



STATE OF CONNECTICUT

OFFICE OF STATE ETHICS

TESTIMONY PRESENTED BEFORE THE GOVERNMENT ADMINISTRATION AND ELECTIONS COMMITTEE

March 7, 2016

***Statement of Carol Carson, Executive Director
Office of State Ethics***

Senate Bill 361 – An Act Revising the State Code of Ethics

The Office of State Ethics provides testimony in support of ***Senate Bill 361, An Act Concerning Revising the State Code of Ethics*** which is a proposal by, and the Priority 1 legislation of, the Office of State Ethics for the 2016 legislative session.

The bill makes a number of necessary changes to the Code of Ethics and includes language that is responsive to discussions with our stake holders. The bill strengthens the Code, maintains transparency, streamlines our functions and does not have any fiscal impact.

In sum, the bill does as follows:

- Provides clarity and consistency concerning certain definitions (Sections 1, 2, 3, 15, and 19);
- Clarifies restrictions imposed on the Citizen’s Ethics Advisory Board (Sections 4, 5, and 6);
- Clarifies the authority of the Board and the ethics enforcement officer and strengthens the enforcement of penalties (Sections 7, 8, 13, 14, 16, and 18);
- Clarifies and makes consistent certain gift prohibitions (Sections 9 and 10);
- Creates a reporting requirement for recipients under the “gift to the state” provision (Section 11);
- Extends the open and public process requirements to contracts with quasi-public agencies (Section 9);
- Clarifies who may provide and accept payment or reimbursement of necessary expenses and the reporting of such (Sections 9 and 17);
- Extends certain prohibited activities to consultants and independent contractors of quasi-public agencies (Section 12); and
- Repeals statutes no longer in use (Section 20).

For your information, I have attached with this testimony a more comprehensive summary of each of the sections of ***Senate Bill 361*** which includes this agencies position on them.

Thank you for your consideration of our agency proposals.



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*Attachment to Statement of Carol Carson, Executive Director
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Senate Bill 361 – An Act Revising the State Code of Ethics

The Office of State Ethics, in support of *Senate Bill 361, An Act Concerning Revising the State Code of Ethics*, provides the following comprehensive summary and position of each section of the bill.

Sections 1, 2, and 3. Amend § 1-79 of the general statutes (1) to clarify the term “Officer” as used in the definition of a “Business with which he is associated” and to extend the definition to businesses that are part of the corporate governance of a business with which a public official or state employee is associated. The purpose of this amendment is to capture under the definition those businesses that comprise or solely own other businesses; (2) to extend the definition of a “Public official” to individuals appointed by any state-wide elected officer or his or her appointee and not just the Governor. The purpose of this proposed change is to close an apparent loophole in the law where individuals appointed by a state-wide elected officer other than the Governor are excluded from the definition of a “Public official” and, therefore, not subject to the Code of Ethics for Public Officials. Also, the amendment extends exceptions to the definition of “Public official” to any person appointed by a judge in a judicial matter, e.g., *guardian ad litem* in a family court matter; and (3) to provide for a definition of “confidential information” in the Code of Ethics for Public Officials. Although the term “confidential information” is similarly defined in agency regulations for purposes of §§ 1-84a, 1-84 (b) and (c) of the general statutes, the inclusion of the term under statutory definitions will provide consistent application of the term to all sections of the Code of Ethics for Public Officials and make the term more prominent and easily accessible to the regulated community in light of the definition’s common application throughout the Codes of Ethics.

Sections 4 and 5. Amend subsection (i) of § 1-80 of the general statutes to (1) limit the restriction on political contributions made by CEAB members and OSE employees to current state employees and public officials or candidates for state-wide office or the General Assembly. Presently, the restriction applies to “any person subject to the Code of Ethics for Public Officials,” which includes persons who retired from state service many years ago, but who, nonetheless, remain subject to the Code’s revolving-door provisions; (2) amends subsection (1) of § 1-80 of the general statutes to limit the restriction imposed on CEAB members from holding any other position in state employment to paid positions only. The change will permit CEAB

members to hold volunteer positions in state government immediately following the end of their service with the CEAB; and subsection (m) of § 1-80 of the general statutes to allow the CEAB the discretion to delay the effect of any decision rendered by it when such delay is requested by any aggrieved party. The purpose of this proposed change is to prevent frivolous delays by respondents.

Section 6. Amends subsection (g) of section 1-81 of the general statutes to allow the Ethics Enforcement Officer to represent the Office of State Ethics before the Superior Court in an appeal of any ruling or finding arising under sections 1-82, 1-93 and Part IV of Chapter 10 of the general statutes, provided in any such appeal the board is not a party.

Section 7. Amends § 1-82 of the general statutes to **(1)** provide the Ethics Enforcement Officer and the enforcement division of the OSE with the authority to enforce all sections of Part IV of chapter 10 of the general statutes and not just § 1-101nn, which it is presently authorized to enforce. The legal division has the authority to interpret all parts of chapter 10 (Parts I through IV). This change will make consistent the interpretative and enforcement authority of the OSE; **(2)** to permit Citizen's Ethics Advisory Board members who may not be physically present for the duration of a board hearing to review the record of the proceedings provided the judge trial referee who presides over the hearing determines that such member has been sufficiently informed and is competent to render judgment; and **(3)** to clarify that when a court rules that no violation of the Code occurred, the state will pay reasonable attorney fees to the respondent. Because the purpose of the provisions set forth in this subsection is to provide the respondent with the opportunity to recover attorney fees when substantive determinations are made that no violations of the Ethics Code occurred, the proposed change provides consistency for all provisions of this subsection by clarifying that when a court rules on substantive grounds that no violation was committed, the respondent may then recover reasonable attorney fees.

Section 8. Amends § 1-82a (a) of the general statutes to provide the Ethics Enforcement Officer and the enforcement division of the OSE with the authority to enforce all sections of Part IV of chapter 10 of the general statutes and not just § 1-101nn, which it is presently authorized to enforce.

Section 9. Amends subsections (i), (j), and (k) of section 1-84 of the general statutes. **(1)** It amends subsection (i) of section 1-84 of the general statutes to extend the open and public process requirements to contracts with quasi-public agencies. **(2)** It amends subsections (j) of section 1-84 of the general statutes to prohibit solicitation of gifts from a registrant. Currently, only acceptance of gifts is prohibited but not solicitation. When solicited by public officials or state employees, restricted donors may feel compelled to give gifts by not knowing whether they will be treated differently in their government interactions if they refuse to give. **(3)** It amends subsection (k) of section 1-84 of the general statutes **(A)** to make explicit that necessary expenses may only be provided by sponsors of an event to which public official or state employee is invited; and **(B)** to change the non-reporting of in-state receipt of necessary expenses from "principal speaker" to "active participant." For purposes of this subsection, the term "active participant" is defined. This definition is based on Advisory Opinion No. 1995-18.

Section 10. Amend subsection (m) of section 1-84 of the general statutes to prohibit solicitation of gifts from any person the public official or state employee knows or has reason to know (1) is doing business or is seeking to do business with his or her agency or (2) is regulated by such agency, or (3) is prequalified state contractor. Currently, only acceptance of gifts is prohibited but not solicitation. When solicited by public

officials or state employees, restricted donors may feel compelled to give gifts by not knowing whether they will be treated differently in their government interactions if they refuse to give.

Section 11. Amends § 1-84c of the general statutes to require public officials and state employees who receive donated goods or services under the “gift to the state” gift exception to report to the Office of State Ethics the receipt of goods or services that support public official’s or state employee’s participation at an event (i.e., a conference or other educational seminar) that facilitates state action or function (i.e., the event is relevant to participant’s state job). The requisite report must be filed on an electronic form prescribed by the board within thirty (30) days of the receipt of the donated goods or services. The report must be signed by the recipient certifying that the goods or services received facilitated state action or functions. As under the “necessary expenses” provision, the receipt of goods or services that support public official’s or state employee’s participation at an event under the “gift to the state” provision cannot be lavish and must be limited to reasonable travel expenses, lodging for the nights before, of and after the event, meals and any related conference or seminar registration fees.

Currently, the receipt of “necessary expenses,” requires reporting. Although receipt of “necessary expenses” under § 1-79 (17) and § 1-84 (k) of the general statutes is not considered a gift, but rather a payment or reimbursement *in consideration* of public official’s or state employee’s *active participation* at an event, provision of expenses to passively attend a conference or other educational seminar under the “gift to the state” exception is strictly gratuitous. In the past, “gifts to the state” had to be reported to the Office of State Ethics by agency heads. However, due to 2005 legislative changes that restricted “gifts to the state,” the reporting requirement was removed. The “gift to the state” provision was once again amended in 2013 but the reporting requirement was never reinstated. Because acceptance of goods or services that support public official’s or state employee’s participation at an event is quite common, the reporting by public officials and state employees who personally benefit from such donations will provide transparency and accountability.

Section 12. Amends section 1-86e of the general statutes to extend prohibited activities to consultants and independent contractors hired by quasi-public agencies. In addition, the prohibitions are also extended to persons employed by consultants and independent contractors.

Section 13. Amends § 1-88 of the general statutes to (1) provide the Ethics Enforcement Officer and the enforcement division of the OSE with the authority to enforce all sections of Part IV of chapter 10 of the general statutes and not just § 1-101nn, which it is presently authorized to enforce. The legal division has the authority to interpret all parts of chapter 10 (Parts I through IV). This change will make consistent the interpretative and enforcement authority of the OSE; and (2) to permit the Office of State Ethics to enforce any civil penalty imposed by the board as a money judgment in accordance with chapter 906 of the general statutes. Similar language can be found in General Statutes § 27-154 (h) dealing with non-judicial punishment for members of State National Guard. Not having such language does not automatically permit for enforcement of an imposed fine as a money judgment. In light of the recent litigation, the proposed language will clarify and simplify the enforcement of penalties imposed by the Board.

Section 14. Amends § 1-89 of the general statutes to provide the Ethics Enforcement Officer and the enforcement division of the OSE with the authority to enforce all sections of Part IV of chapter 10 of the general statutes and not just § 1-101nn, which it is presently authorized to enforce. The legal division has the authority to interpret all parts of chapter 10 (Parts I through IV). This change will make consistent the interpretative and enforcement authority of the OSE.

Section 15. Amends subdivision (16) of § 1-91 of the general statutes to extend the definition of a “Public official” to individuals appointed by any state-wide elected officer. The purpose of this proposed change is to close an apparent loophole in the law where individuals appointed by a state-wide elected officer other than the Governor are excluded from the definition of a “Public official” and, therefore, not subject to the Code of Ethics for Public Officials.

Section 16. Amends § 1-93 of the general statutes **(1)** to provide the Ethics Enforcement Officer and the enforcement division of the OSE with the authority to enforce Part III of chapter 10 of the general statutes. The legal division has the authority to interpret all parts of chapter 10 (Parts I through IV). This change will make consistent the interpretative and enforcement authority of the OSE; and **(2)** to permit Citizen’s Ethics Advisory Board members who may not be physically present for the duration of a board hearing to review the record of the proceedings provided the judge trial referee who presides over the hearing determines that such member has been sufficiently informed and is competent to render judgment.

Section 17. Amends § 1-96e of the general statutes to extend lobbyist reporting of necessary expenses from thirty to forty-five days. This change will provide additional time for lobbyists to file requisite reports concerning necessary expenses.

Section 18. Amends § 1-99 of the general statutes to permit the Office of State Ethics to enforce any civil penalty imposed by the board as a money judgment in accordance with chapter 906 of the general statutes. Similar language can be found in General Statutes § 27-154 (h) dealing with non-judicial punishment for members of State National Guard. Not having such language does not automatically permit for enforcement of an imposed fine as a money judgment. In light of the recent litigation, the proposed language will clarify and simplify the enforcement of penalties imposed by the Board.

Section 19. Amends subdivision (1) of § 1-101mm of the general statutes to clarify the term “Officer” as used in the definition of a “Business with which he is associated” and to extend the definition to persons who comprise the corporate governance of a business with which a public official or state employee is associated.

Section 20. Repeals sections 1-80b, 1-80c and 1-80d of the general statutes which are no longer in use.