Regulations Modernization Taskforce
Minutes
Wednesday, September 12, 2012

Members Present: Chris Drake; Brenda Parella; Dick Hemenway; Angela Taetz; Leanne Power (for Kendall Wiggin); Rich Hanratty; John Barrett; John Vittner; Bob Frankel; Denise Merrill

1.) Meeting called to order by Chairman Drake at 11:04am

2.) Introductions of Taskforce Members:

Chris Drake, Chair, Governor's Office - Last summer we did initial fact finding, and exploration of opportunities to the regulation online. PA 92 requires regs to be put online by July of 2013.

John Vittner, member, OPM – He has very little experience using regs, but has great deal of experience implementing IT solutions for state agencies.

Bob Frankel, member, Senior Legal Counsel to House Majority Leader - He was a member of the Regulations Review Committee when he was a legislator, and had some involvement with changing the statute last session. Looks forward to working on the matter.

Denise Merrill, member, Secretary of the State - Her agency is the holder of all regulations, and she thinks this is a very laudable policy goal. We should have as much information dealing with regulations for public online. Very supportive of the measure.

Brenda Parrella, member, Agency Legal Director, Department of Social Services – DSS probably has the most regulations of any agency. They have many programs they administer with a variety of different rules. There is Federal overlay. Constantly generating regulations. More staff recently added. She embraces the project. 20 years at DSS, she was at LCO For 5 years before that. She knows all the ways in which the process can go very wrong, or very well. She is very enthused about the project, and looks forward to managing regulations in an orderly and consistent way.

John Barrett, member, Owner of Barrett Outdoor Communications, Inc – He deals with outdoor advertising and is also the Senior Burgess for the borough of Woodmont. He has been involved in drafting statutes as well as proposed regulations on the federal and state level. Thrilled this is happening.

Rich Hanratty, member, LCO – He Coordinates the review process for the Regulations Review Committee, and has worked for the legislature for 10 years. Very excited that this is happening.

Dick Hemmingway, member, Publication Director for COLP. Been with Judicial since 1986. Been working for 15 years to get the regulations online.

Leanne Power, here for Ken Wiggin from the State Library. They have recently been involved with map regulations. Very supportive. Her only concern is with long-term preservation of records once everything goes to an online system.

Angela Teatz, member, BEST formerly DOIT - This has been brought to them on and off for the last 10 years. Spoke about enterprise applications, and the need to know more about the requirements and scope of this project to determine the best fit for products.

3) Review PA 12-92/Scope of Work
The public act is broken up into 15 sections. It was a Governor's bill. The chair summarized the first 14 sections as follows:

A) Eliminates the requirement that a copy of the regulation be published in the Connecticut Law Journal and replaces it with the requirement that the regulation be published online by the Secretary of the State, effective July 1, 2013 *(unless otherwise noted, all changes have an effective date of July 1, 2013)*.
B) Notices of intent to adopt a regulation are no longer required to be published in the Law Journal, but are required to be published online by the SOS and also on the agency website.
C) Regulations will only be effective upon publication online by the SOS, not when they are filed with the SOS.
D) The SOS must publish all current regulations online except those that are incorporated by reference and published by an outside agency or government (e.g., OHSA regulations) or to which a third party owns the intellectual property rights (e.g., state building and fire code). The Act directs OPM to attempt to obtain the intellectual property rights to post these regulations.
E) The SOS must publish all new regulations online within 5 days of submission by the agency.
F) The online regulations must be accessible to the public and will become the official version of the regulations of state agencies as of July 1, 2013.
G) All requirements that the regulations be published in hard copy by the Commission on Official Legal Publications (COLP) are repealed effective July 1, 2013.

Section 15 explains the task of this group.

Discussion:

Rich Hanratty spoke about the threshold issue in Section 15 Subsection C – available to public in easily accessible online format – very important that it be free, the statute doesn't clarify that. Going forward he would like to see it be free. Later in section 15 it talks about how to recover costs, so he doesn't know if there was something thinking of charges.

John Barrett briefly mentioned that FOI would prohibit charging for access to public records.

Dick Hemenway said they could have direct access, sophisticated searches for attorneys, which could be a payable service.

Chris Drake: Free access to the public, additional value for logins to law firms that use regulations on a regular basis. Notification system, like with federal court when new items are docketed. Subscription for law firms.

Bob Frankel had a related question wanting to know how the system will work when an entity, such as a law firm, has a standing request for changes of a current regulation? It is existing law in the first few sections. Bottom of page two. Item 3. "Gives notice to all persons who have made requests…." How does it work?

Brenda Parella said she, at DSS, doesn't have anyone who has requested systematic notice. There are national firms who monitor the regulations however, and they get constant and predicable requests.

Denise Merrill wanted to know how Loislaw, Westlaw, and Nexis get access to the regulations now?

Dick Hemenway explained that the CT Law Journal in electronic form is sold to those groups, who access it through an FTP site. There are currently only 6 subscriptions at $600 per year.

Chris Drake asked when approved by the Regulations Review Committee, and sent to the SOS for filing, how long before the change is reflected?

Dick Hemenway said that it depends. The CTLJ has a finite number of pages, supreme and appellate court work takes precedence. So, depends on the size of the regulation, it is not always in the next addition published. There is a caveat in the statute that says if the regulation is too big, they don't have to publish it at all.

Bob Frankel asked in the case of a big law firm or Loislaw, for example, they are provided the regulations electronically, but how exactly?

Dick Hemenway said it is the files published in the CTLJ, so they don't exceed the number of pages in the actual journal. They are actual mechanical representations, which are updated in as timely a fashion as possible.

Bob Frankel proposed making an initial step and working from the existing database to at least get those online, and just like the statutes have, on the CGA website, we would post a disclaimer, saying these only went back to a certain date.

Dick Hemenway said he has .pdf copies of all the regulations that they have published, but it is raw, rough, and designed to output to print only. It is not accessible to blind, or visually impaired. It would not be an easily accessible document.

Chris Drake said the Judicial Branch did do a mock up of a system that they might be capable of putting together as Bob Frankel suggested as a half-step. It would have a basic, rudimentary search capability.

Rich Hanratty said the public act took everything that COLP was required to do statutorily and transferred it to SOS by July of 2013.

John Barrett asked what form are the regulations are in, saying the process needs to start with identifying who is doing the actual drafting and what program they are using.

Chris Drake: Everything is submitted in word document

Rich Hanratty explained that an electronic copy is given to the clerk of committee along with one hard copy. It's a standardized format. Word document.

Dick Hemenway said that COLP gets versions from both the department that is promulgating the regulation and Regulations Review Committee. Final versions only exist in his system, no one else has them.

John Barrett said, shouldn't all things come out of the Regulations Review Committee in final form? Don't they?

Rich Hanratty said they don't. The committee votes to make technical changes, but Regulations Review doesn't get involved with making the changes themselves. Regulations get sent back after the committee votes to agency for resubmission. There is no check back with RRC once it leaves them.

Bob Frankel said if RRC made changes, they are final as amended. Sometimes they are sent back to the agency with directions to do things.

Rich Hanratty said the committee never sees it again.

Bob Frankel asked why the format can't be kept the same throughout.

John Barrett said once it is inputted into the new system, changes should be made in their system only.

Chris Drake said that when they were drafting the bill this was identified as a current problem; there is no check. If we move over to an electronic system, the commissioner of each agency signs a certification that what they are sending over to the Secretary of the State is a true and accurate copy of the regulation as changed by RRC.

Dick Hemenway clarified that there are currently two versions. Final compellation is one and it is sitting in his office with all the final pages numbers and final regulations.

Chris Drake said it would be helpful for the next meeting to walk through the process as it is currently constituted. Rich and Brenda should walk us through the process, from agency proposal to final approval. Dick will explain what happens once the RRC approves the regulation, what happens then.

Denise Merrill said that this taskforce is supposed to have a report by January 1st, and she questioned the ability of the group to complete their task by the deadline if we wait until the next meeting to walk through those things.

Rich Hanratty started to explain the process. He said the Uniform Administrative Procedures Act is used and is very specific with timeframes. Notice is placed in the law journal, agencies then may or may not have public hearings on issue. If anyone has requested notice, the interested party is included in correspondence. A hearing officer presides over the public hearing if the agency chooses to have one, then the agency may or may not make change to original proposal and send it to the RRC. The RRC meets every month to consider submitted regulations and can approve in whole, reject, or approve with technical corrections. Once approved, the agency files with the Secretary of the State, which used to be the effective date. Now the effective date is when it goes online. The AG also approves along the way.

John Barrett asked where the last stop is, because it sounds like there is not one official stop. Who touches it last?

Brenda Parrella said that first they submit regulatory changes to the Governor's Office and OPM, which must have a draft of regulations with a fiscal note. The agency then gets approval with suggested amendments, or changes from OPM and OTG, then they enter the public comment period. They create a document with all comments and responses to each. They usually don't have a public hearing. Some regulations get over 300 comments, all must be considered. It takes a significant amount of time. Then they submit the regulation change to the AG's office. Their

comments must be accommodated. Then it is submitted to LCO and the RRC. It's a very long process for the agency. Most state regulations have this process, but DSS also labors with a Uniform Policy Manual, that all of their field workers use, which is over 1700 pages long and it is not in regular format. Many different files each formatted differently. It started as a field manual for workers and they have continued to use it to this time. It is an outlier and needs to be brought into the process. They have spent a lot of time thinking about how it can be brought into the process. There are volumes of the manual, and it is not available to the public. When it gets to the Secretary of the State's Office they have physical volumes sitting around and they just remove and replace actual pages. It is shamefully inaccessible. They also realize that part of that massive process will require a lot of rewriting, because there are 4-5 programs listed on each page.

John Barrett said it sounds like a legacy document that is in no kind of electronic form and can't be easily manipulated.

Bob Frankel said that the LCO legislative website for documents had a lot of these problems when it started up which were solved in different ways. Rules and precedence were always in hardbound copy, they were inaccessible to the public, but they .pdf (portable document format)scanned them and put them on the site. It was very simple and searchable. It's a major step forward for public access, even if it's just a step. Could we not get a pdf file for the existing regulations and take a look at using them for now.   They would be searchable in rudimentary form. That would be a major step forward. You would include an appropriate disclaimer indicating what date they go back to. It doesn't seem to him like a huge undertaking and it is a very tangible start for the taskforce. His second point is in line with is in line with Denise Merrill's point on timing and scope. We need one or two subcommittees to deal with nitty gritty charges. We need to identify hardware and software needed to transfer the information. Could a subcommittee work on that before the next meeting?

Chris Drake agreed and said we need to break it down by technical aspects versus legal aspects. There are two major obstacles; first the regulations exist, they are huge. We need to figure out how to get the regulations online in a format that is not only accessible and searchable, but one that we can trust as being accurate and not a hybrid. Questions we need answered: where do they reside? How do we migrate them? How do we update it going forward? We need to have a software program that can track when changes are made, by whom they are made and what the changes actually are. Like the history notes for statutes.

Brenda Parrella mentioned the Connecticut General Assembly website. You can track a bill, see each step of the process along the way. You can see votes, see depth. Is there something we could do like that?

Bob Frankel said we need to just get the stuff online and come up with a promulgation process that is also online. The promulgation process is a lot different

and one that some of them have been kicking around for a while. Maybe online e-filing like judicial branch has for court cases. You are given an ID and password by agency, just like e-filing is done on a case. He thinks the Judicial Branch website can be a useful model.

Brenda Parrella said if you take a look at the physical regulations file, you can see the entire process; there is a series of documents.

Bob Frankel said if we do it like the Judicial Branch you would go to the Secretary of the State website, and login as a member of the public, or as an agency. As an agency you would have a password and an ID and you could upload proposed regulations and documents associated with them. Members of the public can access documents, but not make changes.

Angela Taetz said the online version will be the official version going forward. It must be accurate and up to date. Someone could upload the wrong version, so we really need to have the workflow be part of the process. Everything should be done electronically and tracked in the system. Not letting the agency decide which one goes up may be important. The agency can't be the final authority. They have systems already that can do this.

Denise Merrill said she is pretty concerned about the verification aspect. That needs to be figured out first.

Chris Drake agreed and said we need to come up with a way to certify that there is an accurate version online. The Secretary of the State's role will be largely similar to what it is right now. You will upload a certified version from the agency. The certification would come from the Commissioner and we would know what change was made at what time. The Secretary of the State's Office is unbiased, so it makes sense for them to post it.

Denise Merrill stressed, again, that they can't certify that something is the final version. She also wants to hear from John Vittner. What part of the technical maintenance and build-out are they responsible for?

John Vittner said that really falls into what going on with DECD business portal and online services that will be made available shortly. He took a look at a couple of the companies that are providing the portals and they do offer this type of service to some of the other states. We should walk away today and check out what's happening in other states for the next meeting. Maybe look at this over the next couple of weeks and see if there is a good fit and model.

Chris Drake said that we are not the only state that has regulations, but we are one of the worse states at making them accessible. We should reach out to others states that do this well. April Wang and Ben Elliot from the OTG will do research and report back to the group at the next meeting.

Rich Hanratty suggested touching base with Pam Booth from the Regulation Review Committee. She is familiar with other states.

John Barrett thought it made sense to be granted access to another state's portal as a private citizen so we could see what the experience actually is.

Denise Merrill said she is not sure about where fees would come in. Another group she is working with has already ID'd several potential systems. Judicial has one, e-government system. It takes a longtime to do these things, and anything that we have to go out to bid on might take years. She manages two of the largest databases in the state, and she thinks we should use something we already own. That would be better.

John Barrett added that the system state statutes are on is another system we can use.

Dick Hemenway pointed out that the statute says this taskforce will terminate on the date it submits the plan, or January first, whichever is later. It is not limited.

Chris Drake agreed and said it is whichever is later, but we should not plan to fail yet. He names a Technical Subcommittee of four: John Vittner, Angela Taetz, Dick Hemenway, and Leanne Power. They need to make an initial presentation on the types of systems that are out there. Educate the group on what the in-house capability is and what we might gain by going outside.

Denise Merrill said she had a question about terminology. The statute says to transfer regulations to an online format. That's a limited goal. What are we contemplating, because getting them online isn't that big a deal?

John Barrett said he reads it as take things that are currently not in electronic form and making them that way so they can be utilized. It's that initial conversion from non-electronic to electronic.

Dick Hemenway said we need a server, connections, and internet service provider. The process of transferring itself is the big part. There may be expenses to software depending on type of licensing. A server is pretty cheap.

Angela Taetz said they already have hardware and software. There are costs associated with who is administering it though.

Dick Hemenway said it is a huge population of people who put things into the regulations; boards, commissioners, small offices. There are pictures, and graphs that simply will not transfer well with PDF. There is also the process of training and getting into a new workflow.

John Barrettt said we need to break up these tasks today. We need to define the problem before we can move forward.

Angela Taetz said we need to know exactly what the scope is.

Dick Hemenway said we have a real opportunity to do what we want with this project.

Brenda Parrella said the statute is drafted pretty narrowly. The goal is to make it user friendly and available to the public, but a narrow reading isn't very helpful. She sees it as a broader mandate.

John Barrettt asked what does item 1 actually mean?

Chris Drake explained that the rest of the changes to the Public Act require the SOS to maintain and use the system going forward. The system must be dynamic not static. Pdf is static. They are thinking of a system where all the regulations reside, and as it goes forward we electronically update the regulations and software tracks the changes. At the core, it's making sure the system is accurate, searchable.

John Barrett said we are converting what exists to go into a system and then maintain system.

Chris Drake said yes, and the heavy lift is where they reside and how to transfer them.

John Barrett said we need to define the status of the universe.

Angela Taetz said transferring from pdf to word document is not perfect, and it must be proofread. Dick's system drops off and the new one kicks in. Duck's must be in a row. Software does it pretty well.

Chris Drake said the second piece is the Regulations Review Committee requires regulations to come in electronically. It must be able to accept a word document into the system and track changes as they are made in the system.

Denise Merrill had a question on the second requirement. What does supervise maintenance of the system mean? Is she responsible for content, or updates?

Angela Taetz said there are two parts; server and maintenance. Permissions must be given. Someone needs to administer this. BEST does not have the staff for it. There are resources, and money will be needed to do this properly.

4) Discussion on Scheduling of subsequent meetings

Chris Drake said he would like the group to meet next week. Friday morning, the 21st, at 10:00am in room 410. Budget an hour and a half for the meeting.

Agenda Items:

A) Angela Taetz Subcommittee will give a 10-15 minute presentation about the universe of options/services available. We need to provide laptop and projector.

B) Ben and April will explore other states. Brenda Parrella would like the DSS eligibility manuals included in their search. They will cover that too.

C) Looking forward: Clearer format of regulations, currently stored in two different places. OCR issues. Some regs might be completely paper.

D) Create a vision of where we want to be from a use standpoint. What features are we looking for.

5) Meeting was adjourned at 12:35pm