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Presented by the

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Municipal Task Force

“[N]o responsibility of government is more fundamental than the responsibility for maintaining the highest standards of ethical behavior by those who conduct the public business....This principle must be followed not only in reality, but in appearance. For the basis of effective government is public confidence, and that confidence is endangered when ethical standards falter or appear to falter“

John F. Kennedy

Address to Congress

April 27, 1957

Introduction - 2006 “Municipal Ethics and State Government: Four Approaches and Their Application to Connecticut State Government” Report

Origins and content

- Proposed Legislation to have OSE become involved in local ethics
- Rep. Caruso asked for Report on other state models
- Legislature created Task Force to consider the OSE’s recommendation that an ethics code for municipalities be implemented for voluntary adoption by municipalities and report back to the Legislature
- What I’d like to do is present information on the state of ethics at state level, then the state of ethics at the municipal level and finally some considerations for the task force about approaching the issue of municipal ethics codes

State of State Ethics

OSE Mission

- Provides guidance, advice and education about the Code of Ethics for Public Officials, State Employees and Lobbyists
- Enforces violations of the codes
- Collects and maintains Statements of Financial Interest
- Collects and maintains Lobbyist Registrations and Financial Reports

Code of Ethics for Public Officials

- Restrictions in 7 major areas
 - Gifts
 - Self-Dealing/Nepotism
 - Inside Track/Contracting with Government
 - Switching Sides
 - Revolving Door
 - Abuse of Position
 - Confidential Information

SFIs

- Statements of Financial Interest serve two purposes:
 - Transparency - Provide the public with knowledge of public officials' interests and relationships
 - Self-review - Require public officials to conduct an annual review of their own interests to avoid inadvertent conflicts of interest

Lobbying

- A **lobbyist** is any person or entity who is **communicating** directly or soliciting others to communicate with any official or his/her staff in the legislative or executive branch of government or in a quasi-public agency **for the purpose of influencing any legislative or administrative action.**
- Such individuals and entities are required to register as lobbyists if they
 - Expend or agree to expend \$2,000 or more in a calendar year on lobbying; *OR*

- Receive or agree to receive \$2,000 or more in a calendar year for lobbying
- Serve two purposes
 - Transparency - Provide the public with knowledge of who's influencing government action
 - Regulates how lobbyists conduct themselves in influencing government action

State of Municipal Ethics

Connecticut General Statutes on Municipalities

- Presently, Connecticut municipalities have discretionary authority to
 - adopt a municipal code of ethics
 - No standards for what code should or should not include **except**
 - restricts elected municipal officials from taking official action on any matter in which they may have a substantial conflict of interest.
 - establish a board to investigate allegations of unethical conduct, corrupting influence or illegal activities
 - confidentiality of investigations
 - authority to issue subpoenas
 - Civil penalties of up to \$250 for ethics violations (no ability to recoup financial benefits) (State \$10,000 +recoupment)

Model Code Law

- 1994 Former Commission to develop model code of ethics for any municipality or special district to adopt and accept Commission's jurisdiction; in 1995 law was amended to authorize Commission to draft and distribute model code but not administer or enforce its provisions, leaving that to municipalities
- N.B.: Deals with code for public officials/employees including SFIs but not lobbyists

(Our research indicates Bridgeport has lobbying code based on state code but our understanding it is not enforced)

Current state of ethics

■As of today, while we don't have much information, we know that Connecticut municipalities

- Adopted the 1995 model code
- Modeled their code on the 2005 State Code of Ethics and/or modified elements of the State Code to suit the needs of the municipality
- Created their own code, which may contain elements of the 1995 or 2005 State code
- Do not have a code of ethics in place

Other States

■Full Inclusion of Municipalities under State Ethics Boards (AL)

- Code of Ethics
- Statements of Financial Interest
- Lobbyists

■Partial Inclusion of Municipalities under State Ethics Boards

- Only Code of Ethics in municipalities - not SFI or Lobbyist (MA)
- Other Agencies enforce municipal ethics

■Application of Strictest Code (DE, NJ)

- municipalities follow state code (including enforcement) *unless* they have a code at least as restrictive as state code and it is approved by the Ethics Board

■Model Code (TN)

- Adopt state model code or local code that meets state standards – local enforcement
- Penalty for failure to adopt is ouster of local officials from office

Models for Connecticut Municipal Ethics

■ We receive several calls a week from municipalities about ethics issues ranging from:

- municipal counsel seeking advice about how we would interpret a municipal code – which we have no authority to do
- complaint not related to ethics (FOI, police conduct, neighbor's dirty yard)
- complaints that may violate a local ethics code
- complaints that would be investigated were they about state officials or employees
- complaints about the local ethics board
 - The process for selecting Board members is not impartial
 - The process for investigating complaints is unfair

■ There are a number of alternatives that could strengthen and, perhaps just as important, standardize municipal ethics. Most effective alternatives would include a three-pronged approach that includes:

- education
- prevention through advice
- enforcement

Municipal-based proposals

■ Any municipal-based ethics program should address: (Bricks and Straws article)

- Board structure and independence (appointment process, who is appointed, who accountable to)
- integrity of process - safeguard from political pressure
- accountability of both
- Confidentiality
- Fair, clear, consistent advice and enforcement
- Finally, resources are needed to complete the three pronged approach, i.e., enforceability

- Model Code - Legislation

- A single model code that is voluntarily adopted and enforced by towns
- A single model code that is mandated for adoption and enforcement by towns
- A three layer model code with provisions for large cities, medium sized cities and towns and small town (based on population)

- Regionalization

- Cities and towns form regional ethics bodies
 - Decreases financial burden
 - Increases independence

The Role of the OSE in municipal ethics

- Full inclusion

- OSE enforces current codes at municipal level
- OSE enforces new codes for municipal officials and state employees and municipal lobbyists

- Partial Inclusion

- OSE enforces code of ethics but SFI and or lobbying is voluntary and local

- OSE creates model code – 3 layer codes by population size NOT each town adopting its own code if OSE is to enforce

- Opt out - Towns are subject to enforcement by OSE **unless** they create code approved by OSE
- Opt in – Municipalities adopt model code **and** choose enforcement by OSE

- OSE serves as Board of Appeal for local ethics decisions

- OSE oversees regional ethics boards

- OSE travels a regional ethics circuit to avoid the expense/time of all hearings occurring in Hartford

- Each municipality establishes an ethics liaison position to which the OSE provides education, guidance and resources

Questions to consider

Code of Ethics

■What does municipal ethics mean?

Code of Ethics

SFI

Lobbyist

Code of Ethics

■What should the municipal code of ethics include? – 7 major areas (Gifts, Self-Dealing/Nepotism, Inside Track/Contracting with Government. Switching Sides

■Revolving Door, Abuse of Position, Confidential Information)

Financial Disclosure and Lobbyist Filings programs

SFIs

■Who should file?

Are SFIs of value for elected officials?

Which municipal employees should file?

Needs of Small towns vs. Large cities

■What should be filed?

Same as state or different?

■How will records be filed and maintained?

Online or paper

Centralized at OSE or city and town clerks

Lobbyists

■Who should file?

Definition of municipal lobbyist?

\$2,000 threshold?

Needs of Small towns vs. Large cities

How to identify who should file?

■What should be filed?

Same as state or different?

■How will records be
filed and maintained?

□Online or paper

Centralized at OSE or city and town clerks

Resources

□State vs. Local impact – who pays?

□Implementation Costs

□Ongoing Costs

□Cost of Prevention vs. Cost of Enforcement

■The OSE is the expert on Government Ethics in CT

□We are able to provide advice, guidance and education, to enforce the code, to administer the financial interest filing and lobbyist filing

□We're not clamoring to take on municipal ethics but are willing to do so if it is the will of the legislative process

□Biggest need, should this task force recommend that the OSE have responsibility for municipal ethics, is resources; depending on the responsibilities and jurisdiction of any new laws, the size of the Office of State Ethics could as much as double from current staff of 21 full-time employees in order to fulfill the mandate for municipal ethics