

Legislative History for Connecticut Act

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Transcripts from the Joint Standing Committee Public Hearing(s) and/or Senate
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CONNECTICUT
GEN. ASSEMBLY
HOUSE

PROCEEDINGS
1987

VOL. 30
PART 30
10899-11306

abs

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House of Representatives

Thursday, May 28, 1987

Beginning on page 6, Calendar 823, Substitute for House Bill 7188. File 1063. AN ACT PROVIDING FOR A STUDY OF THE CORPORATION BUSINESS TAX, UNEMPLOYEMNT COMPENSATION AND STATE USE OF TAXABLE BONDS FOR CERTAIN CAPITAL FINANCING.

And on page 23, Calendar 478. Substitute for House Bill 7318. File 591. AN ACT CONCERNING STATE LEASING PROCEDURES.

Mr. Speaker, I would ask that those two items be placed on the Consent Calendar.

SPEAKER STOLBERG:

Is there objection to placement of either of those two items on our Consent Calendar proposed for our next action day? Seeing none, those items are placed on our Consent Calendar.

REP. BALDUCCI: (27th)

Mr. Speaker? At this time, I would like to move passage of today's Consent Calendar. Beginning on page 1. Just refer to the Calendars' numbers.

Calendar 820, Substitute for House Bill No. 6503. AN ACT CONCERNING A PRE-ENGINEERING PROGRAM FOR MINORITY STUDENTS.

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CONNECTICUT
GEN. ASSEMBLY
HOUSE

PROCEEDINGS

1987

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11307-11694

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House of Representatives

Friday, May 29, 1987

House Bill 7514, File Number 676, be removed, please, sir.

SPEAKER STOLBERG:

What page, sir?

REP. O'NEILL: (98th)

On page 21.

SPEAKER STOLBERG:

On page 21, that was Calendar 523... will be removed. Is there objection to any of the other two items? Going, going... Those items will be placed on the Consent Calendar for action at our next session date.

Representative Balducci.

REP. BALDUCCI: (27th)

Mr. Speaker, I would like to move passage of the two items on today's Consent Calendar. On page 1, with the Calendar numbers alone be read... Calendar 478, Substitute for House Bill 7318. File No. 591. AN ACT CONCERNING STATE LEASING PROCEDURES.

And Calendar 823, Substitute for House Bill 7188, File No. 1063. AN ACT PROVIDING FOR A STUDY OF THE CORPORATION BUSINESS TAX, UNEMPLOYMENT COMPENSATION AND STATE USE OF TAXABLE BONDS FOR CERTAIN

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House of Representatives

Friday, May 29, 1987

CAPITAL FINANCING.

I would move passage of those items, Mr. Speaker.

SPEAKER STOLBERG:

Is there objection to passage of either of those items? Is there objection? Seeing no objection, the Consent Calendar is adopted, and the bills are passed.

CLERK:

Page 1, Calendar 931, House Joint Resolution
Number 105. RESOLUTION CONFIRMING THE NOMINATION OF
ALICE W. LYNCH OF WESTPORT, TO BE A MEMBER OF THE
ELECTIONS ENFORCEMENT COMMISSION. Favorable Report
of the Committee on EXECUTIVE AND LEGISLATIVE NOMINATIONS.

REP. HARTLEY: (73rd)

Mr. Speaker?

SPEAKER STOLBERG:

Representative Hartley.

REP. HARTLEY: (73rd)

Thank you, Mr. Speaker. Mr. Speaker, I move
adoption of the Joint Committee's Favorable Report and
passage of the resolution.

SPEAKER STOLBERG:

Will you remark?

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CONNECTICUT
GEN. ASSEMBLY
SENATE

PROCEEDINGS
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VOL. 30
PART 3
764-1135

Regular Session
March 18, 1987

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Concerning the Purchase of Property by the State.

Referred to Government Administration and Elections
Program Review & Investigations - Substitute House Bill 7318. An
Act Concerning State Leasing Procedures.

Referred to Government Administration and Elections
Banks - Substitute House Bill 7336. An Act Establishing a Yankee
Savings Plan.

Referred to Finance, Revenue & Bonding
SENATE AGENDA #2 DATED WEDNESDAY, MARCH 18, 1987 IS AS FOLLOWS:

SENATE BILLS FAVORABLY REPORTED

Energy & Public Utilities - Substitute Senate Bill 219. An Act
to Protect the Public Safety with Regard to Excavations Near
Underground Utility Facilities.

Tabled for the calendar and printing
Energy & Public Utilities - Substitute Senate Bill 213. An Act
Concerning Revocation of Public Service Company Franchises.

Tabled for the calendar and printing
Public Safety - Substitute Senate Bill 894. An Act Concerning
Demolition.

Tabled for the calendar and printing
Judiciary - Senate Bill 176. An Act Concerning the Incorporation
of IBM Credit Reinsurance Corporation.

Tabled for the calendar and printing

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CONNECTICUT
GEN. ASSEMBLY
SENATE

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1987

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PART 14

4816-5199

MONDAY
JUNE 1, 1987

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Thank you, Mr. President. I move adoption of the Joint Committee's Favorable Report and urge passage of the Bill. I move to P.T. the Bill, Mr. President.

THE CHAIR:

Without objection, so ordered.

THE CLERK:

Page 5 still, Calendar number 859, File number 591, Substitute for House Bill number 7318, AN ACT CONCERNING STATE LEASING PROCEDURES, a Favorable Report of the Committee on Appropriations.

THE CHAIR:

Senator Maloney.

SENATOR MALONEY:

Thank you, Mr. President. I would move acceptance of the Joint Committee's Favorable Report and adoption of the Bill.

THE CHAIR:

You may proceed.

SENATOR MALONEY:

Thank you, Mr. President. What this Bill does is tighten up, pursuant to Program Review and Investigation Committee's recommendations, leasing procedures of the State of Connecticut. It requires the Department of

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sjr

Administration prior to leasing space, to secure the concurrence of the Office of Policy and Management, and also requires that such space be included within the overall Capitol Needs Plan prepared by the State of Connecticut.

THE CHAIR:

Any remarks further?

SENATOR MALONEY:

If there's no objection, I ask that the matter be placed on Consent.

THE CHAIR:

Without objection, so ordered.

Clerk, please call the next item

THE CLERK:

Page 6, Calendar number 862, File number 1090, Substitute for House Bill number 5068, AN ACT CONCERNING COMPENSATION AND ASSISTANCE OF CRIME VICITMS, amended by House "A" and "B", Favorable Report of the Committee on Finance, Revenue and Bonding. Clerk has an Amendment.

THE CHAIR:

Senator Avallone.

SENATOR AVALLONE:

Yes, I would move the Joint Committee's Favorable Report and adoption of the Bill in accordance with the

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SENATOR HARPER:

Thank you, Mr. President. The Appropriations Committee will meet tomorrow before the beginning of the first session, whichever chamber starts first. More than likely the House, to take up a Collective Bargaining Agreement.

THE CHAIR:

Will the clerk please now call the items placed on the consent calendar. And announcement for immediate roll call.

THE CLERK:

Immediate roll call has been ordered in the Senate. Will all Senators please return to the chamber. Immediate roll call has been ordered in the Senate. Will all Senators please return to the chamber. Consent Calendar
No. 1, Page 1, Calendar No. HS 105 857, Calendar No. HB 7610 772, Page 2,
Calendar No. HB 7609 835, Page 3, Calendar No. HB 5686 844, Calendar No.
HB 7648 848, Page 4, Calendar No. HB 6417 850, Calendar No. HB 7625 852, Calendar
HB 7083 853, Calendar No. HB 7440 855, Page 5, Calendar No. HB 6951 856,
Calendar No. HB 7188 858, Calendar No. HB 7318 859, Page 6, Calendar 860,
HB 7596 861, Calendar No. HB 5068 862, Page 7, Calendar No.
HB 5631 866, Calendar No. HB 6652 867, Calendar No. HB 7374 864, Calendar No. SB 437 504,
Page 8, Calendar No. SB 1209 506, Calendar No. SB 97 511, Calendar No. HB 6617 557,

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Page 9, SB 889 and HB 7542 Calendar No. 817.

THE CHAIR:

Are there any corrections, additions, deletions?
If not, the machine is open. We're voting on the first
consent calendar. Senator Freedman.

SENATOR FREEDMAN:

The Calendar on Page 9 again. I think some numbers
were mentioned that we didn't have.

THE CLERK:

Page 9, Calendar No. 595, and Calendar No. 817.

SENATOR FREEDMAN:

Page 7.

THE CLERK:

867, 866, 504, and 864.

THE CHAIR:

I think HB 7374 Calendar No. 864 is on Page 6. It's the
right, the correct number. It was the matter that was
disputed before. Further corrections? If there be none,
the machine is open. Please cast your vote.

The machine is closed. Clerk, please tally the vote.

Result of the vote on the Consent Calendar:

33 Yea
0 Nay

The Consent Calendar is adopted. Senator O'Leary.

JOINT
STANDING
COMMITTEE
HEARINGS

LEGISLATIVE
PROGRAM REVIEW
AND
INVESTIGATIONS

PART 1

1-264

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DONALD AIUDI: (continued)

some outreach now, its no way where it should be hopefully this position effectively will coordinate that effort particularly with reference to affirmative action recruiting. And as the Committee pointed out there needs to be rationalized this is very true.

REP. PALERMINO: Thank you.

SEN. ATKIN: Further questions, Representative Samowitz.

REP. SAMOWITZ: I realize that you just deal with jobs persons at the DAS, but the its on the statutes that 25% of all state agencies are suppose to put out a bid on minority contracts, are they doing that, is your agency watching that.

DONALD AIUDI: I am sorry to say that that is not something I am familiar with.

SEN. ATKIN: First of all you are from personelm probably you have to ask somebody else. Are there further questions. Thank you for your time. Next is Lee Palmer from DAS on 7318.

LEE PALMER: Chairman Senator Atkin, Representative Shays, distinguished members of the Committee, I am here with Deputy Commissioner Cassin, from the Department of Administrative Service to discuss House Bill 7318.

The Department of Administrative Services would like to take this opportunity to thank Program Review and Investigations Committee for their time and effort in reviewing the recent program of the State of Connecticut. In general the Department endorses many of the recommendations enumerated in House 7318, and act concerning state leasing procedures.

The Department has carefully reviewed the proposed language changes and has prepared a response on each of the recommendations. The intent of these responses is to help (inaudible) in the state through

LEE PALMER; (continued)

an open competitive process and an attempt to provide state agencies with quality space at the most economically advantageous terms and conditions for the State of Connecticut.

The Department has also attempted to carefully delineate the responsibility shared by the Department of Administrative Services, OPM, and the State (inaudible) Review Board with hope that the proposed changes would help expedite the process in order to provide a more timely delivery of services to state agencies.

In summary, some of the changes recommended by the Committee have already been incorporated in the Department's leaving policies and procedures. Other proposals have been modified or expanded to hopefully provide the Department of Administrative Services with the tool to carry out its mission as defined by statute in the most effective and efficient manner. We have passed out the members of the Committee a copy of the Department's recommendations.

SEN. ATKIN: Just glancing through, I haven't had a chance to read them all, but I do notice that you either agree or agree in part with most of the recommendations. If I can just quickly ask you to summary Section 2, line 282, if you could review that for the Committee.

LEE PALMER: Basically this deals with the advertising section or portion of the proposed change, and the language that we propose there is that in all instances exclusive of the exercise of options to lease space to the state, proponents are required to respond to each advertisement, which has been developed in accordance with Section 4-127C of the General Statutes. What this does is that it ensures that in terms of the process itself to be considered for a lease with the State of Connecticut, proponents do have to respond to that ad. Our requirement is that proponents are given thirty days to

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LEE PALMER: (continued)

respond to the advertisement. We advertise extensively in the geographical area where the space need is and basically once that thirty day period closes, we consider the proponents that have responded to the ad and also part of the leasing agent's responsibility is before that ad is placed, to contact as many agencies within that geographical area as possible, to respond to that advertisement, if they have the space needs that we are looking for. This ensures as much competition in the process as possible.

SEN. ATKIN: Thank you, are there further questions, Representative Foley.

REP. FOLEY: You talk about contacting the agents within the geographic area, you talking real estate agents I presume.

LEE PALMER: Yes, commercial real estate agents.

REP. FOLEY: How is the contact made.

LEE PALMER: Either by phone or in writing. One of the things that we have done recently is we had a situation where we advertised in one geographical area twice and did not receive responses. So what we've done there is we've sent a letter to each of the ninety-six commercial real estate agents in that particular geographic area to try to ensure response to the advertisement.

REP. FOLEY: You specific commercial real estate agents, its been my experience with the folks that I have dealt with that all real estate agents pretty much drift around with these things. They will do residential and commercial and so forth, in some case their is no exclusivity of field. How can we determine who is a commercial real estate person and who is not.

LEE PALMER: Basically we felt that the most objective way to approach it was by going to the telephone

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LEE PALMER: (continued)

directories and anybody that was listed in the commercial real estate listing, we sent letters to.

REP. FOLEY: So if you were to come into Waterbury, you would go to the phone book and pull out the hundred people that said they did commercial, and they would get either a phone call and/or letter.

LEE PALMER: That's correct, basically what we did was we divided it by the major geographic areas in the state and I believe there is none of them, and we did a master listing for all the real estate agencies in those areas, based in the telephone listings, again we felt that that would be the most objective approach.

REP. FOLEY: Thank you.

SEN. ATKIN: Representative Palermino.

REP. PALERMINO: Thank you, under this 4-127C is there any limit to the number of advertisements you can put in for a particular request.

LEE PALMER: Well, we advertise normally once, and then we would meet with the agency to narrow the site selection and then negotiate from there. Now the only way we would readvertise normally, is if we did not get a sufficient response or if the responses that were submitted to us were unacceptable to the agencies and to the Department of Administrative Services.

REP. PALERMINO: Okay, let's assume your scenario where there is no response at all, is your procedure then advertise again, or is your procedure to solicit bids from agencies through this mail or telephone contact.

LEE PALMER: Well, we would advertise again, but part of that process would be the solicitation process. What we are saying is that that process should be

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LEE PALMER: (continued)

done, but it should be done up front. It should be done prior to advertising, so that is you ensure as much competition as you possibly can in the process.

REP. PALERMINO: Okay. One last question, the way I read that section, the requirements that you have for advertising specify thirty days prior to the date of final selection, which appears to me to be a little tight in the sense that if you get a proposal in ten days before the final selection, you spent twenty days dealing with other proposals, would be better if you had your thirty day period and then had some other period before final selection.

LEE PALMER: Well, the thirty days, I should probably explain that, the thirty days in really the initial step. Thirty days is the process in which proponents have an opportunity to respond to the advertisement, after that thirty days we perform what are called initial site evaluations where a member of our unit leasing agent will go out with the agency that has the space request and they evaluate each of the sites that's proposed, and at that point we narrow it down to the two or three most acceptable sites and that's when the negotiation process begins. So the thirty days in other words is the up front portion of the process, and then after that its narrowed down, then you enter into the approval process which ultimately results in State's Property Review Board approval.

REP. PALERMINO: So that final selection language in there really is kind of impercise. Your policies are different than that you don't advertise thirty days before you make the final determination. You advertise for a much longer period of time.

LEE PALMER: Yes, that's correct

DEP. COMM. DON CASSIN: Representative Palermino, just for clarification.

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SEN. ATKIN: Commissioner could you just identify yourself.

DEP. COMM. DON CASSIN: Deputy Commissioner Don Cassin, at one time we advertised and as responses came in, those advertisements or responses were sent down to our Leasing Department, were opened and we started the process of going out and checking on the various response that came in. We change that procedure we now advertise for a period of thirty days. At the end of the thirty days, all responses are opened at one time, not to disclose any figures that come in during that thirty day period, so everybody had a fair shake the same time, so what like a bid opening. At that supposedly bid or proposal opening, then we listed all the response that come in and do an evaluation of various response that come in, we touch base with the agency and we go out and actually investigate the various sites that have been offered.

LEE PALMER: Another thing I would like to point out in terms of that, we also are currently maintaining a space inventory. A space inventory is (inaudible) to an open listing where anybody that's interested in leasing space to the State of Connecticut would respond to us and we may maintain that space inventory currently, and any proponent would be listed for a year's period of time in which to be considered. So if we go through the space inventory and find that one of the components has space to be offered that needs our advertisement for needs of that agency, we would contact them, and encourage them to apply to be considered for that particular space request.

REP. PALERMINO: Thank you.

SEN. ATKIN: Further questions of Mr. Palmer, Senator Lovegrove.

SEN. LOVEGROVE: Getting back to the real estate license, how many of your leasing agents have a license of their own or have someone in their

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SEN. LOVEGROVE: (continued)

immediate family who has a license.

LEE PALMER: Our current policy is that none of the leasing agents that have been brought on board since I have been associated with the Leasing Division, hold real estate licenses. I am really not sure as to the agents that were unboard prior to my coming down how many of them hold licenses.

SEN. LOVEGROVE: What about immediate family.

LEE PALMER: I would have no knowledge of that.

DEP. COMM. DON CASSIN: Senator Lovegrove, maybe I can help clarify that situation. We initiated a new policy within the department couple of years ago whereas we recognize that there could be a conflict of interest and suggested to the various leasing agents within our department if they had any real estate licenses within their possession as a code of ethics we requested that they put them in escrow while they were dealing with real estate procedures for the Department of Administrative Services.

There was a grievance filed and unfair labor practice I would guess saying that they thought they were being discriminated against. The net result is that we were told that they were somewhat grandfathered in. What happened is we have put on new leasing agents and there has been some changes made within our leasing department as far as personnel are concerned. All leasing agents that had been hired since that time came in as part of their condition of employment that they do not hold real estate licenses and were briefed why we were taking this approach. And my guess would be that we have not dug into whether or not other members of their family hold any real estate licenses, but I would think that that it would come out under some strict scrutinization in the event we found that there was anything going on along those lines. We are very careful that we make that fact known within the

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DEP. COMM. CASSIN: (continued)

department.

LEE PALMER: It should be pointed out that three of the four leasing agents that are currently negotiating leases are new, since I have been associated with that division. The current policy which is in effect at this point is outlined on page four of our proposal, and that is currently in existence.

SEN. LOVEGROVE: If I am working as a leasing agent for the state, and my cousin or my wife happens to be working as a real estate agent for a Century 21 office some place, might I be inclined if I am looking to lease a particular piece of property pick the phone and say hey Mark what have you got, or hey Jim what have you got if what's we looking for.

LEE PALMER: I would say yes, that that is certainly a possibility, but I think we implemented many checks and balances in the system which would not necessarily preclude that from happening, but because of our advertisement efforts, and our efforts to beat the bushes to get the most competition that we can, and the checks and balances in the system itself, would preclude anybody from "having the inside track" because first of all this process requires that once we get all of the responses, and assuming one of those examples is a response, the agency and the agent go out and review all of the sites and initial site evaluator (interruption).

SEN. LOVEGROVE: I'm not talking about an inside track on a piece of property, I am talking about commissions. You no longer hire people who have real estate license so that eliminates the possibility leasing property for state and participating in the commission. If the agents wife or husband happens to be active in real estate, or

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SEN. LOVEGROVE: (continued)

inactive and hold a license, they can legally participate in the commission. How do we guard against that, if its a husband or wife who works in the real estate business, that is far as I am concerned nothing more than a leasing agent getting a part of the commission. If it happens to be a cousin, you might do him a favor. Howe do we guard against steering business so in one way or another (inaudible).

LEE PALMER: I think that the code of ethics does address that, in addition when proponents respond to ads the agents are specifically listed, and whenever there is a corporation, or there is a partnership involved, the list of partners are listed on the affidavits, so throughout the process we have a very good handle of who in fact is participating in those transactions and I guess no system is foolproof, but like I mentioned before I think there is enough checks and balances so that if there was a relative or whatever involved with the process I would say that we would normally be able to find that out through the affidavits and through who we are dealing with with that specific (inaudible).

SEN. LOVEGROVE: It could be my next door neighbor who is a friend.

LEE PALMER: I guess ultimately you have to a certain extent rely on the integrity of your staff. I don't know how you can legislate neighbors, or relatives. The ultimate goal is to ensure that the State of Connecticut gets the best leases for the State of Connecticut at the most economic terms. I don't know of any legislation that can be proposed that could preclude a friend of a friend or relative from participating in some way behind the scences.

SEN. ATKIN: Senator Freedman.

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SEN. FREEDMAN: On page three you mentioned that it would possibly be constitutional if we denied employment to somebody who was on the State's Property Review Board or vice versa. Could you please explain that.

LEE PALMER: Basically what we are referring to there is our concerns specifically within DAS is that no employee within the leasing division be employed in a position where there is a potential conflict of interest, where you are dealing with commercial real estate, real estate. But in terms of other state positions dual employment in the State of Connecticut is a fact of life. Many people hold other positions to be perfectly honest, I really don't care if one of my agents has a parttime position as a maintainer within another state agency, or they are an examination monitor, a state personnel on Saturdays. In other words, I don't feel that I should be in a position or the department should be denying potential gainful employment unless does possibly present a conflict of interest situation in which case obviously we are dead set against that. Then we will do everything in our power to prevent that from happening.

But again, I think that to preclude an employee from other state or municipal position in of itself is a denial of gainful employment with no real substantive reason for doing that.

SEN. FREEDMAN: I question, only because as I read what we have written here I don't think we would be denying somebody another position in another area, but any position that would deal with leasing or real estate or anything that might infringe upon the job that they are supposed to be doing.

LEE PALMER: That part we don't have any problems with there is a comma there, and it says nor so the way I read that, is that stands by itself and you see what I am saying there is a comma.

SEN. FREEDMAN: Shall hold another state or municipal

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SEN. FREEDMAN: (continued)

position, nor shall any such employee be directly involved in any enterprise. But I believe
(interruption)

LEE PALMER: I am just going to say, if it read shall not hold a state or municipal position which may present a conflict of interest that would be fine.

SEN. ATKIN: Part of that is just existing language.

LEE PALMER: Pardon

SEN. ATKIN: That is existing language where it says shall hold another (interruption)

LEE PALMER: Yes, I am aware of that

SEN. FREEDMAN: The new part I think defines, as a leasing agent or as an immediate supervisor of a leasing agent, and then goes into municipal position, is that a conflict there.

LEE PALMER: Yes, the only thing I am saying there is that if that didn't have a comma in that nor, I would be more comfortable with the language. If it read that no person employed by DAS or the immediate supervisor shall hold a position directly involved in any enterprise which does business with, that I don't have any problem at all with. The problem I have is where there is a comma after position, and then the nor. You see what I am saying.

SEN. FREEDMAN: I understand what you are saying, obviously I don't have the legal background to understand the ramifications if there are any, I guess we'll to turn to the attorneys on that and get their advise, thank you.

SEN. ATKIN: Further questions for Mr. Palmer. Thank you.

LEE PALMER: Thank you very much.

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SEN. ATKIN: I have two other people listed after Mr. Palmer, why don't go in the order that it was signed up. Ray Johns is the next speaker, followed by Charles Misak.

RAY JOHNS: Good morning, I am Ray Johns, DCM supervisor from East Hartford. Chairman Atkins and Representative Shays. I've given a statement to the Committee, and its very brief and if you don't mind I would like to at least read it.

We wish to comment on a portion of the proposed legislation requiring the leasing agents of the Department of Administrative Services to file a financial statement indicating all sources of business income and business affiliations as well as that of their spouses.

In our opinion it is discriminatory because it only addresses personnel designated as leasing agents within the Department of Administrative Services. There are several other agencies that conduct leasing practices involving both real estate and personal (inaudible) e.g. the Labor Department, DEP and DOT. DEP has concessions at the various parks. DOT has various concessions along the highway such as their restaurants and gas stations. Bradley Field is another prime example of the concession business.

The Bureau of Purchasing even within the Department of Administrative Services leases personal equipment such as portable buildings, and data processing equipment. These people are not mentioned in this proposed legislation. Why should the leasing agents of DAS be singled out. This proposed legislation was not a condition of employment, if it is to be applied to new employees that would be another matter as far as we are concerned.

The Code of Ethics is written in such a manner as to preclude any employoyee from getting involved with unethical conduct. In our opinion

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RAY JOHNS: (continued)

we do not think it is inclusive enough to accomplish what we think you are attempting to do. Why not include offspring and other relatives such as your in-laws, and cousins, and so forth. Where do you draw the line.

In conclusion, we just want to say that we've always maintained that you cannot legislate morality.

SEN. ATKIN: Excellent, any questions, Representative Palermino.

REP. PALERMINO: Thank you, Mr. Johns I have a lot of sympathy with your statement here, but I'd like to ask you a question concerning the part in which you say, if it is to be applied to new employees, that's a different matter. I am correct in understanding you to say that as long as it doesn't apply to the people on board now that its acceptable.

RAY JOHNS: That it is our feeling because at least you will have the opportunity to make a decision as whether you want to accept employment with that condition in there or not.

REP. PALERMINO: Doesn't that tend to distract from your comments that this is a discriminatory form of action against leasing agents of the DAS, because we are going to discriminate against some of them but we wont discriminate against the others.

RAY JOHNS: That could be, but they still have that opinion of seeking the employment if that still the condition anyway.

SEN. LOVEGROVE: Mr. Johns, do you have a real estate license.

RAY JOHNS: Yes, I do but it has been placed in escrow.

SEN. LOVEGROVE: Is it a broker's license, or a salesman's license.

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RAY JOHNS: Salesman's license.

SEN. LOVEGROVE: How long have you had it?

RAY JOHNS: I guess I got my license probably five years ago, had it for about one year before I placed it in escrow.

SEN. LOVEGROVE: Since you have a full time job here with the state right?

RAY JOHNS: No, I acquired the license while I was in state employment, and due to a situation that arose, I volunteered to put it into escrow to avoid any conflict of interest.

SEN. LOVEGROVE: Its not in escrow, the real estate commission is holding it, because it is not assigned to a broker. That's how it works. Why would you keep your license, and you have to pay the fee every year to maintain your license.

RAY JOHNS: While its in escrow you do not have to pay the fee, and at some point when I terminate employment with the State of Connecticut, I might like to go back to endeavoring in the field of real estate.

SEN. LOVEGROVE: The other three gentlemen who have signed this statement, do they have real estate licenses?

RAY JOHNS: To my knowledge yes, I believe they do.

SEN. LOVEGROVE: Is it just coincidence that the four of you all have real estate licenses?

RAY JOHNS: No, I don't think so, no.

SEN. LOVEGROVE: If its not coincidence, why would four of you work in the leasing department all have real estate licenses?

RAY JOHNS: Well, the reason that these people have

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RAY JOHNS: (continued)

signed it is because they were former leasing agents, they are the only ones who really have licenses to my knowledge. I think they do, I don't think they placed them in escrow, and the new people that have been brought on board have not been brought in under the strict guidelines as their position as a leasing agent. These employees were brought in as leasing agents. That's why we felt the Bill pertains directly to them.

SEN. LOVEGROVE: Suppose the state were to treat their leasing agents as real estate salesmen, or brokers, when you go out and lease property, you're leasing it on a co-broker system, you participate on behalf of the state, and whatever the co-broker commission is goes to the state, I'll think that might be one way around the conflict. Bring the practice right out in the open, you are the agent I have a listing on a piece of property the state wishes to lease it, say the co-broker is 50/50 on the commission 50% of my commission as a leasing agent for the state goes to the state.

RAY JOHNS: I don't know if you would get much of a participation in that

SEN. LOVEGROVE: Oh certainly, if I had my own agency and you have a listing on a piece of property with the agency you own, and I call you up and I say, Ray I got a client here who would like to lease this property, and you have a listing, I'll say fine my co-broker fee is 50/50 on the commission, you say fine. My customer leases the property, I get half the commission you get half the commission. Why can it work the same way for the state.

RAY JOHNS: You mean as far as the state getting the co-broker commission.

SEN. LOVEGROVE: Sure, you have a license, you operate as the state's agent, which is what you are doing now, right. Only instead of operating as a state

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SEN. LOVEGROVE: (continued)

agent without participating in a commission, you participate in the commission on behalf of the state. I would think that might keep down any possibility of conflict, half of the commission would go to the state anyway. I am sure the listing agency would find it a little more difficult to spread around any more than their half of it.

RAY JOHNS: My personal feeling I think would be detrimental to the let's say real estate deal. You are going to cut down on the competition that you would be getting because they feel automatically that if the state is leasing the property, they've automatically cut their commission in half.

SEN. LOVEGROVE: Sure, but if they lease to me and I have an agent who is not employed by your listing agent, they are going to cut their commission anyway. Probably 90% of real estate is done on co-broker basis.

RAY JOHNS: I don't know it's been so much as far as the State of Connecticut is concerned.

SEN. LOVEGROVE: What I am saying is let's get the State of Connecticut in there. As I said before you have real estate licenses, take them back from the real estate commissioner, and the state is all ready to go into business. You have your real estate office already set up, staffed by licensed people, why don't let the state participate in the commission instead of having a listing agency get the entire commission. The listing agency does not do it, participate in the entire commission when they are dealing with somebody else in the private sector.

RAY JOHNS: No, that's true they don't.

SEN. LOVEGROVE: Well, what I am saying why not let the state act as any other interested party in the private sector would act. They would participate and ask for commission.

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RAY JOHNS: The state is user it would be paying itself a commission.

SEN. LOVEGROVE: The state would not be paying itself a commission, the state would be saving one half of the commission, because the state in effect is going to be paying the full commission.

RAY JOHNS: The owner of the property is going to be paying the commission.

SEN. LOVEGROVE: Well the consumer is the one who pays in the end, and the state doing the leasing is the consumer.

SEN. ATKIN: Further questions, Fred.

SEN. LOVEGROVE: I don't understand why this wouldn't work, if it works in the private sector, why it wouldn't work for the state.

RAY JOHNS: We can give out to private enterprise then on that basis and let the real estate people handle all the (inaudible) or assign a leasing (inaudible)

SEN. LOVEGROVE: But you just told me that you and these other four people are real estate professionals in escrow. Take you out of escrow, why don't you to work for the state, help the taxpayers.

RAY JOHNS: I can't say that I have an answer to your question on that basis.

SEN. ATKIN: Representative Bertinuson

REP. BERTINUSON: Yes, Mr. Johns going back to the filing of financial statements do I understand that your main objection is that it is discriminatory against the leasing agents in DAS. Does it cover the other various employees that you referred who are not covered under this, would feel comfortable with it then?

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RAY JOHNS: No I can't say that we would feel comfortable with it then.

REP. BERTINUSON: So your main objection is to people who are already employed and didn't know that as a condition of employment. Rather than the fact that it seems to be aimed at one particular (inaudible).

SEN. ATKIN: Further questions for Mr. Johns. Thank you Sir. Charles Misak.

CHARLES MISAK: Mr. Chairman, I decline to speak at this I had not been sent here with a statement, only to comment if necessary. Thank you Sir.

SEN. ATKIN: We have about ten minutes left of agency time so Mr. Cassin.

DEP. COMM. Donald Cassin: (Prepared Statement enclosed.)

DONALD CASSIN: (continued)

in this bill. The State Fire Marshal's office recently undertook a more comprehensive approach to fire safety inspections that will result in regular inspections of all State facilities. 19 positions were added to the Department of Public Safety for this function to augment existing staff. We believe a comparable increase in staff would be necessary within DAS in order for us to comply with the requirements of this proposed legislation.

In addition, issues relating to the uniformity of data, the development of common definitions, report mechanisms, data entry, computer systems for manipulating the data and generating reports that are recommended in the bill would all have to be addressed and resolved. Moreover, support staff would have to be established to augment any inspection people working in the field.

While we agree with the purpose and intent of this proposed legislation, it would be irresponsible for me to suggest that DAS could successfully implement the provisions of the proposed legislation without a substantial increase in staff. The Committee indeed has recognized this need and our primary disagreement with this proposal is that there has not been any staff increase built into the Bureau's Operating Budget for this function. We strongly recommend that a very close look at the fiscal impact of this legislation be undertaken before you proceed with its implementation.

House Bill No. 7264, AN ACT IMPROVING THE PROCEDURE FOR THE DEVELOPMENT AND IMPLEMENTATION OF THE STATE FACILITY AND CAPITAL PLAN AND CONCERNING THE PURCHASE OF PROPERTY BY THE STATE. This proposed legislation incorporates many of the recommendations of the Committee that are spelled out in its May, 1986 report concerning the space acquisition process. Copies of our response to the recommendations in the report are contained in Attachment A of my testimony. That response deals not only with the issues raised in proposed bill HB 7264 but also to the issues raised in HB 7318, AN ACT CONCERNING STATE LEASING PROCEDURES. While I will not speak to the specifics of these acts, I think it is important

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DONALD CASSIN: (continued)

to point out that the Department agrees with many of the recommendations and has administratively implemented many of them.

Thank you for the opportunity to speak to you today, and I'm joined by some senior members of the Bureau's staff who will be able to respond to any of the issues and questions that you may have. Thanks for the opportunity of allowing me to speak.

SEN. ATKIN: Thanks Don, on 7262, I'd like to point out that it simply asks in section 2 there for a demonstration or pilot program its not mandating at all, that all of them go out to a private contractor, I just want to point that out to you. Are there any questions of Don on 7262?

SEN LOVEGROVE: I'd just like to ask, getting back to the, (HB 7318) are you Mr. Johns boss?

DONALD CASSIN: I think so, yes, Senator Lovegrove.

SEN LOVEGROVE: Did you have problems of the State leasing Department operating as a real estate agency. I mean there is some reason, I mean these four men that don't want a change in a code of ethics all have real estate licenses for one reason or another.

DONALD CASSIN: I would prefer, Senator Lovegrove, I would prefer that any leasing agents that we hire from here on in, have a condition of their employment that they do not transact any real estate transactions at all during their employment with the State of Connecticut. If there is no unethical problems there, there is a perception that it could happen. And we deal a great deal in that area with public perception. I think we are dealing with a code of ethics here, and if legally and I'm not perpared to make any legal determination at this point, or am I qualified. If legally it was determined that that might be an avenue for us to persue, I certainly would investigate it and come back to you with somekind of report as to the feasibility of operating under those conditions.

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SEN. LOVEGROVE: I would think that if the state changed its operation, we got a real estate office here doing business with the state and the state's real estate office is going to participate in the commission, just as any independent office does.

If I'm a state leasing agent and my wife happens to work for another agency, it's going to kind of cut that down, because the state's already going to get half the commission.

MR. CASSIN: Conceptually, it sounds like it has merit, Senator.

SEN. LOVEGROVE: It would also bring a little money into the state, too, instead of giving it all to the listing real estate agent.

MR. CASSIN: If you'd like we'd be happy to investigate that and come back to you with some sort of

SEN. LOVEGROVE: Do you have a real estate license?

MR. CASSIN: Absolutely not. Thanks for asking though.

SEN. ATKIN: Representative Shays

REP. SHAYS: Do all your employees who have real estate licenses have had them held in escrow?

MR. CASSIN: No they do not. We made the request - I made the request, personally, when I came on board that all leasing agents put their real estate licenses in escrow. And I know that Mr. Johns did so, voluntarily. But there were other agents within the Bureau who decided that it was not in their best interest to do so and we pursued it and found out that, legally, we were not able to get them to do that. And so what we did do was come up with this condition of employment and any leasing agents we've hired since then come to work for us under those conditions.

REP. SHAYS: Could you give us a list of those employees who have real estate licenses that have refused to

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REP. SHAYS: (continued)

hold them in escrow?

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MR. CASSIN: Absolutely.

REP. SHAYS: Because I'd like to have some kind of interview and find out why they've chosen not to.

MR. CASSIN: Fine.

REP. SHAYS: Just going back to the mandate versus the pilot program.

Conceptually, do you have any problem with the pilot program if it was reasonable in terms of a few buildings.

MR. CASSIN: Conceptually I have no problem with the pilot program at all.

REP. SHAYS: We basically, I think, handled the Capitol Building with an outside, private

MR. CASSIN: I would say conceptually I have no problem with that at all, but I think one thing that ought to be understood is the costs that incurred when the Public Works Department relinquished the maintenance of the State Capitol as to what is being paid for now.

I will say this, I think the cleanliness of the maintenance of the Capitol is much nicer now than what it used to be. But I think Director Bob McCullough at my right might be able to give you just a brief

REP. SHAYS: I'll tell you what - because we should look at the cost - the point is that we really have a pilot program right here that we can take a look at as well as the

MR. MCCULLOUGH: The State Capitol is your pilot program. We had a \$300 thousand dollar budget and it now has a \$3 million dollar budget.

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REP. SHAYS: I'm sorry?

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MR. MCCULLOUGH: We had a \$300 thousand dollar budget and it now has a \$3 million dollar budget.

REP. SHAYS: Well that would be - what I remember when it first went out to contract it was, in fact, less. So it's interesting how that's increased so significantly.

MR. MCCULLOUGH: It has its advantages.

REP. SHAYS: And disadvantages, too.

SEN. ATKIN: We are running into the public portion. I'd like the public to have the opportunity. Are there any other specific questions for either of these gentlemen?

Senator.

SEN. LOVEGROVE: If I'm a non-licensed leasing agent, by license I mean a real estate license, and the state leases a piece of property from Section 21, and the manager of that office gives him \$2 thousand dollars that's a bribe, right?

MR. CASSIN: Absolutely.

SEN. LOVEGROVE: If I or my wife happens to have a real estate license and the manager of Section 21, gives either one of us \$2 thousand dollars that's not (inaudible)

MR. CASSIN: I think so.

SEN. LOVEGROVE: That's just the point I wanted to make.

MR. CASSIN: In conclusion I would like to say, I believe it was Representative Samowitz who made an inquiry as to - about - I think it might have been bidding procedures.

Although it is not under our jurisdiction, Representative Samowitz, there is bidding that is done

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MR. CASSIN: (continued)

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in two sections of DAS. One - capital projects are bid through the Bureau of Public Works or DAS bidding section and the Bureau purchases, in Middletown there is bidding for commodities, in Middletown.

All come under the Department of Administrative Services.

If you would like, I'd be happy to find out for you whatever information you would require and be happy to get that information for you.

REP. SAMOWITZ: What I'm looking for is there is presently a statute that requires that 25% of all contracts with all state agencies, not just DAS, but all agencies, be awarded to small businesses, of which 15% are supposed to be minority and 10% are supposed to be women.

I don't know if this is being done and this is what I'm interested in finding out.

MR. CASSIN: I'd be happy to get you in touch with the people who can give you that type of answer. We'll pursue that for you and get back to you.

REP. SAMOWITZ: Thank you.

MR. CASSIN: You're welcome.

SEN. ATKIN: Thanks, Don. Now we'll go into the public portion of the Public Hearing. The first speaker listed is Sal Chilone, the Connecticut Employees' Union on 7262.

SAL CHILONE: Good morning, Mr. Chairman. Ladies and Gentlemen of the Committee.

I'm sitting here this morning, I have two hats to wear here. #1, I'm a state employee. I work for the Department of Administrative Service, Department of Public Works as a Superintendent 3 in the

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SEN. ATKIN: Thank you. Questions? Thank you.
Representative from CPEC, I can't read -
Michael Levin - still here?

Patrick Carolan. Carolan, sorry Patrick.

PATRICK CAROLAN: My name is Patrick Carolan. I'm the
Chief Steward in the Administrators and Residual
State Employee Union, Local 4200, and we repre-
sent the leasing agents for the State of Connecticut.

I'm here to talk about House Bill 7318. And we
are particularly concerned about House Bill 7318,
in lines 339 to 352. Especially where it talks
about prohibiting leasing agents from holding
another state or municipal position. I thought
years ago that we had fought the battle to give
state employees full political rights and not
be treated as second-class citizens. Now I come
here today and see that through a back door you're
trying to take some of these rights away from
particular groups of state employees.

Perhaps you should take political rights away from
all state employees again. Maybe you should say
that legislative staff can't hold appointment for
municipal positions and see how many town committee
members you have to get rid of.

It seems you should treat all of the state em-
ployees the same way.

SEN. ATKIN: Which lines are you referencing?

MR. CAROLAN: From 339 to 352, but, and particularly
where it says "leasing agent or an immediate
supervisor of a leasing agent shall hold", I'm
sorry, it says "no person employed by the Department
of Administrative Services as a leasing agent shall
hold another state or municipal position". We
really feel that, first of all, this violates their
constitutional rights. We wonder why not the
surveyors for the Department of Transportation,
the engineers for the Department of Transportation,
perhaps the attorneys for the Attorney General's

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MR. CAROLAN: (continued)

Cass. #2

Office shouldn't be able to hold any positions? Or any state employee shouldn't be able to hold any other position. If that's what you want to do then maybe you should do it that way. Not single out one group of state employees.

We're also very concerned about requiring these individuals to disclose their financial statement indicating their sources of business income and business affiliation. The person and his or her spouse. We show this as a violation of their constitutional rights. Again, you don't require this for any other state employees. I don't even think it's required of legislators, of spouses of legislators. It's not required for any other groups of state employees.

SEN. ATKIN: Maybe commissioners and deputy commissioners.

MR. CAROLAN: Possibly commissioners and deputy commissioners. And I'm not sure about spouses of commissioners or deputy commissioners.

SEN. ATKIN: I believe so. And children.

MR. CAROLAN: Well, these people are not appointed people. They get their job through the Civil Service - they take exams to get their jobs and they're covered by union contracts.

We feel that what you're attempting to do here is change a condition of employment, change terms of employment. The place to do that is at the negotiating table. Not through legislation. We're currently in negotiations with the State of Connecticut and we would certainly entertain any proposals from the State of Connecticut on these matters. If they wish to negotiate that with us. But we don't feel that the place to do it is through legislation.

And also, to answer a question that Representative Shays had asked earlier about why the current

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MR. CAROLAN: (continued)

Cass. #2

real estate agents refused to put their licenses in escrow, one reason is because we advised them not to do that because it was a violation of the contract. They were changing the terms of employment without negotiating. The second reason is they felt that when you require attorneys for the Attorney General's office not to practice law outside or when you require engineers for the Department of Transportation not to practice outside, or when you require nurses not to practice nursing outside, then they might be more interested in putting their real estate licenses in escrow.

They don't feel that they should be singled out as one group of employees.

It is especially interesting because in my six years with the union, we haven't come across one case - not one case of a leasing agent being charged and found guilty of a conflict. Being charged and found guilty of taking bribes, taking money from buildings. So I wonder why all of a sudden you're trying to put the onus thing on these employees.

These individuals are all hired because of their expertise in real estate. The reason they all have their real estate licenses is that they have worked many years - the job specs call for them to work many years in real estate. Part of that - they have a relationship with the community, with the real estate community - that's why they're hired. Because of that relationship. But then to come back later and say we want to require them to put financial reports, put their license in escrow - I venture to say you're not going to get anybody to work for the State of Connecticut in these positions with all of these conditions that you're placing on them.

Thank you.

SEN. ATKIN: Chris. Go ahead.

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- REP. SHAYS: I'm not sure how I feel on these issues, I'm trying to understand the motive that, and the reluctance, for instance does it not seem logical to you that there may be an inherent conference with someone being in a position like that dealing so closely with real estate as well? I mean it just strikes me that intuitively that it would seem like a conflict
- MR. CAROLAN: If there is a conflict and if it can be proven than an individual is taking favors from a leasing, from a real estate company in return for giving favors for State leasing, then the State has a disciplinary mechanism to take care of that, and that we feel is the place to do that, and there the person is protected, the State can try and show just cause and prove their case and discipline the individual. There would be that inherent conflict in almost any position with the State. The engineers would have that same conflict, engineers for DOT. Surveyers for DOT would have almost that same conflict, inherent conflict.
- REP. SHAYS: What is the starting level that we are talking about these employees?
- MR. CAROLAN: I think its approximately like starting around 25, 26,000 and maximum at about 34, 35,000.
- REP. SHAYS: But is it your testimony that we're saying that they can't practice real estate, that they are not going to continue to work at that salary level?
- MR. CAROLAN: I'm suggesting that you'd have a hard time finding the best individuals, you might get people who were unsuccessful in real estate. But you are not going to get people that were very successful to come in and do this job.
- REP. SHAYS: When someone is successful in real estate, why would they come and work for the State anyway?
- MR. CAROLAN: The State has a good pension system, they might be interested in that. They might be older and they might, you know, somebody that is 45, 50 years old, might want a State job for the benefits. Any number of reasons why, but I would just like

MR. CAROLAN: (continued)

we're not objecting to that, we're objecting to the way its being done. The way it should be done is through negotiations, and if the State wants to present that in their package we will certainly consider it. We might ask for certain things in return for it, but we would certainly consider that as part of their package. Just the way we consider everything else. We fill that terms of employment, conditions of employment are a mandatory subject of collective bargaining, they should be bargained, they should not, the bargaining process should not be circumvented through legislation.

REP. SHAYS: Well, you know, if someone who believes in the collective bargaining process there are certain ethical questions which a legislative body is going to want to step in, and the only reason why we would not want to step in is if we feel that ethically we present a situation, there exists a situation that is so detrimental to the public that it supercedes and collective bargaining process.

MR. CAROLAN: But if its so detrimental to the public, then why hasn't anybody ever been charged with that. Why hasn't anybody ever been fired for violating those ethics. I mean, I don't understand.

REP. SHAYS: I think that's a fair question, I think that's a fair question.

MR. CAROLAN: I mean, I don't understand why it is so detrimental to the public when its never happened before, and if it does happen there is mechanisms to protect that, and to discipline the individual.

REP. SHAYS: But one of the problems is that are you a real estate agent yourself?

MR. CAROLAN: No.

REP. SHAYS: One of the problems is that you can make arrangements with other brokers that basically would never see the light of day, and you could always claim that that arrangement was for some other thing and in fact what it really was for, and that was because you, but the problem is, its easy

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REP. SHAYS: (continued)

to avoid detection, if you are allowed to be a,

MR. CAROLAN: I don't think legislating is going to make it any easier to avoid detection. You can certainly, if somebody wants to make arrangements whether they there real estate license is in escrow or not, they are going to make their arrangements someway or another, if that is what they are interested in doing, that's what they are going to do. And the State certainly has the means to find out about those, you have an inspector general now that can certainly investigate that and find out if those kind of arrangements are being made.

REP. SHAYS: Well, let me just say that, why was this area focused on clearly was the potential to make someone very wealthy with a very subjective decision. Exstremely wealthy and there is unfortunatly and it goes back to the administration of which I am a Republican, it goes back to the years where we had situations where people were buying all community (inaudible) for leasing out and they spent, they basically were able to purchase that building and get a return that paid back the building in a very short period of time. And it happened throughout the State. And so its not hard to understand why there might be attention in this area.

MR. CAROLAN: But the leasing agents don't have the authority to sign any agreement. All of the agreements have to go through a Property Review Board, if you have a problem then maybe you should talk to the Property Review Board and maybe that's where your problem is, because they're the ones who give approval or disapproval on leases. And if they come in and, you know, if they come in and, you know, just rubber stamp everything without checking it then, you know, yes, there is a problem there. The leasing agents don't, I mean if they come in, if a leasing agent presents a proposal to lease a building at 12 dollars a sqaure foot, and the Property Review Board says wait a minute we can get this other building right next door for 5 dollars a square foot, and the Property Review Board just

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MR. CAROLAN: (continued)

goes ahead and approves the 12 dollars a square foot, you know, then that's where you should start looking, not at the leasing agents. And they are all political appointees.

REP. SHAYS: Thank you for your testimony, Terry.

REP. BERTINUSON: You are referring to the Property Review Board. It appears in my reading that we all ready apply these restrictions to employees of the Property Review Board. Do I assume from what you said that you think that's okay? That it shouldn't be extended to the leasing agents?

MR. CAROLAN: I don't represent, I'm talking, when I say the Property Review Board, I'm not talking about the employees of the Property Review Board, I'm talking about the Property Review Board itself. And they are not in my bargaining unit. I will not come and speak for them. They certainly can speak for themselves.

REP. BERTINUSON: I just wanted you to, you are aware that we all ready do apply these restrictions.

MR. CAROLAN: They are all political appointees too, and I think that's a much different situation for political appointee than for somebody that comes through the civil service.

REP. BERTINUSON: The employees of the Property Review Board?

MR. CAROLAN: Not the employees of the Property Review Board, you don't apply these restrictions to the employees of the Property Review Board.

REP. BERTINUSON: Yes, it says no employee of the Property Review Board and then the new language would be no person employed by DAS, shall hold another State or municipal position and it also requires them to file a financial statement.

MR. CAROLAN: Well, obviously I don't represent any employees of the Property Review Board, if I did I'm sure I'd be speaking on their behalf also.

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MR. CAROLAN: (continued)

But I don't, none of those are in my bargaining unit, so.

REP. BERTINUSON: Different union.

MR. CAROLAN: Yes, you have to talk to the other union about that.

SEN. ATKIN: Any other questions, thank you, sir. Mr. Levin I see has returned. I'll announce for the Committee there is something going on in the hall of the House right now that I know a lot of the members would like to get to, so depending on the when this hearing is over the Committee meeting will be either at 12:30 or if the hearing lasts until after 12:30 immediately following the hearing.

MICHAEL LEVIN: Thank you Mr. Chairman and members of the Committee. Thanks for allowing me to speak, sorry I was out of the room before. My name is Mike Levin, I am a Vice President of the Connecticut Public Expenditure Council, and I am here to support three bills before you. House Bill 7262, 7265, and 7319. Back in 19, November of 1985 the Council did a report on the repair of State buildings. It had a lot to do with bonding, the use of bonds funds in repairing State buildings, and as you may or may not know, we found there has been a big use of bond funds for repairs. And we felt that the route cause of this problem was the fact that facility repair needs were not integrated in the State playing documents, they were not highlighted in the operating budget and they were often deferred. We felt probably to hold down the annual increase in the regular budget. So we put out some recommendations and some of the recommendations were as follows. We thought the State should implement a strategy from including all maintenance and smaller scale repairs in the operating budget. And we also thought that the State should develop, Connecticut should develop Statewide policies and standards for facility maintenance, as was recommended, excuse me, by the Governor's Infrastructure Task Force a few years ago. We think that the first two bills go a long way to doing some of the things we recom-



STATE OF CONNECTICUT
DEPARTMENT OF ADMINISTRATIVE SERVICES

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T E S T I M O N Y

PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE

PUBLIC HEARING

FEBRUARY 26, 1987

The Department of Administrative Services would like to take this opportunity to thank the Program Review and Investigations Committee for their time and effort in reviewing the leasing program of the State of Connecticut. In general, the Department endorses many of the recommendations enumerated in HB 7318 - An Act Concerning State Leasing Procedures. The Department has carefully reviewed the proposed language changes and has prepared a response on each of the recommendations. The intent of these responses is to help ensure the integrity of the leasing process in the State through an open, competitive process in an attempt, to provide State agencies with quality space at the most economically advantageous terms and conditions for the State of Connecticut. The Department has also attempted to carefully delineate the responsibilities shared by DAS, OPM, and the State Properties Review Board. We hope that the proposed changes will help expedite the process in order to provide a more timely delivery of service to State agencies.

In summary, some of the changes recommended by the committee have already been incorporated in the Department's "Leasing Policies and Procedures." Other proposals have been modified or expanded to hopefully provide the Department of Administrative Services with the tools to carry out its mission, as defined by statute, in the most effective and efficient manner.

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HB 7318 - AN ACT CONCERNING STATE LEASING PROCEDURES

Section 1

Lines 177-183

Agree

Lines 243-250

Amend language to have regulations adopted by the Commissioner of Administrative Services in consultation with the Office of Policy and Management and the State Properties Review Board.

Lines 250-267

Appear to be acceptable.

Section 2

Lines 270-282

Strongly disagree. The Department of Administrative Services requires all proponents interested in leasing space to the State to respond to the appropriate advertisement developed in accordance with Section 4-127c of the Connecticut General Statutes in order to be considered.

As stated on page 9 of the department's "Review and Comment Concerning a Performance Audit of the Bureau of Public Works by the Program Review and Investigations Committee of the General Assembly on May 7, 1986:"

Advertising and Identification of Potential Sites. Current DAS procedures by which the Department identifies property owners interested in leasing space to the State provide that it consider:

- (1) offers made in response to newspaper advertisements with specific deadlines for the submission of proposals to the State,
- (2) offers from the present lessor (in the case of an expiring lease), and,
- (3) offers resulting from the leasing staff contacting potential proponents.

(2)

The audit did not point out that the Leasing staff acts in a proactive manner to generate lease proposals. As such, the Committee has suggested that the DAS procedure is contrary to the intent of State Statutes which is to open the leasing process and encourage proposals from all interested parties. The Committee has recommended that DAS not limit itself to proposals submitted only in response to advertisements. This, in fact, is current practice.

DAS agrees that which the lease process should be as open as possible, it is also imperative that it be structured so as to protect the State against claims of favoritism or political interference in the selection of leased facilities. The process must be structured so as to protect the Department from accusations that it picked a property to lease for political considerations rather than the fact that the property offered was the best available to the State.

For these reasons DAS recommends the following language:

"IN ALL INSTANCES, EXCLUSIVE OF THE EXERCISE OF OPTIONS TO LEASE SPACE TO THE STATE, PROPONENTS ARE REQUIRED TO RESPOND TO EACH ADVERTISEMENT WHICH HAS BEEN DEVELOPED IN ACCORDANCE WITH SECTION 4-127c OF THE GENERAL STATUTES."

Lines 291-292

Agree. This practice is currently in place.

Lines 300-303

Agree in part. The Department of Administrative Services is of the opinion that this language should apply only to options. When an option has been previously negotiated and approved, DAS shall not be required to readvertise, and shall notify the owner of said property in which option exists in accordance with the provisions of the lease document (not the 15 months specified in the bill). The State Properties Review Board and OPM shall be notified of the Department's decision to exercise the option. All other renewals shall be processed in accordance with normal procedures and consistent with the General Statutes.

(3)

Section 3
Lines 326-336

Agree, with the understanding that the intent of lines 333-336 is to have a separate individual(s) perform these duties exclusively. This has been established and incorporated into Policies and Procedures.

Section 4
Lines 339-352

Agree in part. The Department of Administrative Services does not agree with the first portion of the proposal, lines 337-340. We believe that this language may be unconstitutional as it denies gainful employment to members of the State Properties Review Board and employees of DAS. The Department does agree with the concept that no employee be directly involved in any enterprise that does business concerned with real estate acquisition or development or which may present a potential conflict of interest as defined in Section 1-84 of the General Statutes.

The Department has stated its position in its response to the Program Review and Investigations Committee's recommendation, as follows:

Conflict of Interest. The Committee has pointed out that Leasing agents have considerable discretion in conducting negotiations with lessors and that, while this discretion is necessary, it is important that the Department have complete and accurate documentation of all negotiations. The Committee has also pointed out that, given the fact that some Leasing agents have real estate licenses, the potential exists for the appearance of a conflict of interest on the part of State employees who are responsible for leasing property for State agencies as part of their State employment, and also lease property for private clients as part of outside real estate activities.

The Department is also concerned about the appearance of conflict of interest. In October 1985, the Department adopted and distributed a Credo which in part reads: "We believe that personal gain, either immediate or in the future, secured by the misuse of one's position is totally unethical. Public service is a public trust." Attachment D is a copy of that Credo. More recently, leasing agents have been requested

(4)

to place their real estate licenses in escrow as a further measure to limit, to the extent possible, the appearance of any conflicts of interest. This request is currently being challenged by some of the employees involved through union representation. The recommendations put forth by the Committee in the Performance Audit would establish additional measures to protect the State and the individuals involved and the Department supports those recommendations.

The current policy regarding real estate licenses is as follows:

Real Estate Licenses. Any new employee in the Leasing and Property Transfer Division of the Bureau of Public Works, shall, as a condition of employment, place his/her license in inactive status with the State Real Estate Board. It shall remain in inactive status as long as the employee is employed by the Leasing and Property Transfer Division of the Bureau of Public Works/Department of Administrative Services.

Other Recommended Changes

Amend the General Statutes to provide Emergency Powers.

Grant the Commissioner of Administrative Services the authority to provide temporary housing in leased space to house State agencies for a period not to exceed eighteen (18) months in accordance with the provisions of Section 4-132(c) of the General Statutes or in cases where the Governor has certified that a state of emergency exists. The State Properties Review Board shall be notified accordingly.

701
From

Legislative Program Review and Investigations Committee
Bureau of Public Works Property Management Agents

Comments/Review

2/24/87

Raised Committee Bill # 7518

① In regards to provisions of sec. 2-(c) of the proposed legislation, if the intent is to exercise a renewal option in an existing lease, provided OAS forwards it to the SPRB 15 months before the lease's expiration date, well the language as written (drafted) does not say the above. The language is vague & not precise.

Prog Review
2/26 10:00AM

The section as presently drafted says that ^{any and all} current lease, irrespective of whether it contains a renewal option can be renewed ~~or~~ extended; this makes the requirement for advertising worthless and of no constructive effect.

The language must be clarified, incidentally, if there is to be automatic exercise of renewal options in existing lease w/o the need to advertise, the Commissioner's decision to the SPRB should include a statement, much like sec 2 (d) above, to the effect that "the OAS has determined that the rent & other terms of the renewal option are at least as favorable to the State as prevailing rental rates & terms for comparable space/properties in the current rental market"

② sec. 3(b) last sentence. - quite frankly I don't understand the inclusion of

2.

this language. It appears that the drafter of the proposed legislation expects or presupposes collusion between a leasing agent and a lessor. And it is as if he intends to give it the borders of some absurdity. The language is in poor taste and should truly be deleted. I don't see where it serves the fine intent of the rest of the subsection by requiring mandatory inspection of the physical plant under lease.

③ Sec 4 We object to the provision in the proposed legislation precluding a leasing agent from holding a municipal position, because it basically violates the person's constitutional right to hold an elective &/or appointive position. The language is vague & clearly discriminates against the fundamental right to be involved in the political process in a democratic republic, such as our country is and stands for.

It singles out a particular group of state employees and punishes him or her for abilities and desires & interest in community involvement and betterment, simply because that person happens to be employed as a leasing agent in the Dept. of Administrative Services.

We also are opposed to the provision to make public a leasing agent or his or her spouse's financial statement and business

3.
 affiliation, whether a conflict of interest or not, because it is discriminatory and clearly an invasion of a person's privacy.

It singles out a particular group of state employees for punitive action, which is basically unconstitutional, most especially when the provision is not across the board to include all the professional engineers, architects, surveyors, appraisers, title searchers, tax examiners, the list could go on - Who work for the State of Connecticut.

Both of the above-named provisions are a change of condition of employment after the fact and a violation of our union's Contract with the State of Connecticut.

For all of the above reasons and we might add one more - the proposed legislation is presumptive of guilt in a country founded on the judicial credo of innocence first.

It is unneeded legislation. Our years of employment with the State of Conn. alone attests to our honesty and integrity.

Yours truly,
 William Pi Barone
 Gunnell Smith
 (Susan Amato)