

Legislative History for Connecticut Act

HB 5970	PA 250	1986
House	2739, 3236	(2)
Senate	2994-2996	(3)
Government Administration and Elections	345-346, 348-349	(4)
		Total 9 p.

Transcripts from the Joint Standing Committee Public Hearing(s) and/or Senate and House of Representatives Proceedings

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CONNECTICUT
GEN. ASSEMBLY
HOUSE

PROCEEDINGS

1986

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PART 8

2578-2975

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House of Representatives

Tuesday, April 22, 1986

SPEAKER VAN NORSTRAND:

The bill, as amended, is passed.

CLERK:

Page 10, Calendar No. 393, Substitute for House Bill No. 5970, File No. 390, AN ACT CLARIFYING THE PROCEDURES FOR ADOPTION OF REGULATIONS. Favorable Report of the Committee on Government Administration and Elections.

REP. ESPOSITO: (137th)

Mr. Speaker.

DEPUTY SPEAKER BELDEN:

Rep. Frank Esposito.

REP. ESPOSITO: (137th)

Mr. Speaker, I'd like to place the following items on Consent Calendar for final action at our next regular session day. On page 10, Calendar No. 393, Bill No. 5970, File No. 390; Calendar No. 400, Bill No. 5303, File No. 437; Calendar No. 401, Bill No. 5354, File No. 435. Back to page 6, Calendar No. 211, Bill No. 413, File No. 117. On page 11, Calendar No. 402, Bill No. 5356, File No. 434; Calendar No. 405, Bill No. 5102, File No. 442; Calendar No. 406, Bill No. 6079, File No. 440. On page 12, Calendar No. 409, Bill No. 5122, File No. 451; Calendar No. 410, Bill No. 5607, File No. 450;

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House of Representatives

Wednesday, April 23, 1986

No. 443, AN ACT CONCERNING THE MUNICIPAL EMPLOYEES HB 5970, HB 5303, HB 5354,
SB 413, HB 5356, HB 5102,
 RETIREMENT SYSTEM, and the other items that were removed HB 6079, HB 5122,
HB 5607, HB 5909, HB 6072,
 from the Calendar today. HB 6129, HB 5109, HB 5383,

SPEAKER VAN NORSTRAND:

The gentleman is moving adoption of the Consent SB 93, SB 290, SB 525,
SB 518, SB 162, SB 399,
 Calendar less those items printed. The items excepted HB 5297, HB 6028,
 from the ambit of his motion are Calendar No. 412, SB 48, SB 517,
SB 46, SB 47
 Calendar No. 460, earlier removed and later passed in HB 5212
 this day, Calendar 471, Calendar 482 and Calendar 492.
 Those are excepted from the ambit of the motion.

Is there objection? Consent Calendar is adopted.

Consent Calendar.

Substitute for House Bill No. 5212, AN ACT
 CONCERNING THE DEPARTMENT OF MENTAL RETARDATION'S
 ADVISORY AND PLANNING COUNCILS AND THE APPOINTMENT OF
 ASSISTANT DIRECTORS FOR TRAINING SCHOOLS AND STATE RENTAL
 RETARDATION REGIONS.

Substitute for House Bill No. 5970, AN ACT
 CLARIFYING THE PROCEDURES FOR ADOPTION OF REGULATIONS.

House Bill No. 5303, AN ACT CONCERNING SUBPOENAS
 SERVED ON PRIVATE OR PUBLIC SCHOOLS.

House Bill No. 5354, AN ACT CONCERNING THE
 IMPOSITION OF CIVIL PENALTIES FOR VIOLATIONS OF CERTAIN
 STATE ELECTION LAWS.

House Bill No. 5356, AN ACT CONCERNING THE TIME
 LIMIT FOR CONTESTING A PRIMARY.

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CONNECTICUT
GEN. ASSEMBLY
SENATE

PROCEEDINGS

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announce an immediate roll call.

THE CLERK:

Immediate roll call on executive nominations in the Senate.

Will all Senators please return to the chamber. An immediate roll call on executive nomination in the Senate. Will all Senators please return to the chamber.

THE CHAIR:

We're asking a vote on page 1, 586, Senate Resolution No. 18. The machine'll be open. Machine'll be closed. Clerk, please take a tally. Those voting in favor of the nomination, 35, those voting opposed 0. The nomination of the resolution is adopted. Mr. Clerk, will you please call the next item?

THE CLERK:

Page 3, calendar 507, Substitute for House Bill 5970, File 390. An Act Clarifying The Procedures For Adoption Of Regulations. Favorable Report of the Committee on GAE.

THE CHAIR:

Senator Fred Lovegrove.

SENATOR LOVEGROVE:

Thank you Mr. President. I move adoption of the joint committee's favorable report and passage of the bill.

THE CHAIR:

Thank you Senator. Would you care to remark?

SENATOR LOVEGROVE:

Yes, Mr. President. This bill makes some corrections in the

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legislation we passed last year concerning regulation review and their procedures. The bill we passed last year gave the agencies five months or until November 1st, whichever was sooner, to publish notice of intent to adopt regulations. The change is that they will have five months after the effective date of the legislation. The legislation last year stated that any regulations adopted after January 1st of '72 were not valid unless they'd gone through the regular regulation review process. This legislation updates that and changes the date to October 1 of 1985. Another change, the previous legislation if a regulation was disapproved stated that it must be resubmitted, that the agency must resubmit revised regulations. This bill will state that if a regulation is disapproved by the Regulation Review Committee, the agency may if it wishes, resubmit. If they choose not to resubmit, it goes to the legislature. Another change, in the previous legislation stated that if a regulation was rejected without prejudice that the agency must resubmit but there was no deadline. The change in this legislation gives them a deadline of two months for resubmittal of new regulations. The legislation also states that if a group of fifteen or more wishes a public hearing on a proposed regulation, that the notice of this request for a public hearing must be received by the agency within the fourteen day period. There was some confusion in the previous legislation apparently. People would say that they put it in the mail but the agency had not received the request within the fourteen day period. If there are no questions or comments, I

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would move this to the consent calendar.

THE CHAIR:

Is there - Senator Lovegrove, the fact that this is the only bill, if you wish we could put it on the consent calendar to be voted on later today or we can vote on this. Will you remark further on the bill? Will you remark further on the bill? If not, the Clerk will announce an immediate roll call.

THE CLERK:

Immediate roll call has been ordered in the Senate. Will all Senators please return to the chamber. An immediate roll call has been ordered in the Senate. Will all Senators please return to the chamber.

THE CHAIR:

Ladies and Gentlemen, on page 3, calendar No. 507, Substitute for House Bill 5970. The machine will be open. Thank you. Machine will be closed. Clerk, please take a tally. Those voting in favor 35, those voting opposed, 0. The bill is adopted. Senator Smith.

SENATOR SMITH:

Thank you Mr. President. At this time I would like to recess until 1:30.

THE CHAIR:

Is there objection to recessing until 1:30? Hearing no objection, so ordered.

SENATOR SMITH:

May I also indicate that there'll be an immediate Republican

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STANDING
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REP. SWENSSON: (continued)

it has to, I'm trying to keep things out of the court system, but now it will be taken to court and we may have to have another referendum for that one district to give them the right to vote.

MR. LENGE: Well, this would provide, if the Town of Manchester,, I think you have more than 5,000 individuals -

REP. SWENSSON: In that 8th, I really don't know. Voting, I don't know. I really don't. I wish Josh was here, he was here, he might know, he lives in that district, but I don't. Thank you.

REP. SCHMIDLE: Thank you, Mr. Lenge. And there are some members of the committee who will have subsequent questions to ask, including Rep. Brouillet. We would respectfully request you to stay. My public list, the first name on the public list was Tom Baldwin from the City of New Haven and that was scratched out. Is that correct? The next person on my list then is Ralph Podolsky.

RAPHAEL PODOLSKY: My name is Raphael Podolsky. I'm a lawyer with the Center for Advocacy and Research. I'm here to speak on two bills. The first bill is House Bill 5970, An Act Clarifying the Procedures for Adoptions of Regulations.

The only reason I'm testifying on this is that two of the changes which the bill makes causes some concern for me and I wanted to call those to your attention.

The first change occurs at lines 49 and 50 where it changes the deadline date by which an agency is required to begin the process of promulgating regulations by publishing notice in the Journal. Last year, you adopted a law that said that by the latest, an agency had to start the process by November 1. That has put a tremendous amount of pressure on state agencies. I've worked with two of them, the Department of Housing and the Department of Income Maintenance, where they've clearly had difficulty complying with that deadline.

Nevertheless, it seems to me it has been a very productive deadline because it has prevented sitting on the regulations for an extended period of time. This bill repeals that requirement so that essentially what it says is, that you

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MR. PODOLSKY: (continued)

have five months after the effective date of the act. That would mean that if it's effective July 1, for example, a fiscal bill, you'd have to December 1. And if it's effective October 1, you would have until March 1. I don't see, it seems to me it's not a good idea to push those dealines back because it pushes us back in the old situation where agencies might take a very long period of time in which to get the regulations going. Even keeping the November 1 deadline does not get your regulations in place by November 1, but it means that the agency works over the summer and in the early fall to make something happen. So I would recommend that you not delete that language.

The second place in the bill where I'm uncomfortable with the change is in lines 131 and, 133 to 134. Under the existing administrative procedure act, it states that regulations adopted after January 1, 1972 are not valid unless they were adopted in compliance with the act. It changes that to October 1, 1985. I'm not sure what the drafters had in mind by doing that, but it appears to me that a reasonable interpretation would be that it is now after the fact, validating all illegally promulgated regulations from 1972 to 1985.

If that is your intention, then I think you ought to make sure you figured out what regulation it is you're validating and why you're choosing to validate them. If it is not the intention of that language to do that, then I think you need to figure out some other language that would make clear that that's not the intent. In any event, I'm just puzzled by why that validation would be done and if there's some particular regulations that someone feels they're in doubt, that they feel a need to validate retroactively. Now those are my only comments on that bill. Other than that, I don't see anything objectionable to the bill, so.

REP. SCHMIDLE: Okay, the bill is here at the request of Regulations Review and we will discuss your concerns with them.

MR. PODOLSKY: Okay, thank you. The other bill on which I'd like to comment is House Bill 5971, town responsibility for the removal of property of an evicted commercial tenant. My interest in this bill is fairly indirect

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MR. PODOLSKY: (continued)
just doesn't make sense. We now have a system that works rationally. That is to say, the sheriff puts it out on the street. If it's not removed by the tenant, then the city comes and it gets it out of there. It's true, the city may have to front money, which in a commercial eviction, could cost some expense. But the tenant remains liable for it and there's a procedure by which the tenant can redeem it, by paying all of the city's costs. And if they've had to hire somebody to do that, the tenant is going to have to pay those costs to redeem. If the tenant chooses not to redeem, then the city can auction it off and keep the money.

And in fact, the statute says, if there's a surplus, if you get more than what your storage cost was as a result of the sale, and the tenant doesn't come within 30 days to claim that surplus, the city can keep that too.

It's not an ideal situation no matter how you do it, and I realize it's obviously a nuisance for the towns and this bill has been around for a number of years, but quite frankly, I just think you're going to cause more problems to pass the bill than to leave things as is, and so without denigrating the legitimate concerns of the town that they don't want to have to deal with this, it seems to me that they're the only stable entity that is able to deal with it, and to one degree or another they're going to end up dealing with it anyway even if they treat it as junk. It's not in anyone's interest to cart the stuff to the dump if someone really wants to get it back. So I would just suggest that it's not a bill that you should recommend.

REP. SCHMIDLE: Thank you, sir.

MR. PODOLSKY: Thank you.

REP. SCHMIDLE: Sen. Lovegrove.

SEN. LOVEGROVE: (inaudible).

REP. SCHMIDLE: Any other questions or comments? Rep. Rappoport.

REP. RAPPOPORT: Back on 5970, we should have raised a question about why validate, in section 2, you know, validate (inaudible) Are you aware sir, of what has generally

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REP. RAPOPORT: (continued)

happened on those (inaudible) cases where in recent history, where regulation was promulgated back in 73 or 74 has been challenged, is invalid and been struck. Somebody went to some work to figure out to do this, so --

MR. PODOLSKY: I don't know the answer, and when I first read it, I actually thought that was not the intent, that, I actually misread it as being October 1, 1986 and I thought what they were trying to say was that the provisions of this law would only take effect prospectively from October 1, 1986 and in a sense they've misdrafted and were accidentally doing retroactive validation. Then I realized that the date was 1985, rather than 1986 so that it was, it wasn't clear to me why that particular date was chosen. I guess all I'm saying is that I don't know. It's not necessarily terrible to validate things retroactively and that sometimes that can solve problems if agencies have put out a lot of regulations illegally and you want to make sure that nobody can challenge them.

All I'm saying is, that as an outsider to this process, not knowing the source of the bill, it made me wonder what was going on and why, and so on that piece, my real suggestion to you is, that you ought to find out as a committee what this is all about. Perhaps it's reasonable and then go ahead and leave it in, but I just don't think you should be validating things retroactively without knowing what you're doing.

REP. SCHMIDLE: Okay. Thank you very much, sir. Next person on our list is Steve Anderson, Tillcon-Tomasso.

STEVE ANDERSON: Good morning, ladies and gentlemen. I'm here as a private practitioner. I'm a lawyer in New Britain and I do a great deal of work in the field of contractor's rights, and over the years, I've discovered and my clients have discovered when they have completed some of their public building projects, they, and when there is trouble with the contractor, trouble in the sense that he has financial problems, that in the, they don't necessarily get paid on time. And this bill, SB 464 would address some of these problems.

In particular, talking about situations where public construction is being done, and our statutes require that