

HB 5175

PA 704 (Vetoed)

1971

Labor

135-138, 142-148, 152, 160, 340

House

3970-3977, 3988-3991

Senate

2816-2818

**JOINT
STANDING
COMMITTEE
HEARINGS**

**LABOR
AND
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RELATIONS**

1-347

**1971
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LABOR AND INDUSTRIAL RELATIONS

(AN ACT ESTABLISHING BINDING ARBITRATION FOR COLLECTIVE BARGAINING DISPUTES.)

Leonard Kershner:

Mr. Chairmen, my name is Leonard Kershner, Executive Vice-President of the Conn. State Labor Council, and I rise to support the principal embodied in S.B. 968 (AN ACT ESTABLISHING BINDING ARBITRATION FOR COLLECTIVE BARGAINING DISPUTES.) It is somewhat difficult to testify in support of the precise terms of the bill because of course as you read it there are no precise terms. I would point out to the committee, Mr. Chairmen, as you well know that one of the most difficult problems that the commission which was established to draft regulations and rules to regulate the collective bargaining relationship between municipalities. One of the most difficult problems they had was to provide a meaningful and effective dispute settling procedure. The commission at that time decided on a recommended factfinding that was embodied in the original and the present law, by at large its the judgement of the State Labor Council that factfinding has worked reasonably well. However there have been some exceptions which have persuaded us that there is a need to take another and a more indepth look at this entire problem on how to settle disputes.

There are some people that argue that municipal employees ought to have the right to strike, that the best way to settle disputes is on the basis of strength. The union ought to be free to strike, the board ought to be free to replace workers if they can, dispute ought to be settled in the streets. There is probably nothing terribly wrong with that notion, certainly in most cases strikes by municipal employees represent no more than an inconvenience to the public. There are just certain isolated cases, mainly in the case of police department or fire department where the public safety is involved. The Labor Council believes that all employees have a inherited God-given right to strike, there are some of us who do question the wisdom and the effectiveness of the municipal employee strikes under certain circumstances. It's quite obvious that there is a need No. 1 to improve the fact-finding procedure and Rep. Holdsworth spoke earlier on a bill that would accomplish that person. H.B. 5175 (AN ACT AMENDING THE MUNICIPAL EMPLOYEE RELATIONS ACT.) introduced by the chairmen of this committee would also in part serve that purpose of factfinding procedures, but obviously there is something needed in the event that factfinding fails. The law is new, there is a need to continue to experiment, I don't think anybody is certain now exactly where the best answer lies, we recognize that there are certain problems built into arbitration, we share the concern of many others, that if there is a provision for binding arbitration in that the parties will tend to prepare for arbitration and neglect their responsibility to bargain in good faith, however in the spirit of experiment, recognizing that there is a need in certain cases when the unions are dealing with intransigent employer and where in some cases the employer might claim that the union is intransigent and factfinding even under the improved procedures recommended to this committee

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fail to produce an agreement or seem to the Labor Council, Mr. Chairmen, that arbitration ought to be tried under these circumstances and for that reason, Mr. Chairmen on an experimental basis the labor council would support the principal of binding arbitration as a procedure to be used once and if factfinding fails, produce an agreement.

Chr. Badolato:

Thank you is there anyone else in support of this bill?

Henry Kosinski:

Mr. Chairmen my name is Henry Kosinski, Employee, City of New Britain Fire Department. Present conditions in municipal-employee relations to settle contract impasse disputes are unsatisfactory and a change is necessary because,

1. Under the Municipal Employee Relations Act, employees are prohibited from striking so that the public will not be inconvenienced.
2. This prohibition takes away from municipal employees the chief weapon labor has to seek and enforce justice.
3. The six year experience of advisory fact finding in New Britain and other cities and towns of the state, has shown that this process of itself has proven to be ineffective. The major reason for this is due to the advisory nature of fact finding, too often recommendations made have been rejected by one party or the other or both. This has resulted in too many disputed contract issues remaining unresolved or only partially resolved.

A more workable contract dispute settlement procedure is necessary. What is needed to strengthen good faith municipal contract negotiations is legislation granting compulsory arbitration as a final and binding step to completely resolve impasse issues. Its basis aim is both corrective and preventive to lessen the prevalence of conflict.

The granting of the right of compulsory binding arbitration to fire fighters and other municipal employees of Connecticut is a fundamental demand of social justice.

The logic of this proposed law is this. In the private sector the right to strike is a constitutional right underwritten by specific law. It is necessary element of labor-management relations in a democratic society. To prohibit this right would be a giant step toward despotism in which government would deny to free men the right of freely bargaining for an equitable share of the benefits of our economic system.

As a matter of law the right to strike of municipal employees has been banned. It is this denial of the right to strike which makes compulsory binding arbitration for fire fighters and other employees of the public sector a matter of basic justice. If

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the right to refuse to work, or to strike, is the last and most effective resort available to employees in private industry; and if this right is denied public employees in private industry; and if this right is denied public employees, it is obvious that some workable procedure be offered them. Otherwise, the collective bargaining of our public sector operates in a vacuum. The law in itself does not save lives, extinguish fires or provide other emergency services, this takes the knowledge, stamina and courage of the men who perform this duty.

It cannot be denied, that fire fighters and policemen have the most urgent claim to compulsory binding arbitration. Men of these safety services recognize their duty and responsibility to protect life and property. But what do you do when your up against a recalcitrant, unreasonable city employer, who has an equal duty and responsibility for the protection of the public? When contract impasses occur, these essential employees have no final and binding procedure available to them, at the present time, to peacefully resolve their legitimate requests for social and economic justice for themselves and their families. To restrain a basic right from free men, in the interest of the common good, without providing an adequate alternative infringes upon the democratic process.

Opponents of compulsory binding arbitration predicate their views on false supposition. They allege that such arbitration will be used as a substitute for negotiations. This is not true. It may be used only when negotiations reach an impasse. The fact that it is available would be a compelling factor for negotiators of both sides to bargain in good faith for a reasonable and just settlement. When issues are taken to arbitration there is no guarantee which side will win. It is also argued that municipal fiscal policy would be upset, if arbitration took place after budget allocations have been made for a fiscal year. However, the parties are in control of this possibility, the simple and sensible answer is for them to schedule negotiation sessions and the contingency of arbitration far in advance of the deadline for budget adoption. Some opponents claim that compulsory binding arbitration is an interference with local government. In reality, it is an effective safety valve and alternative to overcome situations where political expediency at times obscures the real issues and needs of employees. Finally, in answer to legalistic arguments over the powers of the State Government to make lawful compulsory binding arbitration, any one who proclaims that the General Assembly does not have the power to regulate its cities and towns is not stating the law. Such a position repudiates the express and repeated ruling of the United States Supreme Court. There is no question of this power.

As we continue to make social and economic progress in the state and nation, we must also keep pace with the changes taking place in the field of public employee collective bargaining. We must provide machinery for the final disposition of contract disputes. The public will justifiably continue to look to firefighters and

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policemen as guardians of their security. In return, the public must give to these men conditions of employment, salaries and other benefits equal to their responsibilities. If for any reason, there is a breakdown of the collective bargaining process and contract impasses occur, then employees charged with the safety of the public must have the right to have their contract disputes finally settled, in a peaceful manner, by the objective procedures of compulsory binding arbitration.

I respectfully request a favorable report, of the committee, for legislation granting compulsory binding arbitration of contract disputes to municipal employees, with a recommendation to the General Assembly for adoption as soon as possible at this session, effective upon passage.

Walter O'Connor:

Mr. Chairmen, Walter O'Connor President Uniform Fire Fighters of the State of Connecticut. We would like to go on record in favor of S.B. 96^R (AN ACT ESTABLISHING BINDING ARBITRATION FOR COLLECTIVE BARGAINING DISPUTES.) Thank You.

Chr. Badolato:

Is there anyone else to speak in favor?

Everett W. Shaw:

Everett W. Shaw, President and Director of the Connecticut Council Police Unions # 15 AFL-CIO representing some 2,500 unionized policemen. Since the bill comes to as a pig in a poke, at least the copy I have describes nothing at all, I would go on record as saying this: No objection for binding arbitration, providing there's an open door there for those who wish to use it and those who do not, as there will be many who do not wish to use binding arbitration and speaking for my own group, we would not want to be thrust into it if we did not elect to use that course of action so it should be a voluntary use.

Chr. Badolato:

Thank you.

Mayor Joe Carini:

Mr. Chairmen, Mayor Joe Carini from the Town of Wallingford representing the Conference of Mayors. Mr. Chairmen with your indulgence I see this here with respect to striking and other matters, with your kind indulgence I would like to make my brief presentation.

Chr. Badolato:

If it's on this particular bill, we will be happy to hear you, but if its on anyother bill, I think you will have to wait until the bill comes up. I state this for a specific reason, I don't know if you were in the Hall of the House when I announced that I met with people from both sides of the issue and the feeling was that if we open it up to a general subject discussion it would be too cumbersome on those people that had to carry the ball, so to speak, on all 29 bills at one time. The feeling was that we would then hear the bills individually as they come.

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that you conduct yourself in a manner that will allow you to enter in the record when the bill is being heard.

Clarence Heimann:
Thank You.

Chr. Badolato:

Is there anyone else in opposition to this bill? Then we will move on to H.B. 5175 (AN ACT AMENDING THE MUNICIPAL EMPLOYEE RELATIONS ACT.) Anyone in favor?

Leonard Kershner, Mr. Chairmen, my name is Leonard Kershner, Executive Vice President, Conn. State Labor Council. I rise to speak in support of H.B. 5175 (AN ACT AMENDING THE MUNICIPAL EMPLOYEE RELATIONS ACT) I was somewhat disappointed and disturbed to find this degree of acramony between the representatives of the Conn. Conference of Mayors and the decision made by the chair on the Labor Committee with respect to the manner in which the hearing would be conducted because this did represent agreement between employers and the employer representatives to how this hearing could most effectively move forward in and all the parties could have a reasonable opportunity to be heard. We didn't seem to have quite that much acramony and we were preparing the terms and the provisions of H.B. 5175 in the 1969 legislature, because most of the provisions with the exception of perhaps one section of H.B. 5175 was embodied in a bill that was heard by the 1969 General Assembly, was approved by the house and failed in the Senate by a few votes. Again, Mr. Chairmen most of the provisions of this bill represented an agreement between the Representative of the Conn. Conference and their representatives of organized labor. Very briefly, I would discuss the details the bill, Mr. Chairmen, for the benefit of the committee as members of the committee know one of the basic purposes of the municipal employees relation act is to protect employees from interference by the employer in connection in regard to forming and joining unions. From the onset such an appearance has been considered as prohibited labor practice. However during the first several years experience under the law we discovered that quite often when a petition was filed by a legitimate union for recognition, certain employers would respond to this petition by organizing a company union of its own. While this interference, in fact representing in fact and constitute a violation of the law was quite often difficult approved.

For this reason in 1967 the statute was amended to require that an employer organization be in operation or existance for six months prior to petition, or participating in a recognition election. This worked fine in the cases where there was a petition, Mr. Chairmen but as the members of the committee, I'm sure know, it did not deal affectively with the cases where the

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Leonard Kerstner:

employer became aware of organizing drive by a legitimate union for the union was ready to petition, the employer voluntarily recognized a company union which the employer had established. Section I of this bill, H.B. 5175 which would close off this loophole by requiring that employer organizations would have to meet the same standards in order he see voluntary recognition as they are presently required to meet in order to petition for or to participate in a recognition election. I would further point out Mr. Chairmen that the present provision in the law which requires an employee organization be in existence for six months has not thus far prevented any legitimate employee organization from gaining recognition. Section 2 of the law would make it a prohibited practice for an employer to refuse to comply with the grievance settlement or arbitration award, unless he could prove the presence of one or more of the conditions which would be the basis for correcting or vacating an arbitration award under the General Statutes.

Of course Mr. Chairmen, I don't think there ought to be any question about it, grievance settlement should be complied with otherwise the grievance procedure is severely injured and the procedure itself made anility. The notion of classifying refusal to comply with grievance settlements as a prohibited labor practice in our judgement makes a great deal of sense. Further to permit refusal to comply with arbitration awards, Mr. Chairmen Also should be classified as a prohibited labor practice. At the present time we have experienced on repeated occasions cases where employers have lost an arbitration decision. The dispute involved a very small amount of money. The employer with his vast resources particularly with his respect to his ability to retain legal council and pay for legal council has gone to court to have the arbitrators award vacated. Quite often the amount of money involved and the benefits to the employees was so slight it provided for in the arbitration award that the union has lost these awards and the benefits of these awards by default and the principle purpose, Mr. Chairmen of providing that the refusal to comply with a arbitration award be classified as approved by the labor practice, would permit the union and the employer to have a dispute concerning of vacating or correcting an arbitration award, to have that dispute settled by the State Labor relation board where the cost are less expensive and the union would therefore be able to operate more affectively.

Section #3 of the Act grants to the employers exactly the same right as provided for employees with respect to going to the labor board to require compliance with a grievance settlement or an arbitration award. We are perfectly willing to have the same rules applied to us as we are suggesting be applied to the employers. They perhaps don't have the same need for this protection as we do, there resources, as I pointed out earlier are substantially greater. Section # 4 is procedural and technical change which would make it clear that the Labor Board in these

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kind of cases would have exclusive jurisdiction, provided the complaint is filed within six months of the date in which the grievance settlement was made or the arbitration award granted.

Section #5 of the law would impose limits on the self-determination election procedures, that the Labor Relations Board has imposed. The original intent of the law, as we understand it was to limit the self-determination elections to professional employees. The board has in its wisdom and judgement extended this policy to just about every kind of bargaining unit and municipal employment and as a result has in many municipalities created so many separate bargaining units that it has made shambles of municipal bargaining in those cities. It would seem to us Mr. Chairmen, that the, if carried to its logical conclusion in other municipalities, where self-determinational elections were permitted to carve out one bargaining unit after another. The same thing would happen to municipal bargaining in those cities as well and we therefore in order to carry out and meet the original purposes of this section of the law, suggest that the law be meant to make it crystal clear that self-determination of elections with respect to carving out units be limited to professional employees.

Section #6 provides for improvements in the factfinding procedure is essentially designed to meet the same purpose as Rep. Holdsworth bill and we strongly commend it to your committee. It is very obvious that there is a need to improve factfinding procedures.

Section #7 would require the State to pay the cost of factfinding except where one of the parties is ordered by the Labor Relations Board to pay the cost of same because of the refusal to bargain. We think that again this will make factfinding more effective. There are a number of very small municipal employee unions that just can't afford the cost of factfinding and therefore denied the benefits and protection of their procedure. I'm aware of a recent factfinding decision and case where a bargaining unit of about thirty employees had a, had to pay a fee in the neighborhood of several thousand dollars and this obviously doesn't make sense and it works toward and has an affect of depriving factfinding procedures to many municipal unions.

Section #8 would permit bargaining on promotional procedures. We think this makes a great deal of sense. This is perhaps the most misunderstood provision of the entire law, there is certain municipal unions that would like to be able to bargain collectively on promotional procedures in order to strengthen merit systems, there are others that would like to be permitted to bargain collectively on promotional procedures and in order to determine promotions on a basis of seniority or some other procedures. We have a number of contracts in Connecticut, Mr. Chairmen, which do provide for promotional procedures, both the employer and the union recognize that there is a

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valid and legitimate need for these kind of procedures and the best and most affective way to deal with this question is to with the collective bargaining contract. In other municipalities and Fairfield for example, both the employer and the union agree that the promotional procedures which are now provided for by charter are improper that they ought to be changed. On at least three separate occasions we've agreed to such a change because of the technicality involved, we've had to submit these proposed changes to the voters, as part of a referrendum under the home rule provisions under the general statute. Although these procedures change and improve promotion procedures have been agreed to and accepted by the employer and the union, by the Charter Revision Commission and on three separate occasions and by the legislative body of the municipality on three separate occasions, it was always embodied and made a part of an overall municipal or charter change and unfortunately that overall municipal charter change was rejected by the voters and with it our agreement.

It makes a great deal more sense to permit these matters to be determined by bargaining and we therefore would suggest that this provision of H.B. 5175 Section 8 be approved by your committee.

Section #9 of the bill will prohibit an employer from deducting dues for an organization in which meets the definition of an employer organization under Section 7-467 of the Statutes, but which is not the exclusive representative of employees of an appropriate unit. Mr. Chairmen, I very respectfull submit that this is an excellent bill, a great deal of time and attention has gone into the drafting and preparing of this bill, with the exception, I believe of Section 8 of this bill, it represents agreement between the employers and municipal employers and the union and we strongly commend it to you.
Thank You

Chr. Badolato:

Thank you, is there anyother testimony in favor of H.B. 5175?

Larry Maciolek:

Mr. Chairmen, Larry Maciolek, Deputy Executive Director of Connecticut Municipal Employees Council #4 AFL-CIO. Briefly we concur with remarks of Mr. Kershner on this bill and urge your serious consideration of a favorable passage. Thank You.

Barbara Jeffers:

I'm Barbara Jeffers of the Connecticut Association of educational secretaries. I am in favor of this Bill H.B. 5175(AN ACT AMENDING THE MUNICIPAL EMPLOYEE RELATIONS ACT.) We basically have a good law now but we do need, its been pointed out to you, some revisions in these areas, particularly in the factfinding provision and in No. 8 to make it crystal clear that we can devote the negotiate a promotional policy. I won't belabor you with any further references to the provisions in our support of them, other then to say that we are in favor of the bill. Thank You

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Chr. Badolato:

Thank you, Anyone else in favor of H.B. 5175 ? Any opposed?

Robert Crouse:

Mr. Chairmen, members of the committee, I'm Robert Crouse, speaking in behalf of Hartford City Manager and the Conn. Town City Managers Association. We feel that in general this bill deals with a number of matters that have not been significant problems in collective bargaining and contains amendments which in some cases would do more harm than good. This is particularly true with respect to Section 8 on merit system provisions and I would like to limit my comments to this because I think this is probably the most significant part of the bill. The provision on merit system would exclude initial appointments from collective bargaining but not promotions. This is a bad provision, it is contract to all expert opinion, including the 1967 report of the National Governors Conference, 1968 report of the National Advisory Committee on merit system standards and the 1969 report of the National Advisory Committee on inter-governmental relations and the 1970 report of the U.S. office of State merit system. This type of a provision will adversely affect the ability of local government to perform its essential services in a period of municipal crisis and would tend to limit the promotional opportunities of recent minority group employees who have been generally the most recent hired and therefore the least seniority in terms of promotion. This type of a provision would jeopardize federal grants to present Civil Defense and Health programs which require Connecticut Municipalities to comply with Federal Merit Systems standards. It would also jeopardize assistance now provided under the inter-governmental cooperation act plus the Federal grants that we may expect under the inter-governmental personnel act, that was signed by the President on January 5, 1971.

We think that this provision can do no good and may do and it probably will do some very significant damage. Thank You.

Chr. Badolato:

Thank you, anyone else in opposition to H.B. 5175?

Philip R. Lincoln:

Mr. Chairmen, I'm Philip R. Lincoln, Chief of Police in Newington Connecticut, Legislative Chairman for the Conn. Association of Chief's of Police. The Beard is part of a centennial, by the way. We couldn't lick them, I had to join them. In regards to Section 1, I'm not entirely certain, I may not be instances where this will do more harm than good. I can speak of my own, when that my own employees decided to join the AFL-CIO they did it within about two or three months of the time that we went to bargaining and this provision in Section 1 would of precluded there being recognized as a bargaining agent at a crucial time, it may be that you want to look at the wording of that Section #1 and see

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whether or not affiliation with a national or state organization might not be an exemption to your six months period. We also oppose Section 8 for a number of reasons, primarily we object to the intrusion of Collective Bargaining into the promotional procedure. The other one I would like to mention is that there is no agreement among my particular union members as to exactly what way they should be promoted because I think it depends upon how the chances are best for them themselves and I think we're empassing a pandora's box of troubles into the union local itself. Thank You.

Chr. Badolato:

Is there anyone else to speak in opposition?

John Gasbit:

Mr. Chairmen, my name is John Gasbit, I'm the agent for the Connecticut State Board of Labor Relations. I was asked by the board to address you people today in one very narrow area, we are not actually opposing the bill but the board has very strong reservations with respect to Section 5 the question of the self-determination of units as Mr. Kershner has pointed out. The board would have been here, except they are sitting today in a hearing in West Haven, a matter that was adjourned from February 18 and set long before we were given notice that this hearing was going on today. It would have created a hardship on all of the parties that, to have the board put that matter over. The board asks your permission to file with you a memorandum and express their views in this particular area. As I stated, not in opposition, only reservation addressed specifically to that section 5, may we have that permission please? And may we be extended the courtesy, as well, I've had one invitation from somebody else, that is from management side for copies of that. Is it permissible for us to distribute a copy of that to other interested parties, or would you rather confine it to the committee?

Chr. Badolato:

Certainly, you can distribute them.

John Gasbit:

Thank you very much.

Chr. Badolato:

Is there anyone else in opposition? Then we will move on to H.B. 6044 (AN ACT CONCERNING AMENDMENTS TO COLLECTIVE BARGAINING PROCEDURES IN MUNICIPAL EMPLOYMENT) Those in favor?

Robert Crouse:

Mr. Chairmen, I'm Robert Crouse, speaking on behalf of the Hartford City Manager and the Connecticut Town and City Managers Association. We support this bill because we feel that it will correct certain problems that have arisen in the bargaining process. We think perhaps most significant is the provision to minimize fragmentation of bargaining which has been a severe problem in some of the municipalities. Thank You.

Chr. Badolato: Is there anyone else in favor?

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Chr. Badaloto:

Is there anyone in opposition?

Leonard Kershner:

Mr. Chairmen, Leonard Kershner, Executive Vice-President of the Conn. State Labor Council. I rise to oppose H.B. 6044 (AN ACT CONCERNING AMENDMENTS TO COLLECTIVE BARGAINING PROCEDURES IN MUNICIPAL EMPLOYMENT.) I'm always somewhat amused by the comments when efforts are made to deal with, we consider to be very legitimate problems with the law that the law is working fine, we ought not to disturb it and then we discover that there is now support for a bill dealing with a number of issues over which and above which I have never heard one bit of trouble. For example I have never heard anybody complaining about the difficulty of defining the legislative body since the act was adopted in 1965, itsmy best guess that perhaps a thousand collective bargaining agreements have been negotiated in Connecticut, I don't think that anybody has had any difficulty in defining the legislative body to suggest a change here can only create problems and obviously cannot solve any. I Think this is an extremely bad bill, its probably the worst bill here. We share the concern of the municipal employer with respect to the fragmentation of the bargaining units, I would appreciate respectively submit to you that H.B. 5175 (AN ACT AMENDING THE MUNICIPAL EMPLOYEE RELATIONS ACT.) does more to solve that problem in a very meaningful way. I think the best way to demonstrate concern about the fragmentation of bargaining units is to lend support to the bill introduced by the chairmen himself. This is a bad bill Mr. Chairmen, and I would urge that it be rejected.

Chr. Badaloto:

Is there anyone else in opposition?

Walter O'Connor:

Walter O'Connor, President Uniform Firefighters Association of Connecticut and we oppose this bill very strongly. Thank you Mr. Chairmen.

Chr. Badaloto:

Anyone else?

Everett Shaw:

Everett Shaw, Connecticut Council of Police Units. I believe our views on the bill have been pretty-well covered by Hank. However we would add one thought. That business of putting the various bargaining units together would just bring havoc and Kaos particularly as it relates to the police. As a result of different views on priviliges at the bargaining table, polarization between fire and police unit is here and the only thing that anyone could ever expect is such a gathering or grouping of our groups would be a great deal of confusiontrouble and difficulty. That would be one of the most important points in that bill that we would stress to you and urge that you consider very very carefully. It would work to no-one's good but to a great deal of harm. Thank you.

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Sen. Smith:

Thank you, anyother persons in opposition? Anyother persons in opposition?

Barbara Jeffers:

Barbara Jeffers, Connecticut Association of Educational Secretaries . Again, we are opposed to this bill, I said in my previous remarks to the preceeding bill. Do we have to go back through all these growing pains, as these gentlemen have said, almost incredible thing, you talk to people who are knowledgeable and experienced on both sides of the table in the private sector, and its hard for them to believe that we are even considering this type of thing. We are strongly opposed.

Sen. Smith:

Is there any other persons opposed to H.B. 6105?

Larry Kachola:

Mr. Chairmen, members of the committee, Larry Kachola, Executive Deputy Director, Connecticut Municipal Employees Council #4. We say Amen to all the opposition to this ridiculuos bill.

Everett W. Shaw:

Everett W. Shaw, Conn. Council of Police Unions. We want to register in opposition to this bill.

Sen. Smith:

Any further opposition? Hearing none, we'll move on to H.B. 6376 (AN ACT CONCERNING REPORTS OF FACT FINDERS IN MUNICIPAL COLLECTIVE BARGAINING DISPUTES.) Are there any persons in favor of 6376?

Leonard Kershner:

Mr. Chairmen, Leonard Kershner, Executive Vice-President Connecticut State Labor Council. We would like to be recorded in favor of H.B. 6376 (AN ACT CONCERNING REPORTS OF FACT FINDERS IN MUNICIPAL COLLECTIVE BARGAINING DISPUTES.) The provisions of this bill are essentially similiar to one of the provisions of H.B. 5175(AN ACT AMENDING THE MUNICIPAL EMPLOYEE RELATIONS ACT). Its designed to improve the fact finding procedures provided for in the statutes. We think it makes a great deal of sense and we commend it to you.

Peter Vernan:

Peter Vernan, President of Bridgeport Local 59. We'd like to echo what Hank has just said in support of the collective bargaining, the factfinders report municipal collective bargaining disputes and H.B. 6376AN ACT CONCERNING REPORTS OF FACT FINDERS IN MUNICIPAL COLLECTIVE BARGAINING DISPUTES.) we are in favor of it.

Robert Crouse:

Mr. Chairmen, members of the committee, I am Robert Crouse, speaking for the Hartford City Manager and the Connecticut

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Sen. Smith:

Any further opposition? Hearing none we will go on to H.B. 6780 (AN ACT CONCERNING PROHIBITED ACTS OF MUNICIPAL EMPLOYEE ORGANIZATIONS) Those in favor? Those opposed to H.B. 6780? We'll pass on this bill. We'll move on to H.B. 6783 (AN ACT CONCERNING RESTRICTIONS ON RECOGNITION FOR MUNICIPAL EMPLOYEE ORGANIZATIONS.)

Robert Crouse:

Robert Crouse, representing the Hartford City Manager and the Connecticut Town Managers Association. This bill would repeal the section of the law which now requires an employee organization to be in existence six months or more in order to petition for recognition.

We think that this bill is an infringement on the rights of the employees to select their own representatives and feel that it would be wise to repeal it. We therefore support this bill.

Sen. Smith:

Are there anymore persons in favor of H.B. 6783 (AN ACT CONCERNING RESTRICTIONS ON RECOGNITION FOR MUNICIPAL EMPLOYEE ORGANIZATIONS.) Is there any opposition?

Leonard Kershner:

Mr. Chairmen, Leonard Kershner, Executive Vice-President, State Labor Council. I rise to oppose H.B. 6783. This bill would repeal that provision in the law which now prevents the employer from responding to a petition for recognition from a legitimate union by introducing in the establishment of a company union organized and established by the employer himself. We had some very bitter experiences with this problem during the first two years of the law. In 1967, the legislature in its wisdom added this provision to the statute did require that an employer organization be in existence six months before it could petition or participate in the recognition election. It's worked very well, Mr. Chairmen, I don't know of one single legitimate employee organization that's been denied a place on the ballot or an opportunity to represent employees because of this provision. Its worked, precisely the manner that its sponsors intended and hope that it would. It's been an excellent provision the statute, it ought to remain in the law and in fact as we commented a discussion of H.B. 5175 (AN ACT AMENDING THE MUNICIPAL EMPLOYEE RELATIONS ACT.) it in fact ought to be strengthened.

Sen. Smith:

Thank you Mr. Kershner. Is there any further opposition? Hearing none, we will go on to H.B. 6785 (AN ACT CONCERNING ELECTION OF MUNICIPAL EMPLOYEE ORGANIZATIONS) Those in favor?

Robert Crouse:

Mr. Chairmen, I'm Robert Crouse, representing the Hartford City Manager and the Connecticut Town Manager's Association. This

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HALL OF THE HOUSE
TUESDAY - 10:00 A.M.

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- B. Jeffers: table. We must have some vehicle to come to a final resolution of the problem. If not binding arbitration, then perhaps the right to strike. We agree here as we do with H. B. 8234 (Rep. Hill of the 67th, Rep. Martin of the 68th) AN ACT CONCERNING MUNICIPAL EMPLOYEES, on the promotional procedures as a process of collective bargaining. We should, if we have an effective negotiations with effective negotiators, be able to work out a better procedure. Furthermore and more importantly, this is a right that we should have under collective bargaining. Thank you, Mr. Chairman.
- Chr. Badolato: Thank you. Is there anyone else? Anyone in opposition?
- R. Fedorowicz: Mr. Chairman. My name is Ronald Fedorowicz. I am the Assistant Personnel Director for the City of Hartford. I am speaking on behalf of Mr. Freedman in his capacity as City Manager and Chairman of the Legislative Committee for the Connecticut Town and City Managers Association. As we view this bill, it seems to be largely a mixture of the provisions of H. B. 8739 and also H. B. 5175. The comments contained in the analysis of these two bills are pertinent to similar provisions in this bill. A new major provision in this bill is the removal of the prohibition against strikes except for policemen and firemen. In this case, although strike prohibitions have not been fully effective, the elimination of all prohibitions would remove the last vestiges of restraint that encourage strike participation. The end result of the adoption of this bill would be the destruction of both municipal and collective bargaining and also self-government. I also have a statement that I will submit to the Committee from Stephen Novak, Personnel Director from West Hartford, which parallels our views.
- Chr. Badolato: Thank you. Is there anyone else in opposition? If not, we will move on then to H. B. 8881 (Rep. Camp of the 163rd) AN ACT CONCERNING A LEGAL DAY'S WORK. Those in favor. Anyone in opposition? Then, we will move on to H. B. 8976 (Rep. Badolato of the 30th) AN ACT CONCERNING HOURS OF LABOR IN MANUFACTURING OR MECHANICAL ESTABLISHMENTS AND PROHIBITING CERTAIN HAZARDOUS EMPLOYMENT. Anyone in favor?
- J. Bober: Mr. Chairman, just briefly. I spoke in support of a bill similar to this but would allow for 54 hours, I believe, in one week. If we take it down to our position of 9 hours in one day or 48 hours in one calendar week, we urge favorable consideration of this bill.
- Chr. Badolato: Anyone else in favor? Is there anyone in opposition?
- L. Lemaire: Leon Lemaire, Connecticut Business and Industry Association.

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Gentleman from the 118th direct the Clerk's attention to the calendar item he wishes called first.

REPRESENTATIVE GILLIES:

Page 7, Calendar 1041, Substitute for House Bill 5175, if that matter could be taken up at this time.

MR. SPEAKER:

Clerk please call that item.

CLERK:

Page 7, Calendar 1041, Substitute for House Bill 5175 - An Act Amending the Municipal Employee Relations Act.

MR. SPEAKER:

Gentleman from the 30th.

REPRESENTATIVE BADOLATO:

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

MR. SPEAKER:

Would you remark.

REPRESENTATIVE BADOLATO:

There are several changes made in this act. In section 1 it clarifies the question of when an employee organization can get recognition and it requires that the organization that seeks recognition must be in existence for a period of 6 months or more. In the present law we are extending this to the chief executive officer and requiring him prior to giving recognition to assure the organization has been in existence for 6 months or more. In Section 2, we are providing a means for the employer to seek

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relief from the State Labor Relations Board in the event an employee organization refuses to comply with an agreement to a settlement of grievance or an arbitration award which is as a result of pursuing a grievance with a grievance procedure. The section also provides a protection for the employer to seek relief in the courts that the Labor Relations Board goes beyond authority. Section 3 provides the same conditions for the employee organizations as I outlined for section 2. Section 4 is a technical change in the law required if Section 2 and 3 are adopted. Section 5 is a new innovation in the law, under the present law a fact finder is required to make a report to both the employee organization and the employer. This section also provides that if neither party rejects the fact finder's recommendations within 20 days, the report then is considered accepted by both parties. Section 6 is a technical change required because of Section 5. Section 7 is a technical change which is required for housing authorities. Housing authorities do not have the authority to arrive at an agreement of wages. Section 8 deals with dues deductions. The only organization that would receive payroll deductions would be an organization that had exclusive recognition. These are the changes that are being made.

MR. SPEAKER:

Representative Sarasin.

REPRESENTATIVE SARASIN:

I yield to the Minority Leader, MR. Speaker.

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REPRESENTATIVE COLLINS:

A question to the Chairman from the 30th. Does he propose on offering an amendment or are we going to have to fight this all the way down the line.

REPRESENTATIVE BADOLATO:

I'm sorry, I did explain the bill, but there is an amendment.

MR. SPEAKER:

The Clerk will call House Amendment Schedule A.

CLERK:

House A, offered by Mr. Badolato of the 30th.

REPRESENTATIVE BADOLATO:

I could explain it.

MR. SPEAKER:

The gentleman will outline the amendment.

REPRESENTATIVE BADOLATO:

In Section 5, there is some language that could raise some problems and possibly misinterpret. Under the present law where there is a town meeting form of government, the selectmen are given the authority to approve an agreement between the parties. Housing authorities and special districts and certain school boards that are not under the jurisdiction of the chief executive officer also have this authority. In line 137 from that point on there is some question about whether the authority is being given to the negotiator in those cases. IT was never the intention of the committee to grant this authority to the negotiator. What this amendment does is clarifies and places the

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authority back in the hands of the board of selectmen where it is under the present law.

MR. SPEAKER:

Gentleman from the 165th.

REPRESENTATIVE COLLINS:

By way of clarification, I would pose a few questions to the Chairman. To my understanding, that the fact finder's report as submitted to the legislative body as such, would there be a period under this Section 5 as proposed, there would be a period of 20 days in which the legislative body would have a period of 20 days in which they could reject this report.

MR. SPEAKER:

Gentleman from the 30th care to respond.

REPRESENTATIVE BADOLATO:

They would have 20 days from the date of the last meeting.

REPRESENTATIVE COLLINS:

After this 20 day period, if the legislative body or board of selectmen, took no action, the fact finder's report would become the agreement.

REPRESENTATIVE BADOLATO:

There is a provision under the present law that handles this and is applied here also.

MR. SPEAKER:

Representative Sarasin.

REPRESENTATIVE SARASIN:

Through you, a question to Representative Badolato. The

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reference is in the areas of line 124, 5, and 6. Where the fact-finder must appear before the legislative body and then the amendment which indicates that in those towns where the legislative body would be a town meeting, the board of selectmen would have the power to accept or reject. Is it the intention of this bill to require the fact finder in those towns to appear before the board of selectmen. Does the language really express it that way?

REPRESENTATIVE BADOLATO:

It was not the intention to require the fact finder to appear before a town meeting. Under the present law the selectmen in that form of government have full authority without having to go back to a town meeting for approval.

MR. SPEAKER:

Representative King.

REPRESENTATIVE KING:

Under the amendment as proposed, is it necessary in a town with the town meeting form of government for the contract to be submitted to the legislative body for approval or rejection.

REPRESENTATIVE BADOLATO:

Under the present law the requirement is in that type of government, the requirement is that it be submitted to the selectmen only. We are continuing that practice.

MR. SPEAKER:

Representative Camp.

REPRESENTATIVE CAMP:

Through you, a question. At the present law, if the selectmen

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adopted contract, it is then the obligation of the town meeting to appropriate the money, is that correct.

REPRESENTATIVE BADOLATO:

It would be (inaudible) on the budget making authority, if the town meeting is the budget making authority, then the answer is yes, if it is not, then it would be no.

REPRESENTATIVE CAMP:

As I recall, I had thought the change we made was to take the power away from the Board of Finance. But you say that we also took the power away from the town meeting.

REPRESENTATIVE BADOLATO:

I can't answer the question on a specific town, because I don't whether that town provides for the town meeting to be the budget making authority, but under the present law, a selectman has the authority to bind the community to an agreement and whoever the budget making authority is then required to provide the funds necessary. There is no change in this section.

MR. SPEAKER:

Representative King.

REPRESENTATIVE KING:

Through you, on Section 5, the answer previously given was satisfactory as to the fact that no changes are being made with respect to board of selectmen approval. However, the further question, in almost any town, whether the legislative body is the budget making authority or not, once the contract reaches a certain amount, it is necessary to submit that contract for

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approval to the legislative body or in a situation we are talking about, to the town meeting. I assume the selectmen who may have approved the contract which was above the amount that they could approve or the Board of Finance could approve without town meeting, that contract would have to be submitted to the legislative body for approval. What are the consequences as far as the entire sum of changes which you have made in this legislation. What would be the consequences of the rejection of the legislative body of a contract that the board of selectmen may have previously approved.

REPRESENTATIVE BADOLATO:

There is no chance in the present law in that type of a situation. The present law does not require the selectmen to seek approval of a town meeting to bind any agreement. The present law gives that authority to selectmen and the town is bound to comply with that agreement. No change is being made in that provision.

MR. SPEAKER:

Representative Hogan.

REPRESENTATIVE HOGAN:

The selectmen have absolutely no authority to do anything that would allow him to spend money that hasn't been approved by the Board of Finance and the Board of Finance can't spend any money that hasn't been approved by the town meeting in the amount of excess of \$2,000.00.

MR. SPEAKER:

Further remarks on the amendment. If not, the question is on adoption of House Amendment Schedule A. All those in favor indicate by saying Aye. Opposed. The Chair is in doubt.

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Gentleman from the 75th. ad

REPRESENTATIVE GILLIES:

I move that when the vote be taken, it be taken by roll call.

MR. SPEAKER:

Question is on a roll call. All those in favor indicate by saying Aye. A roll call will be ordered.

Clerk has business to read in.

CLERK:

Committee reports. A change of reference, favorable from the Joint Standing Committee on Environment, House Bill 9254 - An Act Creating a Department of Environmental Protection. Report of the committee, the bill ought to pass and be referred to the Joint Standing Committee on Appropriations.

MR. SPEAKER:

So ordered.

CLERK:

Further committee reports. A favorable from Liquor. Substitute for House Bill 7804 - An Act Concerning Sales Authorized under Package Store Permits.

MR. SPEAKER:

Tabled for the calendar and printing.

CLERK:

Favorable from General Law, House Bill 9253 - (inaudible)

MR. SPEAKER:

Tabled for the calendar and printing.

There is an attempt to clear up a question on the amendment,

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don't think anyone can say what is permanent and what is not permanent and I think we are merely substituting an equally undefinable term.

MR. SPEAKER:

Gentleman from the 118th.

REPRESENTATIVE AJELLO:

I have had quite a number of people speak to me about the difficulty in following this and I think all of us are in need of a little bit more in the way of explanation in order to avoid possibly doing something in confusion that we don't really intend. I would suggest respectfully that this be withdrawn from our consideration and passed retaining and perhaps develop some more materials.

MR. SPEAKER:

I agree in point with the gentleman from the 118th and I would also ask the Clerk's office to provide every member with a copy of any amendments which will be proposed on this so that copies are in front of them when they take action. This item will be retained. Gentleman from the 30th been able to resolve the question which we had a roll call ordered earlier. 5175

REPRESENTATIVE BADOLATO:

I believe we have. I'd like to address myself to it.

MR. SPEAKER:

Again, calling the members attention to page 7 on which the original roll call has been called in the Amendment Schedule A, Calendar 1041. Amendment A has been offered and discussed and a

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roll call ordered. At which time questions were raised, the gentleman from the 30th will attempt to resolve.

REPRESENTATIVE BADOLATO:

For the benefit of the people who had some questions about the selectmen and town meeting form of government, I refer them to Section 7-474 (B) of the General Statutes. The amendment as I have submitted it and the bill as it is in the calendar, as amended, would not change this in any way and I hope that that would clarify some of the questions that were being asked.

MR. SPEAKER:

Gentleman from the 95th.

REPRESENTATIVE SARASIN:

I rise to support the amendment and to point out to the members of the House, I think we have resolved the confusion that existed at the time. The amendment does in fact, not change existing law but it extends the operation of the fact finder's report in the same manner that the present law applies it. We are not doing violence to the town meetings that has not already been done several years ago. The purpose of the amendment was to relieve the ambiguity of the word negotiator in line 140 of Section 5 of file 1150. I fully support the gentleman's amendment.

MR. SPEAKER:

Representative King.

REPRESENTATIVE KING:

I would like to join with Mr. Sarasin in his remarks. I think Badolato's statement of the present law and what this

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amendment does with respect to it was absolutely correct.

MR. SPEAKER:

Gentleman from the 30th.

REPRESENTATIVE BADOLATO:

As a result of the comments made, I feel that it would be proper to withdraw the call for a roll call and I would try their minds without a roll call, if it is okay.

MR. SPEAKER:

The gentleman has moved to withdraw the roll call on Amendment Schedule A. Will you remark further on Amendment Schedule A. A roll call having been withdrawn. Further remarks on House Amendment Schedule A. If not, all those in favor indicate in favor by saying Aye. Opposed. A is adopted and ruled technical. Will you remark on the bill as amended. Gentleman from the 165th.

REPRESENTATIVE COLLINS:

I have 1 question under Section 8 when Representative Badolato was outlining the bill originally. He indicated that the new language starting with line 201 was already the law. He seemed to indicate that under present law you cannot have a payroll deduction if a unit is not designated as the exclusive bargaining unit. If that is the present law, why is it necessary to restate it in Section 8.

MR. SPEAKER:

Representative Badolato:

REPRESENTATIVE BADOLATO:

Under the present law, when an employee organization

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petitions, the only organization that can get recognition from an employer is an organization that has exclusive bargaining rights. If an organization has exclusive bargaining rights, an employer cannot deduct dues for any other organization, because if they did, then they would be recognizing another organization other than the one that had exclusive bargaining rights. This would be an unfair labor practice because the law charges the employer to recognize one organization only. What we are doing is putting language into the law clear so that everybody will clearly understand it.

MR. SPEAKER:

Further remarks on the bill as amended. If not, all those in favor indicate by saying Aye. Opposed. The bill is passed.

CLERK:

Page 6, the 3 matters passed temporarily.

MR. SPEAKER:

Gentleman of the 118th.

REPRESENTATIVE AJELLO:

Before I go into these matters, might I indicate for the convenience of the members certain single starred items which we hope to take up tomorrow.

Page 12 of today's calendar. Calendar 1159, House Bill 5991, file 1296. Calendar 1160, file 1298. I would like to withdraw this at this time until we have had a chance to confer with the leaders on the other side.

CLERK:

Page 6, 3 matters that were passed temporarily. Committee on

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THE CHAIR:

Will you remark further? If not, question is on passage, all those in favor signify by saying, "aye". Opposed, "nay". The bill is passed.

THE CLERK:

CAL. NO. 1029. File No. 1150. Favorable report of the joint committee on Labor and Industrial Relations. Substitute House Bill 5175. An Act Amending the Municipal Employee Relations Act.

SENATOR SMITH:

Mr. President, I move for acceptance of the joint committee's favorable report and passage of the bill. The Clerk has an amendment. I would like to waive the reading of the amendment. It was placed on all of the Senator's desks.

THE CHAIR:

There being no objection, it is so ordered. The reading is waived.

SENATOR SMITH:

I also would like to try to exxplain it. The House Amendment Schedule A, which is also in the bill, was submitted in the House to correct a technical error in the original draft, which inadvertently removed the authority of the Boards of Selectmen, School Boards or other Authorities to enter into collective bargaining contracts. This amendment restored that authority.

Now, this amendment was suggested by the Conference of Mayors, the Town and City Managers Association and is acceptable to the employee organization. Now, Senate Amendment Schedule A, which is before all of the Senators, simply in lines 131 through 153 are provisions to make clear that those provisions of the contract, which were agreed to by the negotiated prior to the submission of the fact finding report, must be submitted to the Legislative Body

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for its approval. In lines 167 is to make clear that the arbitrators decision are referred to hear are those rendered in contract negotiations. And involve only those cases where both parties have requested arbitration.

I move for adoption of the amendment.

THE CHAIR:

Question is on the adoption of the amendment. Will you remark further? If not, all those in favor of adoption signify by saying, "aye". Opposed, "nay". The amendment is adopted. Will you remark on the bill, as amended?

SENATOR SMITH:

Mr. President, section by section, section 1, in this bill clarifies the intent of the existing statute which required that employee organization to be in existence at least 6 months before it can be recognized as exclusive representative of a bargaining unit.

Section 2, 3 and 4, make it a prohibitive practice for an employee or an organization or an employer to reduce to comply with the settlement of a grievance on arbitration award rendered under section 7-472 of the statute. Section 5, provides for an improved fact finding procedure. It simply requires that the fact finding to appear before the legislative body of the municipality and the employee organization and to present his recommendation and have him explain those recommendations. It further provides that if the legislative body, and the employee organization fail to reject the fact finders recommendation, within 20 days of the last meeting, such recommendation are considered as accepted and binding on both parties.

In short, if either party rejects the recommendation of such recommendations are considered rejected.

Section 6, gives the same status to the agreement arrived at the fact-

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finding of voluntary arbitration as is presently accorded to agreements, negotiated through regular procedures. Section 7, requires in the case of housing authority, federal approval before agreement is binding. Section 8, clarifies the position in the existing law by making clear that the only union which can have payroll deductions of union dues, is one which has been established as the exclusive representative of the employees of the bargaining unit.

This bill is amended so as to be acceptable to the Conference of Mayors and the Town and City Managers Associations and the employee organizations. I move for passage of the bill.

THE CHAIR:

Question is on passage of the bill, as amended. Will you remark further? If not, all those in favor signify by saying, "aye". Opposed, "nay". The ayes have it. The bill is passed.

SENATOR SMITH:

Mr. President, I move for suspension of the rules for immediate transmittal to the House.

THE CHAIR:

There being no objection, it is so ordered.

SENATOR CALDWELL:

Mr. President, at this time, might I interrupt and go to the consent matters, to see if we can't move them out of the way, so that the Clerk's office may have an opportunity to do its work.

Starting on Page 11, I move for the acceptance of the committee's favorable reports in the following bills and their adoption: Cal. No. 1031, File 1233; Sub. House Bill 5658. CAL. No. 1034, File 1231; Sub. House Bill 6575;