceptable conflict of interest, ripe with the potential for abuse of power.

No governor's agent should control any of the watchdog staffs, which may be investigating whether that governor, or a member of his or her administration, or of his or her party, acted unethically, or violated election law, or wants documents kept secret that the public is entitled to see.

Since the FOIC has jurisdiction over all state agencies, further conflicts of interest would arise whenever contested FOI cases involved complaints against the new Central Office itself, or against any of the agencies whose administrative work the office would be doing.

This bill also would give the administration control over the budget of the new central office, dissolving the fiscal buffer the legislature has placed between the FOIC and the political process. The legislature currently has direct oversight of the FOIC budget. While this has not immunized the agency from serious cutbacks in difficult times, it has given it some appropriate distance from the whims of any given administration.

Finally, the bill would not improve the expertise with which freedom of information cases are handled. The FOIC staff is already thoroughly knowledgeable about this specialized area of the law and handles hundreds of cases a year with professionalism and integrity. In addition, it defends appeals of FOIC rulings in the courts, up to and including the state Supreme Court. It is widely respected around the country, and indeed beyond, for its ability to reach and enforce sound judgments. The legislature should vigorously protect its independence, credibility, stature and authority.