

Legislative History for Connecticut Act

SB 514	PA 221	1988
House 6910-6926		(17)
Senate 1445, 2110-2113, 2117-2119		(8)
Judiciary 1328, 1329-1330, 1337-1339, 1409-1411, 1412-1413, 1529, 1530-1531, 1563-1564		(16)
		Total 41P

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
1988

VOL. 31
PART 20
6813-7116

abs

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House of Representatives

Saturday, April 30, 1988

Clerk, please continue with the Call of the Calendar.

CLERK:

Please turn to Page 5, Calendar 580, Substitute for Senate Bill 514, AN ACT PERMITTING MUNICIPAL OFFICERS TO IMPOSE CIVIL PENALTIES FOR VIOLATIONS OF REGULATIONS AND ORDINANCES (As amended by Senate Amendment Schedule "B") Favorable Report of the Committee on FINANCE, REVENUE AND BONDING.

SPEAKER STOLBERG:

Representative Jay Levin.

REP. LEVIN: (40th)

Mr. Speaker, I ask acceptance of the Joint Committee's Favorable Report and move passage of the bill.

SPEAKER STOLBERG:

Will you remark?

REP. LEVIN: (40th)

Yes, Mr. Speaker, this legislation would provide for a system whereby a municipal employee could by ordinance designate. Let me begin again, Mr. Speaker.

This legislation would provide that municipalities could adopt ordinances whereby designate municipal officers could issue citations for certain violations such as health code violations, for example, sanitation

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violations in the community; ordinances that would be akin to citations that are now filed for various infractions.

The bill sets up an appeals process which parallels the appeals or hearing process for parking tickets. What it would basically do is allow a municipality to take an action against a person who had been violating a code or city ordinance without having to bring the full force and effect of either prosecutorial office or a full blown civil action against a particular individual.

And to make it clearer and more effective, Mr. Speaker, the Clerk has an amendment, LCO #4267, passed by the Senate, and I would ask that the Clerk please call the amendment and may I be allowed to summarize?

SPEAKER STOLBERG:

The Clerk has an amendment, Senate Amendment Schedule "B", 4267. Will the Clerk please call?

CLERK:

LCO 4267, designated Senate Schedule "B", offered by Senator Avallone.

SPEAKER STOLBERG:

Is there objection to summarization? Seeing none, Representative Levin.

REP. LEVIN: (40th)

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Thank you, Mr. Speaker. As I was saying, this amendment makes it clear that the regulations and ordinances that are designated by the municipality to be enforced by the citations will be adopted specifically by the municipality as was the initial ordinance it seeks to enforce.

For example, if there is a particular health or sanitation ordinance that is sought to be enforced by this citation system, that would have to be adopted by the municipality. Secondly, this would insure that the citizen had received a prior written warning before being served with the citation, and thirdly, rather than making this act effective July 1st by this amendment, it would become effective on October 1st. I would ask adoption of the amendment.

SPEAKER STOLBERG:

Will you remark further on the amendment? Will you remark further? Representative Krawiecki.

REP. KRAWIECKI: (78th)

Thank you, Mr. Speaker. A quick question to Representative Levin, please. Representative Levin, in reading the amendment it seems to indicate that everyone will have a first time warning and then ultimately the citation. I just want to make sure that's absolutely the situation, if this amendment is

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passed.

REP. LEVIN: (40th)

Through you, Mr. Speaker.

SPEAKER STOLBERG:

Representative Levin.

REP. LEVIN: (40th)

That is absolutely correct.

REP. KRAWIECKI: (78th)

Thank you.

SPEAKER STOLBERG:

Will you remark further? If not, will members.

I'm sorry. All those in favor of the amendment please indicate by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER STOLBERG:

All to the contrary nay. The amendment is adopted.

Will you remark further? Representative Nickerson.

REP. NICKERSON: (149th)

Thank you, Mr. Speaker. The Clerk has LCO 4387. Would he please call and I be allowed to summarize?

SPEAKER STOLBERG:

The Clerk has an amendment, LCO 4387, House "A". Will she please call the amendment?

CLERK:

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LCO 4387, designated House Schedule "A", offered by Representatives Nickerson, Fox and Young.

SPEAKER STOLBERG:

Is there objection to summarization? Seeing none, Representative Nickerson.

REP. NICKERSON: (149th)

Thank you, Mr. Speaker. Very briefly, the amendment takes the language previously outlined by Representative Levin with respect to enforcing municipal ordinance by citation and would provide a parallel procedure for enforcement of zoning ordinances by the a similar citation, using exactly the same language. I move adoption.

SPEAKER STOLBERG:

Will you remark?

REP. NICKERSON: (149th)

Yes, sir. The act provides two very valuable benefits. One is that municipalities have an additional tool in their arsenal to enforce ordinances, namely by the citation method rather than having to institute a court action. A second benefit is that it will effectuate an unclogging, if you will, of the court system in order to resolve disputes by having those disputes, hopefully many of them, resolved at the hearing provided for in the act.

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The amendment will do exactly the same thing for a zoning enforcement area. I think the same benefits will apply both for municipalities and in the courts as does the act as amended by Senate "B", and I think it's appropriate public policy, and urge adoption.

SPEAKER STOLBERG:

Will you remark further on the amendment?

Representative Levin.

REP. LEVIN: (40th)

Thank you, Mr. Speaker. I rise in reluctant opposition to this amendment, and would ask respectfully its rejection by the House. I think the concept is excellent, and I commend it, and would offer, after we have had in effect the legislation that's before us for a period of a year, in the next session to be able to work and co-sponsor such legislation with Representative Nickerson, but let me say that it is, as we all know, late in the session.

This matter has been fully before in its present file copy condition has been fully before the committees of the General Assembly and has been heard in public hearing. I think that this matter is such that next year this might be, and I think would be, an excellent matter for consideration, but at this time, and to insure that the file copy moves forward swiftly

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through the process, I would respectfully request a no vote and rejection of this amendment.

SPEAKER STOLBERG:

Will you remark further? Representative Van Norstrand.

REP. VAN NORSTRAND: (141st)

Mr. Speaker, just briefly in opposition to the amendment. I can understand the temptation for this kind of thing, and the way that courts treat zoning violations is not perfect. I don't think it gets the prosecutor, now state's attorneys, primary attention in many cases unless there's a real danger to public safety or health, but this unlike, say a sanitation violation - you are not removing your garbage cans, you're allowing garbage to pile up, or the health laws, and other local ordinances, zoning decisions, and hence, the enforcement can be very complex matters.

I think you have a real danger, and I would hope long before you slide into this next year, Representative Levin, because I won't be here to contest you, I hope you look long and hard at it, because you have a real opportunity for vigilante justice here. Neighbor against neighbor. You have problems with site plans. You've got to have all the records of a commission, whether the fellows got 14

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bushes or he's supposed to. This can get to be a very technical area.

I don't think you can do it as simply as this, and particularly do I say that, where you note in the file copy, there are no standard whatsoever for these citation hearing people. They don't have to have anybody acknowledge at their command, just appointment by the chief executive official. I think you've got to ask a lot more. Anyone who has ever been to court on a zoning case knows how technical the reading of those regulations can be.

SPEAKER STOLBERG:

Will you remark further on the amendment? Will you remark? If not, all those in favor of the amendment please indicate by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER STOLBERG:

All to the contrary nay.

REPRESENTATIVES:

No.

SPEAKER STOLBERG:

The amendment is defeated.

House Amendment Schedule "A".

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In line 38, after "act" insert the following: ", or under section 8-12 of the general statutes, as amended by public act 87-244, public act 87-237 and section 2 of this act," and at the end of the line delete the coma and insert in lieu thereof "thereof, shall"

After line 152, insert a new section 3 as follows and renumber the remaining section accordingly:

"Sec. 3. Section 8-12 of the general statutes, as amended by public act 87-244 and public act 87-347, is repealed and the following is substituted in lieu thereof:

If any building or structure has been erected, constructed, altered, converted or maintained, or any building, structure or land has been used, in violation of any provision of this chapter or of any bylaw, ordinance, rule or regulation made under authority conferred hereby, any official having jurisdiction, in addition to other remedies, may institute an action or proceeding to prevent such unlawful erection, construction, alteration, conversation, maintenance or use or to restrain, correct or abate such volition or to prevent the occupancy of such building, structure or land or to prevent any illegal act, conduct, business or use in or about such premises. Such regulations shall be enforced by the officer or official board or authority designated therein, who shall be authorized to cause any building, structure, place or premises to be inspected and examined and to order in writing the remedying of any condition found to exist therein or thereon in violation of any provision of the regulations made under authority of the provisions of this chapter or, when the violation involves grading of land, the removal of earth or soil erosion and sediment control, to issue, in writing, a cease and desist order to be effective immediately. SUCH REGULATIONS MAY BE ENFORCED BY CITATIONS ISSUED BY DESIGNATED MUNICIPAL OFFICERS OR EMPLOYEES, PROVIDED THE REGULATIONS HAVE BEEN DESIGNATED SPECIFICALLY BY THE MUNICIPALITY FOR ENFORCEMENT BY CITATION IN THE SAME MANNER IN WHICH THEY WERE ADOPTED AND THE DESIGNATED MUNICIPAL OFFICERS OR EMPLOYEES ISSUE A WRITTEN WARNING PROVIDING NOTICE OF THE SPECIFIC VIOLATION BEFORE ISSUING THE CITATION. The owner or agent of any building or premises where a violation of any provision of such regulations has been committed or exists, or the lessee or tenant of an entire building or entire premises where such violation has been committed or exists, or the owner, agent, lessee or tenant of any part of the building or

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premises in which such violation has been committed or exists, or the agent, architect, builder, contractor or any other person who commits, takes part or assists in any such violation who maintains any building or premises in which any such violation exists, shall be fined not less than ten nor more than one hundred dollars for each day that such violation continues; but if the offense is wilful, the person convicted thereof shall be fined not less than one hundred dollars nor more than two hundred and fifty dollars for each day that such violation continues, or imprisoned not more than ten days for each day such violation continues or both; and the superior court shall have jurisdiction of all such offenses, subject to appeal as in other cases. Any person who, having been served with an order to discontinue any such violation, fails to comply with such order within ten days after such service, or having been served with a cease and desist order with respect to a violation involving grading of land, removal of earth or soil erosion and sediment control, fails to comply with such order immediately, or continues to violate any provision of the regulations made under authority of the provisions of this chapter specified in such order shall be subject to a civil penalty not to exceed two thousand five hundred dollars, payable to the treasurer of the municipality. In any criminal prosecution under this section, the defendant may plead in abatement that such criminal prosecution is based on a zoning ordinance or regulation which is the subject to a civil action wherein one of the issues is the interpretation of such ordinance or regulations, and that the issues in the civil action are such that the prosecution would fail if the civil action results in an interpretation different from that claimed by the state in the criminal prosecution. If the court renders judgment for such municipality and finds that the violation was wilful, the court shall allow such municipality its costs, together with reasonable attorney's fees to be taxed by the court. The court before which such prosecution is pending may order such prosecution abated if it finds that the allegations of the plea are true."

SPEAKER STOLBERG:

Will you remark further on the bill?

Representative Krawiecki.

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REP. KRAWIECKI: (78th)

Thank you, Mr. Speaker. Another question to Representative Levin, please.

SPEAKER STOLBERG:

Please frame your question.

REP. KRAWIECKI: (78th)

Representative Levin, I think as you know I have an amendment in the Clerk's hands and I'm not going to call it, but for legislative intent I just want to clarify section 2 of the bill specifically line 22 indicates that a municipality may establish by ordinance a citation hearing procedure in accordance with this section, etc. etc.

I had an amendment that would have it made it clear that in the event they decide to implement this citation procedure that they must adopt this kind of a hearing procedure, and just for legislative intent, if you would, is in the intention of you as a proponent of this bill that that must be put into place should they adopt the citation procedure, please.

SPEAKER STOLBERG:

Representative Levin.

REP. LEVIN: (40th)

Thank you, Mr. Speaker. Through you, and first Representative Krawiecki, thank you for understanding

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the time sequence that necessitates this matter moving forward without further amendment. My reading of section 7-148(b), sub. (10) the miscellaneous section about the powers of municipalities would seem to state overall that the municipality if it is to follow any course of action, pursuant to the statutes that are later laid out, in the municipal powers section, would have to make, and I quote, all lawful regulations and ordinances and pursue actual regulations and prescribe the specific penalties, so yes, sir, I believe that for purposes of legislative intent that would have to be complied with although not specifically stated in the proposed legislation.

REP. KRAWIECKI: (78th)

Thank you.

SPEAKER STOLBERG:

Will you remark further? If not, will members please be seated. Staff and guests to the Well of the House. Representative Radcliffe.

REP. RADCLIFFE: (123rd)

Mr. Speaker, through you, to the proponent of the legislation.

SPEAKER STOLBERG:

Please frame your question, sir.

REP. RADCLIFFE: (123rd)

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Representative Levin, it seems here as if and I know from the file copy there will be some additional municipal expense, you have hearing officer appointed by the chief executive. You have a designated municipal official to present the case on behalf of the municipality. Through you, Mr. Speaker, could that be the appointed town attorney? Could that be the town attorney, the individual designated to present the case on behalf of the municipality?

SPEAKER STOLBERG:

Representative Levin.

REP. LEVIN: (40th)

Through you, Mr. Speaker, I would think it could be or the relevant town officer who's in charge of the supervision of that area of the regulations.

REP. RADCLIFFE: (123rd)

Then, through you, Mr. Speaker, we have a situation where the hearing officer is appointed by the chief executive. We have a situation in which the individual presenting the case for the municipality is appointed by the chief executive. Do you see there a combination of functions that could create an appearance of impropriety, through you, Mr. Speaker?

SPEAKER STOLBERG:

Representative Levin.

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REP. LEVIN: (40th)

Through you, Mr. Speaker, I believe not, because in Section 2b of the file copy it is indicated that the person to be appointed shall not be an employee or other person who issues citations, who would be conducting the specific hearing itself. I think that in the instance that the Representative's outlining, it would be appropriate for the person to so prosecute that action, but not to conduct a hearing.

REP. RADCLIFFE: (123rd)

Through you, Mr. Speaker, this would be permissive legislation, as I understand it. If a municipality did not adopt it, would enforcement remain in the superior court? Through you, Mr. Speaker.

SPEAKER STOLBERG:

Representative Levin.

REP. LEVIN: (40th)

That is correct. And also another point on your earlier point is that there would be a good deal cost avoidance presently now in many communities, it would be a police officer many times on overtime who is seeking to enforce these particular ordinances.

REP. RADCLIFFE: (123rd)

Through you, Mr. Speaker, it indicates that the hearing officer of the municipality, or the individual

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who would be hearing the situation would not be an employee of the municipality. Would there be anything to prevent, for example, the zoning enforcement official from combining the functions of the zoning enforcement official with the notion of issuing the citations in public health and safety matters, through you, Mr. Speaker?

SPEAKER STOLBERG:

Representative Radcliffe, you have the Floor.

REP. RADCLIFFE: (123rd)

I might ask the question, through the Chair, to Representative Levin, concerning...

SPEAKER STOLBERG:

Representative Levin.

REP. LEVIN: (40th)

Through you, Mr. Speaker, I don't know.

SPEAKER STOLBERG:

Representative Radcliffe.

REP. RADCLIFFE: (123rd)

I have nothing further. Thank you, Mr. Speaker.

SPEAKER STOLBERG:

Will members please be seated? Staff and guests, to the Well of the House? Will you remark further? If not, the machine will be opened.

CLERK:

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The House of Representatives is voting by roll.

Members, please return to the Chamber. The House is voting by roll. Members, to the Chamber, please.

SPEAKER STOLBERG:

Have all the members voted? Have all the members voted, and is your vote properly recorded? If all the members have voted, the machine will be locked, and the Clerk will take a tally. Representative Belden, the distinguished Deputy Minority Leader.

REP. BELDEN: (113th)

Sir, flattery will get you everywhere. In the affirmative, please.

SPEAKER STOLBERG:

I'm glad we picked up your vote on that one, Representative Belden. Representative Belden, 113, in the affirmative.

Will the Clerk please announce the tally?

CLERK:

Senate Bill 514, as amended by Senate "B" in concurrence.

Total Number Voting	147
Necessary for Passage	74
Those Voting Yea	144
Those Voting Nay	3
Those absent and not Voting	4

abs

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SPEAKER STOLBERG:

The bill as amended is passed. Will the House please come to order? We'll try one more time. Will the House come to order? It is impossible to hear in the Chamber. If you have conversations, please take them outside the Chamber.

Clerk, please continue with the Call of the Calendar.

CLERK:

Please turn to Page 6, Calendar 586, Senate Bill 196, ACT ACT CONCERNING THE DISCLOSURE OF FINANCIAL RECORDS. Favorable Report of the Committee on JUDICIARY.

SPEAKER STOLBERG:

Representative Richard Balducci.

REP. BALDUCCI: (27th)

Thank you, Mr. Speaker. At this time, I'd like to place a couple of items on the Consent Calendar for action at our next session.

Beginning on Page 6, near the top, Calendar 586, Senate Bill 196, File 528, AN ACT CONCERNING THE DISCLOSURE OF FINANCIAL RECORDS.

On Page 7, Calendar 591, Substitute for Senate Bill 479, File 674, AN ACT CONCERNING TH MEMBERSHIP OF THE UNITED STATES CONSTITUTION BICENTENNIAL COMMISSION,

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GEN. ASSEMBLY
SENATE

PROCEEDINGS
1988

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1065-1473

WEDNESDAY
APRIL 13, 1988

1445
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aak

in the Chair.

THE CHAIR:

The Senate will come to order. Is there business on the Clerk's desk at this time?

THE CLERK:

Yes, Mr. President. The Clerk has S.B. No. 514, AN ACT PERMITTING MUNICIPAL OFFICERS TO IMPOSE CIVIL PENALTIES FOR VIOLATIONS OF REGULATIONS AND ORDINANCES. The bill is to be referred from the Committee on Judiciary to the Committee on FINANCE, REVENUE AND BONDING.

THE CHAIR:

Senator Casey.

SENATOR CASEY:

Mr. President, I move the bill be referred to the Committee on FINANCE, REVENUE AND BONDING.

THE CHAIR:

Without objection, so ordered.

THE CLERK:

Also, Mr. President, Clerk has H.B. No. 5914. AN ACT CONCERNING AN EXEMPTION FROM CERTAIN LICENSING REQUIREMENTS FOR PUBLIC SERVICE COMPANY EMPLOYEES INSTALLING CERTAIN TELEPHONE SYSTEMS. (As amended by House Amendment Schedule "A"). The bill is to be referred from the Committee on Labor and Public

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1872-2239

TUESDAY
APRIL 26, 1988

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abs

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?

THE CHAIR:

The question before the Chamber is a motion to adopt Calendar No. 253, Substitute for Senate Bill No. 434, File No. 315 and 602. The machine is open. Please record your vote.

Senator Gunther. Senator Owens.

Has everyone voted? The machine is closed. Clerk, please tally the vote.

The result of the vote:

33 Yea

3 Nay

The bill is adopted.

THE CLERK:

Calendar No. 259, File 346, Substitute for Senate Bill 514. AN ACT PERMITTING MUNICIPAL OFFICERS TO IMPOSE CIVIL PENALTIES FOR VIOLATIONS OF REGULATIONS AND ORDINANCES. Favorable Report of the Committee on FINANCE, REVENUE AND BONDING.

The Senate referred the Judiciary bill to the Finance Committee on April 13th.

THE CHAIR:

Senator Avallone.

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abs

SENATOR AVALLONE:

Yes, Mr. President. I would move the Joint Committee's Favorable Report and adoption of the bill.

THE CHAIR:

Will you remark?

SENATOR AVALLONE:

There is an amendment.

THE CHAIR:

Clerk has an amendment.

THE CLERK:

Mr. President, Clerk is in possession of two amendments.

THE CHAIR:

Well, we will read one at a time.

THE CLERK:

LCO 3772, designated Senate Amendment Schedule "A",
offered by Senator Avallone of the 11th District.

THE CHAIR:

Senator Avallone.

SENATOR AVALLONE:

Yes, Mr. President. I would move the amendment, request permission to summarize and waive its reading.

THE CHAIR:

Without objection, you may proceed.

SENATOR AVALLONE:

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abs

Yes, the bill itself calls for notice to be given to the individuals against whom these liens are filed. The amendment specifies what that notice should be, and it is in accordance with the notice given in the mechanic's lien statute.

THE CHAIR:

Further remarks on the amendment? All those in favor of the amendment, signify by saying aye.

SENATORS:

Aye.

THE CHAIR:

Opposed? The amendment is adopted. Call the next amendment.

THE CLERK:

LCO 4267, designated Senate Amendment Schedule "B", offered by Senator Avallone of the 11th District.

THE CHAIR:

Senator Avallone.

SENATOR AVALLONE:

With your permission, Mr. President, may I ask that this item be P.T.'ed, just to double-check?

THE CHAIR:

The Senate will stand at ease.

SENATOR AVALLONE:

I am sorry, Mr. President. May that matter be

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abs

P.T.'ed?

THE CHAIR:

You want it P.T.'ed?

SENATOR AVALLONE:

Please.

THE CHAIR:

Without objection, the item is passed temporarily.

Call the next item, please.

THE CLERK:

Calendar 268, File 264 and 358, House Bill 5914. AN
ACT CONCERNING EXEMPTION FROM CERTAIN LICENSING
REQUIREMENTS FOR PUBLIC SERVICE COMPANY EMPLOYEES
INSTALLING CERTAIN TELEPHONE SYSTEMS. (As amended by
House Amendment Schedule "A"). Favorable Report of the
Committee on FINANCE, REVENUE AND BONDING.

Senate referred the bill to Finance on April 13th.

THE CHAIR:

Senator Hale.

SENATOR HALE:

Thank you, Mr. President. I move acceptance of the
Committee's Favorable Report and passage of the bill,
as amended by the House.

THE CHAIR:

Would you remark?

SENATOR HALE:

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abs

Yes, Mr. President.

THE CHAIR:
SB 514
Calendar 259.

SENATOR AVALLONE:

I was on the prevailing side of the amendment. I called the wrong amendment. I would move to reconsider that amendment.

THE CHAIR:

That was Senate Amendment "A", LCO # 3772. Motion is to reconsider. Any objection? Hearing none, the item is reconsidered.

SENATOR AVALLONE:

I would withdraw that amendment.

THE CHAIR:

Motion is withdrawn.

SENATOR AVALLONE:

And, I would ask Clerk to call Senate "B".

THE CHAIR:

Clerk will call Senate "B".

THE CLERK:

LCO 4267, designated Senate Amendment Schedule "B", offered by Senator Avallone of the 11th District.

THE CHAIR:

Senator Avallone.

SENATOR AVALLONE:

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abs

Yes. I would move the amendment, request permission to summarize and waive its reading.

THE CHAIR:

Without objection, you may proceed.

SENATOR AVALLONE:

Yes. The amendment does, as I indicated before, it spells out specifically what the notice requirements are. It added two other words in the body of the bill to make it clear.

THE CHAIR:

Further remarks on the amendment? All those in favor of the amendment, signify by saying aye.

SENATORS:

Aye.

THE CHAIR:

Opposed? The amendment is adopted. We are on the bill, as amended by Senate "A".

SENATOR AVALLONE:

Yes. Mr. President, it allows the municipality or the officer of a municipality to create certain regulations, and the notice requirements are now spelled out.

THE CHAIR:

Further remarks on the bill, as amended by Senate "B"? Senator Avallone.

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abs

SENATOR AVALLONE:

Yes. I would move it to Consent, Mr. President.

THE CHAIR:

Without objection, so ordered. Call the next item.

THE CLERK:

Calendar page 26, Calendar No. 381, File 527,
Senate Bill 66. AN ACT CONCERNING EXEMPTION FOR
CHILDREN IN PERMANENT FOSTER FAMILY CARE. Favorable
Report of the Committee on HUMAN SERVICES.

The Senate referred the Judiciary bill to Human
Services on April 20th.

SENATOR PRZYBYSZ:

Mr. President?

THE CHAIR:

Senator Przybysz.

SENATOR PRZYBYSZ:

Thank you, Mr. President. I would request that
this be P.T.'ed, please.

THE CHAIR:

Without objection, passed temporarily.

THE CLERK:

Calendar page 28, DISAGREEING ACTIONS, Calendar No.
221, Substitute for Senate Bill 105, File 279 and 598.
AN ACT CONCERNING THE CHILD DAY CARE COUNCIL. (As
amended by House Amendment Schedule "A"). Favorable

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1988

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abs.

JUDICIARY

March 21, 1988

statutes, to make sure that there is no conflict between the two.

Senate Bill 499, AN ACT CONCERNING MANDATORY AWARD OF COUNSEL FEES IN CONTEMPT CASES TO COLLECT DELINQUENT ALIMONY OR SUPPORT. We have two problems with the bill. First, it makes it mandatory, and second, it limits when the court, and what types of contempt cases. We believe that the court should have the discretion to award reasonable attorney's fees incurred by petition in all family contempt proceedings. I have attached substituted language for your consideration and support.

(cass 2)

And the last bill is Senate Bill 514, AN ACT PERMITTING MUNICIPAL OFFICERS TO IMPOSE CIVIL PENALTIES FOR VIOLATIONS OF REGULATIONS AND ORDINANCES. This proposal permits towns to establish a Citation Hearing Procedure and provides enforcement of the town's assessments and judgements by the Superior Court. Three points.

One, there is a technical error...

SEN. AVALLONE: I am sorry. What bill are we talking about?

FAITH MANDELL: 514?

SEN. AVALLONE: Okay.

FAITH MANDELL: There is just a technical error in drafting in Section 1. It doesn't state what section is being amended. Two, I would like to bring to your attention that this would effect 16,000 ordinance violations that are presently handled by the court. And, third, we would ask that an effective date of October 1, rather than July, because we also have to revise forms and reprogram our computer system.

And, that concludes my testimony.

SEN. AVALLONE: Quick question. I am sorry. Representative McCavanagh.

REP. MCCAVANAGH: No, no. Go ahead.

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abs

JUDICIARY

March 21, 1988

SEN. AVALONE: Quick question. Of those 16 thousand, how many are prosecuted?

FAITH MANDELL: I believe I have the information.

HON. AARON MENT: Senator Avallone, while she is looking for that information, may I just mention one additional bill? 6075, which indicates that when a defendant is sentenced and placed on probation, the Adult Probation Department shall closely supervise that individual. They do so to whatever extent they are capable of doing so at the present time. And, that is all subject to budgetary constraints. And, I am not sure of the purpose of that legislation.

FAITH MANDELL: To answer your question, we have collected, just on the side, \$320,000 that has been deposited in the General Fund. There was 16,000 ordinances, 5,000 were infractions. 8,000 were nollied, and \$3,000 were paid into court, in addition to what was collected for infractions. SB 514

SEN. AVALONE: Would you read those again?

FAITH MANDELL: 5,000, as I have it were infractions.

SEN. AVALONE: Cases. Cases were infractions.

FAITH MANDELL: Yes. 8,000 were nollied.

SEN. AVALONE: Okay.

FAITH MANDELL: And, 3,000 were paid into court, besides the infractions.

SEN. AVALONE: That is a total of...16,000.

FAITH MANDELL: 16,000.

SEN. AVALONE: This bill would give the municipalities the authority to do this?

FAITH MANDELL: My understanding, as I read this bill... It establishes and each municipality can adopt a Citation Hearing Procedure, in which the amount they would collect it... have a hearing, and there is an appeal process to the Superior Court.

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So, they are establishing a separate Citation Hearing (inaudible)...

SEN. AVALONE: And those funds get paid into the General Fund of the municipality.

FAITH MANDELL: Right now. No.

SEN. AVALONE: Under this bill.

FAITH MANDELL: Under this bill, yes. It goes to the municipality, and as I read it, it is a loss to the General Fund of \$320,000.

SEN. AVALONE: But it does... This bill does not prevent them from using the courts initially?

FAITH MANDELL: No.

SEN. AVALONE: So, in other words...? Correct?

FAITH MANDELL: Right.

SEN. AVALONE: So, we can have a dual system?

FAITH MANDELL: That is my understanding.

SEN. AVALONE: Okay. So, those communities that don't wish to implement this... Is there anything mandatory in this?

FAITH MANDELL: As I read it, in section 2, it is permissive. It says, "may establish by ordinance a citation hearing procedure."

SEN. AVALONE: So, towns that don't want to use this still have the mechanism of going through the state?

FAITH MANDELL: Yes. And it establishes that \$8 filing fee which, my understanding, was taken back from some proposal years back that the court, that the court had done. So, that is why we need the time with regard to the filing fees. It is a new filing fee to the court.

SEN. AVALONE: Okay. Representative McCavanagh.

REP. MCCAVANAGH: For the record, Representative

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that the rights of... or, you know, the informants and so forth can be protected. Isn't that correct?

HON. AARON MENT: Yes.

SEN. OWENS: The other thing I was going to ask you, very briefly... Has any thought been given by the Judiciary, on the issue of the question of whether or not Grand Jury...the Grand Juror becomes an advocate and whether or not it might be better to go to a Citizen's Grand Jury for investigative purposes?

HON. AARON MENT: Yes, we opposed that concept several years ago.

SEN. OWENS: Okay.

HON. AARON MENT: I would point out that the bill that we proposed several years included a more public rather than private definition. We felt strongly that there should be an emphasis towards public rather than towards private, and that was changed. We still agree, and when I say we, I really mean Judicial Administration. I must say frankly that many judges feel opposite to what is our official position. Many judges feel that it should remain as it is. Even some newspaper columnists apparently agree with them.

SEN. OWENS: That is unusual, but...

HON. AARON MENT: Yes, it was. I wanted to make note of it because it was unusual.

SEN. OWENS: Thank you very much, Judge Ment.

REP. TULISANO: Somebody else?

REP. WOLLENBERG: Yes, I have a couple...

REP. TULISANO: Representative Wollenberg.

REP. WOLLENBERG: Judge Ment, a couple of things. In 514,... Thank you, you testified on that? This says we are going to set up in the towns and the cities some kind of a hearing officer, a citation officer?

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FAITH MANDELL: Right.

REP. WOLLENBERG: So, to hear these things. This is kind of going back to the old municipal court, isn't it, just a little bit?

HON. AARON MENT: I didn't mean to grab the microphone away from Faith. Representative Wollenberg, I suppose that that is accurate. And, to that extent, I am concerned about it. I think that we eliminated a lot of perceived unfairness and perceived conflicts by doing it the way we are doing it, and I think your point is well taken. I think this would be a step backwards. But, that is of course, a decision for the Legislature.

REP. WOLLENBERG: And, again, Faith, you mentioned it was not mandatory, I guess, that the towns do this.

FAITH MANDELL: Right.

REP. WOLLENBERG: But, it is mandatory if they do it, if they set up a hearing officer. Isn't that true?

FAITH MANDELL: Yes.

REP. WOLLENBERG: Then, they shall set up the officer.

FAITH MANDELL: Yes, that is how I read the bill.

REP. WOLLENBERG: So, okay. So, that is a step backward. Okay. (laughter)

REP. TULISANO: That may be a step along the way.

REP. WOLLENBERG: I am sorry. I was just saying what the Chief Administrative Judge of the State of Connecticut said.

HON. AARON MENT: That was accurate, Representative Wollenberg. I did say that.

REP. TULISANO: It may be a full circle that we come around. There is no backward and forward.

REP. WOLLENBERG: Oh, no, I am not saying whether he was right or wrong... (inaudible - several people making remarks at same time, laughter). You know

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how I feel about the one tier court anyway. I think, you know, that maybe it is a step in the right direction, but it is backwards more than forwards, but anyway.... (laughter)

Now, Judicial District in New Britain?

HON. AARON MENT: Yes.

REP. WOLLENBERG: Now, and I know that is why you came to see me.

HON. AARON MENT: Well, I really came on the Grand Jury bill, but that is okay.

REP. WOLLENBERG: If you can tell me why it is necessary that we set up a J.D. in New Britain now, HB 6111 and don't wait until your study is done... And, you mentioned you were doing some kind of a survey, and you are getting all that kind of administrative thing in line, and you are going to come out with something, someday. Is that true?

HON. AARON MENT: I don't believe so.

REP. WOLLENBERG: Well, what did you say? Maybe....

HON. AARON MENT: What I said was that we have been asked whether or not this was a, would be advantageous. We were asked by several Legislators, and under my direction, a survey was done. And, we gave that to several Legislators who had expressed an interest.

That had both pluses and minuses, because there are pluses and minuses in the creation of a new J.D. at any time. We gave that to the Legislature, and the result of that was this bill. That is what I said about a study. I said that if, in fact, this bill is favorably viewed by the Legislature, then we would need a good two years or better lead time to get the thing established.

REP. WOLLENBERG: You also said that you were looking at administrative areas, and other areas besides...

HON. AARON MENT: Yes, I did.

REP. WOLLENBERG: And, kind of state-wide? And...

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legislation before you today presents those technical changes that we all believe will resolve the above issue. Even though we're only talking about a few cases and a few scattered jurisdictions, it was agreed by all that everyone should be comfortable in enforcing this statute. The proposed changes were fully agreed upon by the Chief State's Attorney, Assistant State's Attorneys, and the Department of Correction. We would appreciate the legislature's support in this matter. It's important to the integrity of our program to have people on the streets know that we're going to bring them back. Thank you very much. Any questions? I'd be happy to answer them.

SEN. AVALLONE: Thank you.

: Thank you very much.

SEN. AVALLONE: Peter Duranti. I assume you're going to testify with Mr. Duranti.

SUSAN WEISSELBERG: Good afternoon, Senator Avallone, Representative Tulisano, and Members of the Committee. My name is Susan Weisselberg. I'm an Assistant Corporation Counsel with the City of New Haven. Seated with me is Peter Duranti, our Director of Public Works. He's here to answer some questions on one of the bills on which I'll be testifying. That bill is Senate Bill 514, AN ACT PERMITTING MUNICIPAL OFFICERS TO IMPOSE CIVIL PENALTIES FOR VIOLATIONS OF REGULATIONS AND ORDINANCES.

You've heard some testimony on that bill already today. What it does, essentially, is in Section 1 of the bill we amend the Municipal Powers Act 7-148c-10a, by allowing municipalities to have municipal officers issue citations which in the instance of New Haven is meant to be very similar to parking tickets. In Section 2 of the bill we have an appeals procedure that is based upon the parking ticket appeal statute, Connecticut General Statute, Section 7-152b.

Essentially what's happened is that we already have the power in New Haven to require property owners to keep their land clean and free of debris. However, we've had a serious problem with

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enforcement because the enforcement is currently limited to criminal action. And we have a problem in that our police have not made this a high priority. It's very difficult for us to get them to enforce this. In addition, the courts are over-burdened and it's not a high priority for the courts either.

What we would like to do is to issue citations, as I said, essentially similar to parking tickets through our public works department. Our public space ordinances pertain to problems, such as the unauthorized put out of waste, use of improper containers for refuse disposal, littering, failure to maintain sidewalks, illegal posting of notices, improper street cuts, illegal driveways, and improper fences. Although these have been in effect for several years, we haven't been able to enforce them because of the problems I've mentioned.

Our public works department is working to clean up the city and the first way we're trying to do that is through a better use of personnel. We will be hiring five Public Space Inspectors in the public works department.

SEN. AVALLONE: This bill affects more than New Haven, so let's keep it on the broader . . .

SUSAN WEISSELBERG: Okay. All right. Fine.

: (Laughter. Several committee members speaking)

: There were hundreds of calls last night to find out (laughter)

SUSAN WEISSELBERG: Senator Avallone, what this - what we really want to do is have an alternative to the criminal system for problems such as the ones I've mentioned. We're not eliminating the criminal enforcement option, however, because it poses so many problems for enforcement of ordinances that would keep our city cleaner, we would like to have the alternative to essentially issue the equivalent of parking tickets. That's really why we want the bill and that's all we'll do with the bill.

REP. TULISANO: Can you tell me what the wrong kind of

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garbage can is that you'd give somebody a ticket for?

SUSAN WEISSELBERG: If I could

REP. TULISANO: I've got to - I'm afraid of this one - go ahead.

SUSAN WEISSELBERG: No. Uncovered dumpsters . . .

REP. TULISANO: No plastic bag or something . . .

PETER DURANTI: Well, if you have a garbage container that doesn't have a proper fitting cover. That's not allowed. You can have a garbage container that they put in too much garbage - where it's - the weight is too heavy, but we have a limit on the weight by ordinance.

REP. TULISANO: Well - I don't think you're going to have to testify any more.

: (Laughter)

REP. TULISANO: It's getting worse as you go on.

SUSAN WEISSELBERG: We've a problem with dumpsters on the street without permits that are overflowing and creating garbage problems around the city. Would you like . . .

SEN. AVALLONE: The next bill.

SUSAN WEISSELBERG: Our next bill - Raised Committee Bill 500, AN ACT CONCERNING COLLECTION COSTS FOR FORECLOSURES BY MUNICIPALITIES.

Right now in New Haven, and I'm sure in other municipalities as well, the increased land values have meant that when we bring foreclosure actions for failure to pay delinquent back taxes, people pay their properties off before we have gotten a judgment of foreclosure. However, under the current statute, although we're allowed to tax those costs, it's not clear that we can tax them before judgment. What we're looking for is some parity with the private sector, where banks and other lenders often in their documents allow recovery of legal costs once a foreclosure action

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is initiated.

We're looking for something very similar because we too incur costs and would like the opportunity to recover them.

SEN. AVALONE: This works for Norwalk, too. I just want everybody to know that.

SUSAN WEISSELBERG: And that's a serious problem, I believe, in many municipalities.

There's one last bill, Raised Committee Bill 536, AN ACT CONCERNING RELOCATION ASSISTANCE. This is a bill that, currently, when we relocate people around the city and we lien from 70 to 80 relocations a year, there's no specific notice and hearing provision in the statutes on those relocation liens. There has been the threat of litigation by landlords when they're about to close on their properties and pay us over that. All we ask is that there be notice and hearing provisions to cure what could be a constitutional defect so that we can recover those costs without challenge when there's finally closing. Thank you.

SEN. AVALONE: Mr. Duranti, did you want to testify?

PETER DURANTI: Not really. I'm just here to answer any questions that the committee might have in regard to Bill 514.

SEN. AVALONE: Is one of the major problems this bill is to rectify - when you have a bulk trash pick up people are leaving major amounts of mattresses, washers and dryers, appliances - besides other items of furniture on sidewalks for three or four weeks at a time?

PETER DURANTI: Correct. We are going into a bulk trash - as you know I've only been a Public Works Director for the past two months. A new program I'm coming up with is bulk trash by appointment only - 12 months a year. We have to be able to have some enforcement against the individual that you stated and against the individual that puts it out without an appointment. Because it then becomes a health problem out there. When you have that garbage staying out there four and five weeks

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at a time. So, as Sue mentioned, one of the new bureaus that is being set up in the department is Public Space Inspection. We're hiring five inspectors to constantly, daily, go around enforcing any violation that is under the responsibility of the Director of Public Works.

SEN. AVALLONE: Thank you. Okay.

REP. BOLSTER: You're going to have - I'm Sally Bolster, 137th District.

You're going to have inspectors going out and then if there's - if you've got garbage, et cetera around on your property - you issue the property owner the citation. Do I understand that . . .

PETER DURANTI: Issue to whomever is responsible for putting . . .

REP. BOLSTER: Ah - there's a great kicker in that. I mean, whoever's responsible - how are you going to know? I mean, those things are always dumped in the middle of the night.

PETER DURANTI: There are certain instances that are dumped in the middle of the night. And those are extreme cases. I've been in housing code enforcement for 22 years before I took this job in the city of New Haven. We'll be able to tell and judge who has put that garbage out. This is one of the reasons I was offered the job as Director of Public Works.

REP. BOLSTER: Well, I wish you well. I hope you can get the garbage off your streets. Then you can tell everybody else in every other city how to get the garbage off their streets.

PETER DURANTI: I sure would.

REP. BOLSTER: Because it is a real problem.

REP. TULISANO: Thank you. Roberta Morse. This is 6039, again. We're going to have to jump another bill later, too. Okay.

ROBERTA MORSE: Good afternoon, Members of the Committee. Thank you for the opportunity to speak



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JUDICIARY COMMITTEE

MARCH 21, 1988

TESTIMONY ON RAISED COMMITTEE BILLS

No. 500, "An Act Concerning Collection Costs for Foreclosures by
Municipalities"

and

No. 514, "An Act Permitting Municipal Officers to Impose Civil Penalties
for Violations of Regulations and Ordinances"

Good afternoon. My name is Susan Weisselberg, and I am an Assistant Corporation Counsel with the City of New Haven. I am here to testify on two bills before you, Raised Committee Bill No. 500, "An Act Concerning Collection Costs for Foreclosures by Municipalities," and Raised Committee Bill No. 514, "An Act Permitting Municipal Officers to Impose Civil Penalties for Violations of Regulations and Ordinances." Seated next to me is Peter Durante, the Director of the City's Department of Public Works, to address any questions on Senate Bill 514.

Senate Bill 500, on foreclosure costs, would help address a problem that New Haven, and undoubtedly other municipalities, now face when we work to collect delinquent taxes through foreclosure actions. The rapid rise in real estate values the last few years has meant that many property owners pay off their delinquent taxes when we are partway through the foreclosure process: either we have notified them that we intend to foreclose on their property because their taxes are so delinquent, and ordered a title search and appraisal (and sometimes served the writ) at the request of the tax collector, or the action has been returned to court and is in the pleadings stage. In either situation, the City has incurred collection costs that can be difficult to collect because of the ambiguity in the current statute, C.G.S. Sec. 12-192. That statute allows us to tax costs, which we can only do once we have a judgment of foreclosure, but often the taxes are paid before we have obtained that judgment. We have found that, in most private foreclosure actions, banks or other lenders write into their documents that they can collect legal costs from the borrower if they have to initiate legal action for the moneys owed. Senate Bill 500 helps to put us in the same position as the private sector, in that we could collect costs once a foreclosure action has been brought, and therefore we support the bill.

Senate Bill 514, "An Act Permitting Municipal Officers to Impose Civil Penalties for Violations of Regulations and Ordinances," helps address a problem we face in enforcing some of our ordinances, to help keep our City clean. Under C.G.S. Sec. 7-148, we currently have the authority to require property owners to keep their land clean and free of debris. However, enforcement has been a problem: arresting the violators and taking the case through the criminal side of the court system is slow and unwieldy, and not a high priority for the court system.

By amending the penalty provision of the statute, C.G.S. Sec. 7-148(c)(10)(A), section 1 of this bill would allow us to have municipal officers issue citations, which would be similar to parking tickets. Section 2 of the bill has an appeals provision for the citations that is based upon the hearing procedure for parking violations set forth in C.G.S. Sec. 7-152b.

The task of maintaining the cleanliness and safety of a city like New Haven is a difficult one. The job becomes more difficult when some citizens and commercial establishments wantonly dump trash and violate other public space ordinances, thus lowering the quality of life for their fellow citizens and creating unsafe conditions.

Our public space ordinances pertain to problems such as the unauthorized put-out of waste, use of improper containers for refuse disposal, littering, failure to maintain sidewalks, illegal posting of notices, improper street cuts, illegal driveways, and improper fences. Many of these ordinances have been in effect for several years. However, the City has had difficulty in enforcing them for two major reasons. First, we have not assigned sufficient personnel to this function in the past; second, the process for arrest of violators and their passage in the criminal courts has been unwieldy.

The first problem is being dealt with by the City through the hiring of five Public Space Inspectors in our Public Works Department. This legislation is the key to our using those inspectors in the best possible fashion. Using the police instead of these inspectors to issue the citations will not solve our problem, as the police already are overburdened in our daily criminal problems and we do not want to accrue more police overtime.

The current process for dealing with violators of the ordinances I have mentioned is to notify them of the violation, schedule their arrest with the police, schedule a date with Superior Court, and then try to get the case handled in court. This process is lengthy and fraught with difficulties. A major problem is that the court does not have the time to hear these violations, which has meant that we have had to pick and choose those violations that are the most severe. We do not wish to clog the court system, but we do wish to cite all those who violate these ordinances.

As a result of the passage of Senate Bill 514, we would institute a program whereby our Public Space Inspectors would issue tickets to those who cannot be persuaded to take responsibility for their property and for our public space, so that they would pay the penalties as well as abate the nuisance.

This program will lead directly to a visibly cleaner and safer city for our residents and our visitors. A cleaner city will lead to greater pride in our neighborhoods and our commercial areas -- and will result in greater compliance with the ordinances by our citizens and business establishments.

Thank you for your time and consideration.

JUDICIAL DEPARTMENT

OFFICE OF THE CHIEF COURT ADMINISTRATOR

Drawer N, Station A
Hartford, Connecticut 06106

Testimony of Faith A. Mandell
Judiciary Committee Public Hearing
Monday, March 21, 1988

S.B. 514, An Act Permitting Municipal Officers to Impose Civil Penalties for Violations of Regulations and Ordinances

I would like to address S.B. 514, An Act Permitting Municipal Officers to Impose Civil Penalties for Violations of Regulations and Ordinances. This proposal permits towns to establish a "citation hearing procedure" and provides enforcement of the towns' assessments and judgments by the superior court. I would like to first point out a technical error in section 1 of the proposal; that error being that there is no reference to the section of the general statutes that is being amended.

Secondly, the Department estimates that this bill, if adopted, would impact approximately 16,000 ordinance violations that are currently disposed of by the courts. The courts collect approximately \$320,000 from municipal ordinance violations; that money is deposited in the general fund.

Lastly, the Department would ask the committee, if this bill is favorably considered, to amend the effective date to October 1, 1988 rather than July 1, 1988. The Judicial Department needs time to amend various forms, reprogram our computer system to

account for the additional entry fees and establish procedures for handling such matters.

Thank you for giving me this opportunity to testify before you today.

FAM:fw