

PA13-292

HB6492

Government Admin. & Elections	1037-1039, 1149-1152, 1192-1194, 1345-1346, 1425-1434	22
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House	3091-3095	5
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H - 1159

**CONNECTICUT
GENERAL ASSEMBLY
HOUSE**

**PROCEEDINGS
2013**

**VOL.56
PART 10
3086 - 3445**

pat/gbr
HOUSE OF REPRESENTATIVES

349
May 8, 2013

Have all the Members voted? Have all the Members
voted? Will Members please check the board to make
sure your votes are properly cast.

If all the Members have voted, the machine will
be locked and the Clerk will take a tally. Will the
Clerk please announce the tally.

THE CLERK:

Bill Number 6445.

Total Number Voting 140

Necessary for Passage 71

Those voting Yea 140

Those voting Nay 0

Those absent and not voting 10

SPEAKER SHARKEY:

The bill passes.

Will the Clerk please call Calendar Number 323.

THE CLERK:

On Page 17, Calendar Number 323, Favorable Report
of the Joint Standing Committee on Government
Administration and Elections. Substitute for House
Bill 6492 AN ACT CONCERNIGN THE CONFIDENTIALITY OF
EMPLOYEES SUPPLYING INFORMATION TO THE AUDITORS OF
PUBLIC ACCOUNTS.

SPEAKER SHARKEY:

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HOUSE OF REPRESENTATIVES

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Representative Jutila.

REP. JUTILA (37th):

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

SPEAKER SHARKEY:

The question is on acceptance of the Joint Committee's Favorable Report and passage of the bill. Will you remark, sir?

REP. JUTILA (37th):

Thank you, Mr. Speaker. This bill exempts from disclosure under the Freedom of Information Act, the portion of any audit or report prepared by the auditors of public accounts that would reveal the identity of an employee who provides information regarding alleged fraud, and it also would exempt any other document, the portion of any other document that may reveal the identity of such employee, and I would urge support for this bill.

SPEAKER SHARKEY:

Thank you, sir. Do you care to remark further on the bill that's before us? Representative Hwang of the 134th, you have the floor, sir.

REP. HWANG (134th):

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HOUSE OF REPRESENTATIVES

351
May 8, 2013

Thank you, Mr. Speaker. A question to the
proponent of this bill, through you, sir?

SPEAKER SHARKEY:

Please proceed, sir.

REP. HWANG (134th):

Thank you. Thank you. Did the auditing
department interact with the Freedom of Information
Commission to reach a negotiated agreement that
balanced the protection of whistle-blower rights
versus the protection of information? Through you,
Mr. Chair.

SPEAKER SHARKEY:

Representative Jutila.

REP. JUTILA (37th):

Through you, Mr. Speaker, to the distinguished
Ranking Member, yes. The auditors of public accounts
originally brought this bill, this proposal to the
Committee and the Freedom of Information Commission
had some concerns that it was overly broad and covered
the entire document rather than just the portion that
included the individual's name, and we modified the
bill accordingly. Through you.

SPEAKER SHARKEY:

Representative Hwang.

pat/gbr
HOUSE OF REPRESENTATIVES
REP. HWANG (134th):

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Thank you. Through you, Mr. Chair, I want to thank the good Chair and the work of the Auditing Department as well as the Freedom of Information Commission to reach a delicate balance of ensuring that we are protecting the whistle-blower rights as well, as at the same time making sure that we allowed access of information.

So I appreciate this bill's effort to do so and I urge its support. Thank you.

SPEAKER SHARKEY:

Thank you, sir. Do you care to remark further on the bill that's before us? Do you care to remark further on the bill before us?

If not, staff and guests to the Well of the House. Members take your seats. The machine will be opened.

THE CLERK:

The House of Representatives is voting by Roll.

The House of Representatives is voting by Roll.

Will Members please return to the Chamber immediately.

SPEAKER SHARKEY:

pat/gbr
HOUSE OF REPRESENTATIVES

353
May 8, 2013

Have all the Members voted? Have all the Members voted? Members please check the board to make sure your votes are properly cast.

If all the Members have voted, the machine will be locked and the Clerk will take a tally. Will the Clerk please announce the tally.

THE CLERK:

Bill Number 6492.

Total Number Voting 140

Necessary for Passage 71

Those voting Yea 140

Those voting Nay 0

Those absent and not voting 10

SPEAKER SHARKEY:

The bill passes.

Will the Clerk please call Calendar 348.

THE CLERK:

Calendar 348 on Page 19, Favorable Report of the Joint Standing Committee on Public Health, House Bill 6646 AN ACT CONCERNING MARITAL AND FAMILY THERAPISTS.

SPEAKER SHARKEY:

The Chairman of the Public Health Committee, Representative Johnson.

REP. JOHNSON (49th):

**CONNECTICUT
GENERAL ASSEMBLY
SENATE**

**PROCEEDINGS
2013**

**VETO
SESSION**

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issues related to the implementer and other items that we hope to conclude in the rest of the evening.

THE CHAIR:

Thank you.

SENATOR LOONEY:

Thank you, Madam President.

THE CHAIR:

The Senate will stand at recess.

(On motion of Senator Looney of the 11th, the Senate at 9:55 p.m. recessed.)

(The Senate reconvened at 10:44 p.m., Senator Duff of the 25th in the Chair.)

THE CHAIR:

The Senate will come back to order?

Senator Looney.

SENATOR LOONEY:

Thank you, Mr. President.

Mr. President, before proceeding to any more items, I have some more items to add to the Consent Calendar at this time. Mr. President, first, Calendar page 6, Calendar 522, House Bill 5598.

Calendar page 7, Calendar 571, House Bill Number 6492.

Calendar page 10, Calendar 644, House Bill Number 6363.

Calendar Page 12, Calendar 668, House Bill Number 6362.

Mr. President, if we might stand at ease for just a moment, I need to verify a few additional items.

THE CHAIR:

So ordered.

SENATOR LOONEY:

Thank you, Mr. President.

Now, Mr. President, at this time if the Clerk would call as the next item, Calendar page 5, Calendar 479, Senate Bill 115.

Thank you, Mr. President.

THE CHAIR:

Thank you, Senator.

Mr. Clerk.

THE CLERK:

On page 5, Calendar 479, Senate Bill Number 115, AN ACT CONCERNING RESIDENTIAL NURSING HOME FACILITIES SERVING INMATES AND MENTAL HEALTH PATIENTS, favorable report of the Committee on Human Services.

THE CHAIR:

Senator Doyle.

SENATOR DOYLE:

Good evening, Mr. President.

THE CHAIR:

Good evening.

SENATOR DOYLE:

I move acceptance of the joint committee's favorable report and passage of the bill.

THE CHAIR:

Thank you, Mr. President.

Mr. President, if the clerk would now call -- would now list the items on the Consent Calendar so that we might proceed to a vote on the Consent Calendar before taking up additional items.

THE CHAIR:

Mr. Clerk.

THE CLERK:

Page 2 -- sorry -- House Bill 6672, and then on page 2, Calendar 423, House Bill 5907.

On page 4, Calendar 464, House Bill 5601; Calendar 465, House Bill 6630.

On page 5: 485, House Bill 6602; Calendar 503, House Bill 6635.

On page 6: Calendar 19, House Bill 5903; Calendar 522, House Bill 5598.

On page 7: Calendar 570, House Bill 6486; Calendar 571, House Bill 6492.

On page 8: Calendar 601, House Bill 6490; Calendar 606, House Bill 6674.

On page 10, Calendar 644, House Bill 6363.

On page 12, Calendar 668, House Bill 6362; and Calendar 672, House Bill 548.

On page 15: Calendar 695, House Bill 5289; Calendar 696, House Bill 6658.

On page 16: Calendar 704, House Bill 6692; 705, House Bill 6703.

On page 17: Calendar 706, House Bill 6651.

And on page 21: Calendar 431, Senate Resolution Number 15.

HB 5480

THE CHAIR:

Mr. Clerk, please announce the pendency of a roll call vote, the machine will be open.

THE CLERK:

Immediate roll call has been ordered in the Senate.
Senators please return to the chamber. Immediate roll call on Consent Calendar Number 2 has been ordered in the Senate.

THE CHAIR:

Have all members have voted? If all members have voted, please check the board to make sure your vote is accurately recorded.

If all members have recorded, the machine will be closed and the clerk will announce the tally.

THE CLERK:

The second Consent Calendar

Total Number Voting	35
Those voting Yea	35
Those voting Nay	0
Those absent and not voting	0

THE CHAIR:

Consent Calendar Number 2 passes.

Senator Looney.

SENATOR LOONEY:

Thank you, Mr. President.

Mr. President, I just wanted to review and have we adopted Senate Agendas 3 and 4?

THE CHAIR:

**JOINT
STANDING
COMMITTEE
HEARINGS**

**GOVERNMENT
ADMINISTRATION
AND ELECTIONS
PART 4
1000 - 1350**

2013

jf/gbr GOVERNMENT ADMINISTRATION &
ELECTIONS COMMITTEE

11:00 A.M.

followed by Don DeFronzo, Commissioner DeFronzo.

ROBERT WARD: Good morning, Mr. Chairman, Ranking Members, members of the Committee. I'm Bob Ward, I'll let John speak for himself. What -- we are here to ask your support for House Bill 6492, concerning the confidentiality of employees who provide information to the auditors of public accounts in accordance with our standard audit practices.

Right now we are required in accordance with national standards to ask as we're wrapping up an audit if any particular employees have any knowledge of fraud or potential fraud. And we want to be sure that if they provide that information, that we can keep their name from having to be disclosed to management. Because in some circumstances they may feel more comfortable in providing us with that information if they're not concerned about potential retaliatory-type action.

We've attached the proposed substitute language to our testimony to narrow it. We're really only seeking to not disclose the identity of the individual or any portion of a document that would reveal the identity. The basic facts we're not interested in not having be subject to disclosure, and we do want to point out that we continue to remain by statute, under Section 2-90 to require to report promptly any fraud that we do find, and indeed that is one of the purposes of our audit. So in no way are we not trying to report facts that we find, we're just trying to keep the name of an individual from having to be revealed and that's why we seek the FOI exception. I'll turn it over to my co-author, Mr. Geragosian.

JOHN GERAGOSIAN: Thank you, Bob. And Bob basically

jf/gbr GOVERNMENT ADMINISTRATION & 11:00 A.M.
ELECTIONS COMMITTEE

covered all the bases. We're not going to go through our written testimony today, we just wanted to be available if you had any questions regarding our procedures or these issues.

REP. JUTILA: Okay. Thank -- thank you both. So you -- you have substitute language that you're proposing that's in your testimony here?

JOHN GERAGOSIAN: Yes, it's in pages three to five of our testimony, if you've got all five pages. It basically narrows -- basically on page five it narrows the language to identity and any portion of a document that includes that identity. But it doesn't include the remainder, the document or any other -- it narrows it to what we're trying to -- to protect. In this case the original language was very broad and it might include some documents that would normally be public or information that would normally public, that's not our goal.

REP. JUTILA: Okay. Thank you. We'll take a good look at that.

Questions from members of the Committee?

Senator McLachlan.

SENATOR MCLACHLAN: Thank you, Mr. Chairman. Thank you, gentlemen, for being here today. I wonder if you could clarify a bit that your proposal appears to mirror whistleblower regulations in Connecticut, but I wonder if you could just set our minds at ease on that.

ROBERT WARD: It is similar to the whistleblower, although it's not quite as restrictive under whistleblower actually prohibited from disclosing identity unless it's absolutely necessary. This just exempts it from FOI

although once it's exempt it would be unlikely to release it unless there was a good reason. The other difference is, these questions are asked in the ordinary course of an audit whereas a whistleblower is somebody who either by identifying or anonymously reports something to us sort of outside of the process. The whistleblower kicks in a whole other process, and we're not trying to link that. When we finish a whistleblower investigation, we by statute give it to the attorney general. We don't want to take every single audit we do of every agency in turn when somebody answer our question into our whistleblower which then means we never finish our audit report until the attorney general -- I'm sure the attorney general doesn't really want to review the 80 or so biennial audits that we produce. So the real reason is to distinguish it. We're asking a specific question in the ordinary course of an audit separate from somebody who contacts our office to report a matter. That falls into the whistleblower section.

SENATOR MCLACHLAN: Thank you. Thank you for that clarification. Thank you, Mr. Chairman.

REP. JUTILA: Other questions?

If not, thank you, gentlemen, both for your testimony.

JOHN GERAGOSIAN: Thank you very much.

ROBERT WARD: Thank you all.

REP. JUTILA: Next up will be Commissioner DeFronzo followed by Senator Witkos.

COMMISSIONER DONALD DEFRONZO: For the record, my name is Don DeFronzo, I'm the Commissioner of

HB6319
HB6579
SB761
SB977
SB978

SENATOR MUSTO: Laila Mandour.

LAILA MANDOUR: Good afternoon, Senator Musto, Representative Jutila, and members of the Committee. My name is Laila Mandour and I'm the President of the Administrative and Residual Employees Union also known as A&R. A&R is comprised of approximately 3,000 state employees including accountants, tax collectors, and fiscal employees. We have several hundred members who work at the Department of Revenue Services. I appear before you today just briefly to testify in support of House Bill 6492, AN ACT CONCERNING THE CONFIDENTIALITY OF EMPLOYEES SUPPLYING INFORMATION TO THE AUDITORS OF PUBLIC ACCOUNTS.

I'd just like to say that this bill makes sense. It protects employees who do not choose to become whistleblowers as defined by Connecticut General Statute Section 4-61dd, but rather it allows a state employee to answer an auditors questions honestly even where the answers may be harmful to a subject state agency. Thank you.

SENATOR MUSTO: Thank you very much.

Questions from members of the Committee?

Yes, Senator McLachlan.

SENATOR MCLACHLAN: Thank you, Mr. Chairman. Thank you, Ms. Mandour, for your testimony. And previous testimony from the state auditors I asked them the question about the -- how this would interact with the whistleblower law, and I notice that you've sort of zeroed in on that. So I wonder if I may take the liberty of asking, how would, pragmatically speaking, how would this work for a member of your union if they -- say that they don't have to go all the way to

whistleblower, but can simply answer a question. How do they do that confidentially?

LAILA MANDOUR: Well, if -- if one of our members has an issue or complaint and chooses not to become a whistleblower in filing that complaint and taking the initiative to file the complaint, if there's an investigation by the state auditors and the investigation requires the auditors to question people who might be involved or who they might think might have some information, I think it would allow our members to speak confidentially with, hopefully with certainty that they can speak their -- their mind and speak honestly and not be afraid of repercussions or retaliation or -- because they would -- they would be speaking to the auditors confidentially.

SENATOR MCLACHLAN: Thank you. And so for further clarification, you're stating that your -- your membership has access to the state auditors investigator during the audit process and has the ability at any time during that process to interject their thoughts about something?

LAILA MANDOUR: Well, I think if they're approached and they're questioned by the auditors, you know, they would -- they would be placed in a position hopefully of security to be able to answer. Does that -- does that make sense, so that they wouldn't be afraid to discuss the issues with the auditors for fear of reprisal.

SENATOR MCLACHLAN: Yes, I understand what you're saying. But as a matter of practice, as a general rule all employees are not granted access to an auditor process --

LAILA MANDOUR: No.

jf/gbr GOVERNMENT ADMINISTRATION &
ELECTIONS COMMITTEE

11:00 A.M.

SENATOR MCLACHLAN: -- and be given the opportunity to -- to provide input outside of the whistleblower process?

LAILA MANDOUR: No. No, I'm just -- I'm just speaking from the auditor's perspective that if they had questions and they had an investigation to conduct, and they approached our members or any other -- any other state employees, that that person would hopefully feel protected by this statute.

SENATOR MCLACHLAN: Be protected by this proposed --

LAILA MANDOUR: By this proposed -- proposed changed, yes.

SENATOR MCLACHLAN: -- proposed change.

LAILA MANDOUR: Yes, thank you.

SENATOR MCLACHLAN: Okay. Agreed. Thank you. And thank you for your testimony. Thank you, Mr. Chairman.

LAILA MANDOUR: Thank you very much, sir.

SENATOR MUSTO: Representative Sear.

REP. SEAR: Thank you, Mr. Chairman. So this is specifically directed to protecting them from Freedom of Information requests?

LAILA MANDOUR: Yes.

REP. SEAR: Specifically?

LAILA MANDOUR: I don't -- I don't know if it's specifically. I think -- I think that includes Freedom of Information requests. Confidentially -- confidentially speaking, I would think that

jf/gbr GOVERNMENT ADMINISTRATION &
ELECTIONS COMMITTEE

11:00 A.M.

it would be requiring the auditors to keep the information confidential as well.

REP. SEAR: I'm just clarifying what I'm reading in the bill as far as the actual proposed wording of it. And it looks like it's just an additional layer that -- that if such a request is made, there would be legal language that said that it's not -- it's not -- under the Freedom of Information Act, that this -- this type of information is -- is excluded from --

LAILA MANDOUR: Not disclosable, correct.

REP. SEAR: Correct. And I guess the ultimate goal so that the employee would have an opportunity to speak with some degree of freedom within that -- or accuracy within that auditing process and be protected without having to go to the higher step, so to speak, of whistleblower protect.

LAILA MANDOUR: Correct.

REP. SEAR: Okay. Thank you.

LAILA MANDOUR: Thank you, sir.

SENATOR MUSTO: Thank you.

Other questions from members of the Committee?

Seeing none, thank you very much.

LAILA MANDOUR: Thank you for your time.

SENATOR MUSTO: Therese Pac. And following Ms. Pac will be Ronald Nault, and Kachina Walsh-Weaver.

THERESE PAC: Distinguished members of the GAE, my name is Therese Pac and I serve as the Town and City Clerk of Bristol. I'm here to speak on

SB1057

jf/gbr GOVERNMENT ADMINISTRATION &
ELECTIONS COMMITTEE

11:00 A.M.

systems for this particular application, they just have to be, you know, the same as what we do with medical equipment or when a town buys a truck, we know that there's a federal certification of trucks, we know it's going to work.

REP. JUTILA: Okay. Thank you, Luther.

Other questions from members of the Committee?

Seeing none, thank you again.

LUTHER WEEKS: Thank you.

REP. JUTILA: So we have Brian Anderson followed by Lilia Snyder and Walter Esdaile.

BRIAN ANDERSON: Good afternoon, Chairman Musto, Chairman Jutila. I'm Brian Anderson, I'm a lobbyist for AFSCME Council 4, a union of public and private employees. Council 4 opposes House Bill 5051, the reverse auction bill. We have no doubt the proponents of this bill are seeking the best cost for services for municipal and state agencies. Yet by putting too great a pressure on driving down costs, service quality will suffer while social costs are transferred to taxpayers.

HB 492
SB 902

As with privatization, the devil is in the details. *CIO Magazine*, the leading IT industry publication recently reported on the findings of David Stec and Bob Emiliani, two researchers from the Center for Lean Business Management at Rensselaer Institute. Stec and Emiliani found that, "reverse auctions rarely deliver savings that are as great as advertised by auction service providers. In addition, they contend that savings from reverse auctions are difficult to measure and that they do not teach buyers and

jf/gbr GOVERNMENT ADMINISTRATION &
ELECTIONS COMMITTEE

11:00 A.M.

sellers how to solve problems jointly. They conclude that reverse auctions are toxic for buyer-supplier relationships."

Council 4 is concerned that there will be an even larger quality and performance problem with services such as mentioned in the bill like janitorial, security, and clerical services. The wage for the workers in these industries has been driven down over the years so much so that the taxpayers had to subsidize the workers in these industries by providing health care, fuel assistance, food stamps, housing, and tax credits. It's better to use in-house workers the government has direct control over. Workers who are paid a decent wage and benefits are more likely to be loyal workers. Studies show that such workers are more productive.

If a service must be bid for, than government should seek a responsible bidder in a selection process based on quality, performance, compliance with the law, and whether the employees are paid a living wage, and, of course, cost. Employer cost shifting on the taxpayer backs is rampant in the private sector, it shouldn't be encouraged by the public sector. The U.S. Census recently reported 50 percent of all American families are working poor or destitute, which is a pretty frightening situation, one I never thought I would see in my country. A few months ago the U.S. Federal Reserve reported the average American family has lost 40 percent of its wealth since 2007. It's important for government to lead in recreating and protecting the middle class, and this bill would just drive wages further down, and I think deliver a shoddy product.

The Council supports 6492, the auditors bill that says if an employee is encouraged to come

forward and provide information on something either willfully or unintentionally wrong that an employer is doing that their name would be withheld and protected by FOI. That bill makes a lot of sense, it protects employers. It's not unlike our whistleblower protection statute. And to finish, we oppose Senate Bill 902. We feel it's important to print legal notices in newspapers. Not everybody is online and it's important to have transparency. It's important to encourage democracy through the legal notices. Thanks. I'd be happy to answer any questions.

REP. JUTILA: Thank you, Brian.

Questions from members of the Committee?

Seeing none, thank you for your testimony.

BRIAN ANDERSON: Thanks.

REP. JUTILA: Next up, Lilia Snyder followed by Walter Esdaile.

LILIA SNYDER: Good afternoon, Chairman. My name is HB 6579 Lilia Snyder, and I'm the Small Contractor Development Program Manager for the City of New Haven. I am here today to speak in opposition to the removal of the municipal exemption from the current set-aside program. In 2002, the City of New Haven Board of Alderman approved Section 12 1/4 of the New Haven Code of Ordinances which provided for a small contractor set-aside program, MBE subcontractor goals, prompt payment, technical assistance, small contractor notification of upcoming bids. We have plans available for small contractors, we hold networking sessions, and we hold workshops.

Prior to the enactment of 12 1/4, complying with



Spoken

Line Number 25

Page Number 23

Council 4 AFSCME Testimony
Government Administration and Elections Committee

My name is Brian Anderson. I am a legislative and political representative for Council 4 AFSCME, a union representing over 32,000 Connecticut public and private employee members.

Council 4 opposes H.B. No. 5051 (COMM) AN ACT EXPANDING MUNICIPAL AND STATE REVERSE AUCTION AUTHORITY TO INCLUDE THE PURCHASE OF SERVICES. We have no doubt that the proponents of the bill are seeking the best cost for services for municipal and state agencies. Yet, by putting too great a pressure on driving down costs, service quality will suffer while social costs are transferred to taxpayers. Also, taxpayer borne social costs are increased. As with privatization, the devil is in the details. CIO Magazine, a leading IT industry publication, recently reported on the findings of David Stec and Bob Emiliani, two researchers from the Center for Lean Business Management at Rensselaer Polytechnic Institute. Stec and Emiliani found that

“reverse auctions rarely deliver savings that are as great as advertised by auction service providers. In addition, they contend that savings from reverse auctions are difficult to measure and that they do not teach buyers and sellers how to solve problems jointly. They conclude that reverse auctions are toxic for buyer-supplier relationships.”

They also found that in the case of the GE Corporation *50 percent of reverse auction savings disappeared due to errors in supplier data, post-auction negotiation and changes in specifications or quantities.* The report did not even consider quality or supplier nonperformance.

H.B. 492

Council 4 is concerned that there will be even larger quality and performance problems with services such as mentioned in the bill: janitorial, security and clerical. The wage for workers in these industries has already been driven so low that many workers engaged in them qualify for taxpayer

subsidized food assistance, health care, housing, fuel and tax credits. It is better to use in-house workers that government has direct control over. Workers who are paid a decent wage and benefits are more likely to be loyal. Studies show that such workers are more productive. If a service must be bid for then government should seek a responsible bidder in a selection process based upon quality, performance, compliance with the law and whether the employees are paid a living wage.

Employer cost shifting onto taxpayer backs is rampant in the private sector. It should not be encouraged, as this bill does, in the public sector. The U.S. Census has recently reported that 50% of American families are working poor or destitute. A few months ago the U.S. Federal Reserve has reported that the average American family has lost 40% of its wealth since 2007. It is time for government to lead in recreating and protecting a middle class. This bill will help to drive down wages and further hurt the middle class.

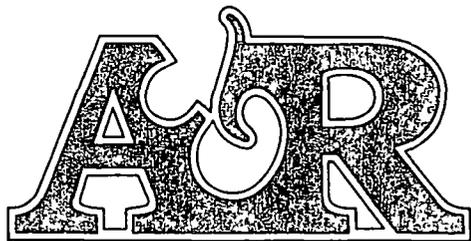
Council 4 supports H.B. No. 6492 (RAISED) AN ACT CONCERNING THE CONFIDENTIALITY OF EMPLOYEES SUPPLYING INFORMATION TO THE AUDITORS OF PUBLIC ACCOUNTS. Employee whistleblowers often face retaliatory or harassing treatment at work. Keeping the names of employees who report problems to the state auditors confidential will encourage more whistleblowers to come forward, hopefully resulting in more savings to taxpayers.

I would be happy to answer any questions.

**JOINT
STANDING
COMMITTEE
HEARINGS**

**GOVERNMENT
ADMINISTRATION
AND ELECTIONS
PART 5
1351 - 1698**

2013



**Administrative and Residual Employees Union
Local 4200, AFT CT, AFT, AFL-CIO**

805 Brook Street, Rocky Hill, CT 06067
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Professionals Working So State Government Works

Testimony Of
Laila A. Mandour, President
Administrative And Residual Employees Union
Before The Committee On Government Administration and Elections
In Support of House Bill 6492
An Act Concerning the Confidentiality of Employees
Supplying Information to the Auditors of Public Accounts

Good morning, Senator Musto, Representative Jutila and members of the Committee. My name is Laila Mandour and I am the president of the Administrative and Residual Employees Union, also known as A&R. A&R is comprised of approximately 3000 state employees including accountants, tax collectors and fiscal employees. We have several hundred members who work the Department of Revenue Services. I appear before you today to testify in support of House Bill 6492, An Act Concerning the Confidentiality of Employees Supplying Information to the Auditors of Public Accounts. Just briefly, I would like to say that this bill makes sense. It protects employees who do not chose to become a whistleblower as defined in Connecticut General Statutes Section 4-61dd, but rather it allows a state employee to answer the auditors' questions honestly, even where the answers may be harmful to the subject agency. Thank you.

Written

STATEMENT OF THE FREEDOM OF INFORMATION COMMISSION ON:

HB 6492, AN ACT CONCERNING THE CONFIDENTIALITY OF EMPLOYEES SUPPLYING INFORMATION TO THE AUDITORS OF PUBLIC ACCOUNTS

March 11, 2013

The Freedom of Information (FOI) Commission opposes House Bill 6492, as written.

The Connecticut Auditors of Public Accounts, in conjunction with a standard audit under Conn. Gen. Stat. §2-90, question employees about the potential for fraud at public agencies. Section 1(h) of HB 6492 proposes to amend §2-90 to exempt from disclosure the *name* of an employee who provides the auditor(s) information regarding alleged fraud or weaknesses in the control structure of an agency that may lead to fraud and *all* the *documentation* of such information.

The Commission understands the auditors' concerns that the disclosure of the name of an employee, who is interviewed as part of an audit in which fraud is found, may have a chilling effect and an interviewed employee may hesitate to candidly discuss the potential for fraud at an agency for fear that they would be retaliated against by their co-workers and/or supervisors. The proposed language, however, is overly broad and would run counter to the principles of open and accountable government.

In an attempt to address both the FOI Commission's and the auditors' concerns, the Commission and the auditors have discussed the proposal and have worked out some agreeable language, that will be narrow for purposes of transparency but will provide the confidentiality needed by the auditors. The FOI Commission and the auditors suggest that the language be changed to exempt *only* the identity of an employee who provides information or any portion of a document which may reveal the identity of such employee. Specifically, we propose the following amendment to §2-90(h), G.S.:

(h) Where there are statutory requirements of confidentiality with regard to such records and accounts or examinations of nongovernmental entities which are maintained by a state agency, such requirements of confidentiality and the penalties for the violation thereof shall apply to the auditors and to their authorized representatives in the same manner and to the same extent as such requirements of confidentiality and penalties apply to such state agency. In addition, the portion of any audit or report prepared by the Auditors of Public Accounts that concerns (1) the internal control structure of a state information system, (2) the identity of an employee who provides information regarding alleged fraud or weaknesses in the control structure of an agency that may lead to fraud,

or any portion of a document which may reveal the identity of such employee shall not be subject to disclosure under the Freedom of Information Act, as defined in section 1-200.

Lastly, although the FOI Commission has no objection to such proposed change, the Commission cautions against further expanding the confidentiality provisions in Conn. Gen. Stat. §2-90, so as to avoid infringing upon the public's right to know and to maintain accountability and transparency of government operations.

For further information contact: Colleen M. Murphy, Executive Director and General Counsel at (860) 566-5682.

Written

STATEMENT OF THE FREEDOM OF INFORMATION COMMISSION ON:

HB 6492, AN ACT CONCERNING THE CONFIDENTIALITY OF EMPLOYEES SUPPLYING INFORMATION TO THE AUDITORS OF PUBLIC ACCOUNTS

March 11, 2013

The Freedom of Information (FOI) Commission opposes House Bill 6492, as written.

The Connecticut Auditors of Public Accounts, in conjunction with a standard audit under Conn. Gen. Stat. §2-90, question employees about the potential for fraud at public agencies. Section 1(h) of HB 6492 proposes to amend §2-90 to exempt from disclosure the *name* of an employee who provides the auditor(s) information regarding alleged fraud or weaknesses in the control structure of an agency that may lead to fraud and *all* the *documentation* of such information.

The Commission understands the auditors' concerns that the disclosure of the name of an employee, who is interviewed as part of an audit in which fraud is found, may have a chilling effect and an interviewed employee may hesitate to candidly discuss the potential for fraud at an agency for fear that they would be retaliated against by their co-workers and/or supervisors. The proposed language, however, is overly broad and would run counter to the principles of open and accountable government.

In an attempt to address both the FOI Commission's and the auditors' concerns, the Commission and the auditors have discussed the proposal and have worked out some agreeable language, that will be narrow for purposes of transparency but will provide the confidentiality needed by the auditors. The FOI Commission and the auditors suggest that the language be changed to exempt *only* the identity of an employee who provides information or any portion of a document which may reveal the identity of such employee. Specifically, we propose the following amendment to §2-90(h), G.S.:

(h) Where there are statutory requirements of confidentiality with regard to such records and accounts or examinations of nongovernmental entities which are maintained by a state agency, such requirements of confidentiality and the penalties for the violation thereof shall apply to the auditors and to their authorized representatives in the same manner and to the same extent as such requirements of confidentiality and penalties apply to such state agency. In addition, the portion of any audit or report prepared by the Auditors of Public Accounts that concerns (1) the internal control structure of a state information system, (2) the identity of an employee who provides information regarding alleged fraud or weaknesses in the control structure of an agency that may lead to fraud,

or any portion of a document which may reveal the identity of such employee shall not be subject to disclosure under the Freedom of Information Act, as defined in section 1-200.

Lastly, although the FOI Commission has no objection to such proposed change, the Commission cautions against further expanding the confidentiality provisions in Conn. Gen. Stat. §2-90, so as to avoid infringing upon the public's right to know and to maintain accountability and transparency of government operations.

For further information contact: Colleen M. Murphy, Executive Director and General Counsel at (860) 566-5682.

STATE OF CONNECTICUT



AUDITORS OF PUBLIC ACCOUNTS

STATE CAPITOL

210 CAPITOL AVENUE

HARTFORD, CONNECTICUT 06106-1559

JOHN C GERAGOSIAN

ROBERT M WARD

**Testimony of the
Auditors of Public Accounts****HB 6492 - AN ACT CONCERNING THE CONFIDENTIALITY OF EMPLOYEES
SUPPLYING INFORMATION TO THE AUDITORS OF PUBLIC ACCOUNTS****March 11, 2013**

Good Morning Senator Musto, Representative Jutla, Senator McLachlan, Representative Hwang and members of the Government Administration and Elections Committee. We are here to testify in favor of HB 6492 and we want to thank you for raising this bill. We have attached proposed substitute language that narrows the information to be protected from release to the identity of the employee providing information or any portion of a document that may reveal the identity of such an employee. We are asking that you pass this bill with the new language.

This legislation will help ensure that our office is able to better carry out our duty to guard against fraud in state government. In 2002, the Auditing Standards Board of the American Institute of Certified Public Accountants (AICPA) issued a new auditing standard, Statement on Auditing Standard 99 (SAS) - *Consideration of Fraud in a Financial Statement Audit*, in response to various corporate accounting scandals.

Our office determined that, under SAS 99, we are required to assess the risk of fraud for all of our audits, including the state's Comprehensive Annual Financial Report, Statewide Single Audit and all other financial and compliance audits. One of the procedures performed by our auditors to meet this standard is interviewing relevant employees in an audited agency and inquiring whether the employee has knowledge of any fraudulent or possibly fraudulent activity at the agency. Our auditors are required to include documentation of those interviewed and the answers for each interview. When our office developed the procedures to be used to satisfy this requirement, it was decided that the interview write-up should not contain any reference to the identity of the person providing the answers. A separate list of those interviewed would be kept in the audit file. It was decided to keep the lists separate in the hopes that the information could not be identified to a specific person. Although this procedure may somewhat shield the

interviewed employees at the audited agencies from retaliation or intimidation, it does not fully protect them.

Recently, we were informed by one of our auditors that someone from management in an audited agency commented that it would be interesting to see who was interviewed and what information was provided. No formal request for this information was made at that time. However, if this information is provided to agency management or anyone else, it will likely have a chilling effect on the willingness of agency employees to volunteer crucial information to our auditors. The release of this type of information will impede our ability to prevent fraud and to disclose wrongdoing. We are not sure of any law, other than in whistleblower cases, that would necessarily protect agency employees from reprisal by management for providing our office important information.

Upon receiving information regarding possible agency fraud, our office investigates the matter. If, through our investigation, we find that fraud or other improper activity is evident, we make that information public in accordance with CGS section 2-90. We are more likely to be informed about possible fraud if employees are free to share information with our auditors. This legislation will ensure that employees giving our office information about fraud are protected and that we have the tools we need to prevent fraud against the state.

We're happy to answer any questions you might have.

HB 6492 – Auditors of Public Accounts Proposed Substitute Language



APA Proposed Substitute Language

General Assembly
January Session, 2013

Raised Bill No. 6492
LCO No. 3541

Referred to Committee on GOVERNMENT ADMINISTRATION
AND ELECTIONS

Introduced by:
(GAE)

***AN ACT CONCERNING THE CONFIDENTIALITY OF EMPLOYEES SUPPLYING
INFORMATION TO THE AUDITORS OF PUBLIC ACCOUNTS.***

Be it enacted by the Senate and House of Representatives in General Assembly
convened:

Section 1. Section 2-90 of the general statutes is repealed and the following is
substituted in lieu thereof (*Effective October 1, 2013*):

(a) The Auditors of Public Accounts shall organize the work of their office in such
manner as they deem most economical and efficient and shall determine the scope and
frequency of any audit they conduct.

(b) Said auditors, with the Comptroller, shall, at least annually and as frequently as they
deem necessary, audit the books and accounts of the Treasurer, including, but not
limited to, trust funds, as defined in section 3-13c, and certify the results to the
Governor. The auditors shall, at least annually and as frequently as they deem
necessary, audit the books and accounts of the Comptroller and certify the results to the
Governor. They shall examine and prepare certificates of audit with respect to the
financial statements contained in the annual reports of the Treasurer and Comptroller,
which certificates shall be made part of such annual reports. In carrying out their
responsibilities under this section, said auditors may retain independent auditors to
assist them.

HB 6492 – Auditors of Public Accounts Proposed Substitute Language

(c) Said auditors shall audit, on a biennial basis if deemed most economical and efficient, or as frequently as they deem necessary, the books and accounts of each officer, department, commission, board and court of the state government, all institutions supported by the state and all public and quasi-public bodies, politic and corporate, created by public or special act of the General Assembly and not required to be audited or subject to reporting requirements, under the provisions of chapter 111. Each such audit may include an examination of performance in order to determine effectiveness in achieving expressed legislative purposes. The auditors shall report their findings and recommendations to the Governor, the State Comptroller, the joint standing committee of the General Assembly having cognizance of matters relating to appropriations and the budgets of state agencies, and the Legislative Program Review and Investigations Committee.

(d) The Auditors of Public Accounts may enter into such contractual agreements as may be necessary for the discharge of their duties. Any audit or report which is prepared by a person, firm or corporation pursuant to any contract with the Auditors of Public Accounts shall bear the signature of the person primarily responsible for the preparation of such audit or report. As used in this subsection, the term "person" means a natural person.

(e) If the Auditors of Public Accounts discover, or if it should come to their knowledge, that any unauthorized, illegal, irregular or unsafe handling or expenditure of state funds or any breakdown in the safekeeping of any resources of the state has occurred or is contemplated, they shall forthwith present the facts to the Governor, the State Comptroller, the clerk of each house of the General Assembly, the Legislative Program Review and Investigations Committee and the Attorney General. Any Auditor of Public Accounts neglecting to make such a report, or any agent of the auditors neglecting to report to the Auditors of Public Accounts any such matter discovered by him or coming to his knowledge shall be fined not more than one hundred dollars or imprisoned not more than six months or both.

(f) All reports issued or made pursuant to this section shall be retained in the offices of the Auditors of Public Accounts for a period of not less than five years. The auditors shall file one copy of each such report with the State Librarian.

(g) Each state agency shall keep its accounts in such form and by such methods as to exhibit the facts required by said auditors and, the provisions of any other general statute notwithstanding, shall make all records and accounts available to them or their agents, upon demand.

(h) Where there are statutory requirements of confidentiality with regard to such records and accounts or examinations of nongovernmental entities which are maintained by a state agency, such requirements of confidentiality and the penalties for

HB 6492 – Auditors of Public Accounts Proposed Substitute Language

the violation thereof shall apply to the auditors and to their authorized representatives in the same manner and to the same extent as such requirements of confidentiality and penalties apply to such state agency. In addition, the portion of any audit or report prepared by the Auditors of Public Accounts that concerns (1) the internal control structure of a state information system, (2) the identity of an employee who provides information regarding alleged fraud or weaknesses in the control structure of an agency that may lead to fraud, or any portion of a document which may reveal the identity of such employee shall not be subject to disclosure under the Freedom of Information Act, as defined in section 1-200.

This act shall take effect as follows and shall amend the following sections:		
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Section 1	<i>October 1, 2013</i>	2-90
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Statement of Purpose:

To protect the confidentiality of state agency employees who provide information to the Auditors of Public Accounts regarding possible agency fraud.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]