



Office of The Attorney General
State of Connecticut

TESTIMONY OF
ATTORNEY GENERAL RICHARD BLUMENTHAL
BEFORE THE TASK FORCE TO STUDY CONVERTING LEGISLATIVE DOCUMENTS
FROM PAPER TO ELECTRONIC FORM
NOVEMBER 18, 2010

I appreciate the opportunity to comment on the proposed elimination of the transcription of public hearing testimony. I urge the Task Force to reject this proposal and restore full written transcription of this critical part of legislative history.

The elimination of written transcription of public hearing testimony will add an obstacle for lawyers and judges to understand the intent of the legislature while adding costs to state agencies including the Office of the Attorney General, the Chief State's Attorney's office and the Office of Public Defender -- costs which, in aggregate, may very well exceed the savings to the General Assembly.

This proposal will also make the legislative process less transparent to the general public, courts and public and private litigants, including pro se litigants who already face tremendous challenges to effectively present their grievances to the court. The general public clearly uses public hearing testimony in arguing their case before a judge. Since 1990, there were 561 decisions in Connecticut courts in which public hearing testimony was cited -- most of these cases did not involve state agencies.

I support many of the other ideas for reducing the cost of paper and increasing the use of electronic media. In particular, the filing of up to 75 paper copies of testimony to committees is a cost that could easily be reduced. The availability of legislative documents online similarly reduces the need for generating hundreds, even thousands, of paper copies every day. All these ideas can achieve the goals of the task force without the significant fiscal burdens and logistical problems on state agencies of the proposed elimination of the written transcription of public hearings.

Public hearing testimony can be critical. No matter how carefully drawn, statutory language is almost always subject to interpretation as to how it may be applied in specific situations and under particular facts. Therefore, the intent of the legislature is vitally important when determining how statutory language should be interpreted.

In contrast to many states' legislative bodies, our legislature does not typically include legislative findings in its enactments. As a consequence, public hearing testimony and other legislative history materials are particularly valuable tools in determining legislative intent.

While the courts have provided the most significant weight to comments of senators and representatives on the floor of the General Assembly, the courts have often used testimony before legislative committee public hearings to divine the meaning of a statute. As the Connecticut Supreme Court noted in *Burke v. Fleet Bank*, 252, Conn. 1, 17 (1999), “[l]egislative committee hearings may be relevant to the meaning of statutes because they often demonstrate the problem or issue that the legislature sought to address by the statute.” See also, *Butts v. Bysiewicz*, 298 Conn. 665 (2010) “testimony before legislative committees may be considered in determining the particular problem or issue that the legislature sought to address by the legislation.”

Indeed, public hearing testimony has been cited in more than 100 Connecticut Supreme Court and Appellate Court decisions involving my office since 1985 and in 34 official opinions of the Office of the Attorney General.

The task force has discussed maintaining an official audio copy of the public hearings for use by state agencies and the public in lieu of a written transcription of testimony in order to save \$215,000. I appreciate the need to save scarce tax dollars but this proposal may ultimately cost taxpayers more than it saves.

An audio of a public hearing cannot be submitted to the courts without a transcription of such testimony that is certified by a transcriber. There will be added costs including transcription, certification of transcription and the preparation of an affidavit.

In civil cases involving the Office of the Attorney General or in criminal cases involving the Division of Criminal Justice and Office of the Public Defender, the cost of transcribing taped hearing testimony is likely to be as high as \$4 per page. The testimony would have to be certified by the transcriber and an affidavit attesting to that certification would have to be included in any brief submitted by the state agency. Also, without one official transcript of testimony, entities or litigants hiring independent court reports to transcribe a particular tape may well end with different page or line numbers to refer to, causing confusion for the court and others attempting to review the passage at issue.

In addition, the proposal creates the likelihood of additional public costs -- harder to quantify but real -- arising from increased demands on state employee time -- not required under the present system. For example, the review of an audiotape for appropriate and relevant testimony takes much more time than simply a review of a written transcript. Virtually all committee public hearings include testimony on a wide variety of legislation -- often 15-20 bills, sometimes upwards of 60 individual legislative proposals. Therefore, if an attorney or paralegal is seeking relevant public hearing testimony on a particular bill under the current system, the reviewer can easily skim pages of testimony on legislation that is irrelevant. Indeed, the General Assembly's website permits fast and convenient search functions for reviewing transcribed hearing testimony. In contrast, a review of an audio tape is much more difficult, as skipping ahead without listening to the tape risks missing some relevant testimony.

Even if the audiotape is indexed by speaker -- an additional cost not seemingly included in the budget savings -- the reviewer will need to listen to a speaker's every word rather than quickly skimming written words.

Further, there will be additional costs for a state employee to verify the authenticity and relevance of public hearing testimony cited in an opposing party's brief. These costs and time will be greatly increased under the proposed audiotape system because state agencies currently are able to easily verify public hearing testimony, either online or at the State Library.

I urge the committee's rejection of the proposed elimination of the public hearing transcript.