

Legislative History for Connecticut Act

HB 8539 (PA567) 1975

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Transcripts from the Joint Standing Committee Public Hearing(s) and/or Senate  
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CONNECTICUT  
GEN. ASSEMBLY  
SENATE

PROCEEDINGS  
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This is a good and necessary Bill and I urge its passage. If there is no objection, I move that it be placed on the Consent Calendar.

THE CHAIR:

The Bill has been moved to the Consent Calendar. Is there objection? Hearing none, it is placed on the Consent Calendar.

THE CLERK:

Calendar No. 1210, File No. 1139, Favorable Report, Joint Standing Committee on Judiciary, Substitute for House Bill 8539, AN ACT MAKING TECHNICAL AMENDMENTS TO THE GENERAL STATUTES, as amended by House A and B.

THE CHAIR:

Senator Barry?

SENATOR BARRY: ,

Would you be kind enough to tell me what Bill that is? I was consulting with the Judiciary Counsel.

THE CLERK:

Calendar No. 1210, on page four, Technical Amendments to the General Statutes.

SENATOR BARRY:

Mr. President, this involves a good many areas of the statutes and if you'll bear with me one second, I can touch on some of them briefly but I'll move acceptance of the Committee's Report and passage of the Bill.

THE CLERK:

The Clerk also has Amendments on this, Senator.

SENATOR BARRY:

Do you have two Amendments?

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THE CLERK:

I have Senate A, from Senator Beck. It's LCO No. 9910.

THE CHAIR:

Senator Beck.

SENATOR BECK:

I move acceptance of the Amendment. This Amendment is designed to correct the action we took the other day in providing that ten per cent of the funds allocated to the Transportation Department go to Mass Transit. It makes corrections so that that Amendment is workable. I move acceptance of the Amendment.

THE CHAIR:

Are there further comments? If not, the question is on the adoption of Senate Amendment, Schedule A. All those in favor will please signify by saying aye. Those opposed nay. The ayes have it. The Amendment is adopted.

THE CLERK:

Senate Amendment B, as offered by Senator Baker. It's LCO No. 9945.

THE CHAIR:

Senator Baker.

~~THE CLERK:~~

Amendment to House Bill 8539, AN ACT MAKING TECHNICAL AMENDMENTS TO THE GENERAL STATUTES.

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SENATOR BAKER:

Mr. President, I move adoption of the Amendment. This Amendment applies to a small group - if they reach the age of fifty with ten years of service, prior to June 30th, 1980, they would be allowed to retire at the age of fifty. Mr. President, as I said, this affects a small group and I would move for its passage.

THE CHAIR:

Senator Barry.

SENATOR BARRY:

Mr. President, had the Clerk read the Amendment?

THE CHAIR:

Would you like the Amendment read?

SENATOR BARRY:

I'd like the Amendment read.

THE CHAIR:

Please read the Amendment, Mr. Clerk.

THE CLERK:

This is Senate Amendment B. After Line 2147, add a new section 77 as follows: Section 5 of Substitute House Bill 5176 of the current Session is amended by adding sub-section e as follows. e. A member who leaves State service prior to June 30, 1980 and before he is eligible for retirement, but after completing at least ten years of State service, of which at least five years shall have immediately preceded the date of his leaving State service, shall continue to be a Member and shall be eligible for a retirement income as provided in sub-

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section d of this Section but on a reduced actuarial basis as determined by the Retirement Commission provided such Member has reached his fiftieth birthday prior to June 30th, 1980. Such vested retirement income shall not be subject to divesture by subsequent employment unless the Member withdraws his retirement contribution. Renumber remaining sections accordingly.

SENATOR BARRY:

Mr. President.

THE CHAIR:

Senator Barry.

SENATOR BARRY:

I don't know what that has to do with technical Amendments to the General Statutes. It sounds pretty substantive to me. I don't know what House Bill 5176 is. I had no advanced notice of this. I would ask for, through you, Mr. President, of the distinguished Senator Baker, just exactly what this does and then I would ask the Chair for a ruling on whether or not it was germane to this Bill.

SENATOR BAKER:

Mr. President, I will withdraw the Amendment.

THE CHAIR:

The Amendment is withdrawn. Senate B is withdrawn. The question is now on the passage of the Bill, as amended by Senate A. Senator Barry.

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SENATOR BARRY:

Mr. President, I move passage of the Bill as amended by Senate Amendment, Schedule A.

THE CHAIR:

Will you remark on it further?

SENATOR BARRY:

The Amendments that are outlined in the Bill are truly technical Amendments too numerous to mention but they are not of a substantive nature and, therefore, I support the Bill and would hope that it would pass unanimously. I would ask that this not be put on the Consent Calendar but rather that, after voting, that we suspend the Rules.

THE CHAIR:

It's been moved to the Consent Calendar. All right, the request then is for a roll call vote presently.

SENATOR BARRY:

Mr. President, there is some question about Senator Beck's intentions on Senate Amendment, Schedule A. May this be passed temporarily?

THE CHAIR:

The matter is passed temporarily. The Senate will be at ease for a moment. All right. That matter, Calendar 1210, is passed temporarily. Will the Clerk proceed with the Calendar please.

THE CLERK:

This is Calendar No. 1211, File No. 1141, Favorable Report of the

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we decided to reject both House Amendment A and Senate Amendment A. This will leave the Bill in the posture that it originally was at the time it was first reported out.

THE CHAIR:

Question is on the acceptance of the Committee's Report. All those who are in favor please signify by saying aye. Those who are opposed nay. The ayes have it. The Committee's Report is accepted. The Bill has been moved.

SENATOR JULIANELLE:

To the Consent Calendar, if there is no objection.

THE CHAIR:

Moved to the Consent Calendar, without objection. It is ordered.

THE CLERK:

Continuing on, on page five, under the heading -

SENATOR LIEBERMAN:

Mr. President. I'm sorry. Before we forget, might we return on page four, to Calendar 1210? HB-8539

THE CHAIR:

May we have order in the Senate. Senator Lieberman, excuse me.

SENATOR LIEBERMAN:

Thank you, Mr. President. As Senator Beck previously had submitted and had adopted Senate Amendment A to that Bill, and at her request, I'd like to ask that that Amendment be withdrawn and that the

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Bill be placed on the Consent Calendar.

THE CHAIR:

If there is no objection, the Bill - the Amendment is withdrawn and the matter is placed on the Consent Calendar.

THE CLERK:

Continuing on, on page five, under the heading Unfavorable Reports, Calendar No. 907, File No. 928, Unfavorable Report of the Standing Committee on Finance, Substitute for Senate Bill 797, AN ACT CONCERNING PHYSICAL FITNESS CENTERS AND MASSAGE ESTABLISHMENTS.

SENATOR CICCARELLO:

Mr. President, that may-be passed retain.

THE CHAIR:

Pass retain.

THE CLERK:

Under the heading Recall, Calendar No. 633, Files No. 517 and 686, Favorable Report of the Joint Standing Committee on Government Administration and Policy, Substitute for House Bill 6174, AN ACT CONCERNING THE ACTIVITIES OF STATE CONTROLLED AGENCIES PURSUANT TO HOUSE JOINT RESOLUTION 236. This Bill was recalled. This is amended by House Amendment Schedules A and B. And the House rejected House A.

THE CHAIR:

Senator Julianelle.

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The bill as amended has passed.

efr

THE CLERK:

Calendar 1412, Substitute for H.B. 8539, an Act making technical amendments to the General Statutes.

JAMES T. HEALEY:

Mr. Speaker, I move acceptance of the Joint Committee's favorable report and passage of the bill.

MR. SPEAKER:

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

JAMES T. HEALEY:

Mr. Speaker, this is the traditional act which we always pass the tag end of the session in which we correct technical errors which crept into the law. For the most part, it deals with inadvertent omissions and with grammatical matters, changes in punctuation, and that sort of thing. It is very lengthy. I do have a summary available, and in the event that there are questions by any particular Member as to any particular section, I shall do my best to explain. I can assure the body that this has been gone through by people on both sides of the House. It has been very carefully edited by the Legislative Commissioners Office, and it is technical only. There is not one substantive change in the entire bill. Mr. Speaker, the Clerk has an amendment. I ask that he call L.C.O. No. 3555.

MR. SPEAKER:

Will the Clerk please call L.C.O. 3555, House Amendment Schedule "A".

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THE CLERK:

efr

House "A", offered by Mr. Healey, L.C.O. 3555, one and a quarter pages.

JAMES T. HEALEY:

Mr. Speaker, I ask permission to summarize, and I move adoption of the amendment.

MR. SPEAKER:

With the question on adoption, the gentleman of the 72nd asks leave of the Chamber to summarize. Is there objection? Hearing none, the gentleman from the 72nd to summarize.

JAMES T. HEALEY:

Mr. Speaker, it is relatively rare that an amendment to the Technical Amendments Act is offered on the floor. The reason that this is being offered is because it has to do with action which we took just last week after the Technical Amendments Bill had been typed and sent to the printer, and, therefore, it was impossible to include this. What happened was that last week we passed a bill defining treatment and placement of children and youth. In that we made certain changes in the jurisdiction of the Juvenile Court. We added the term "youth", and a "youth" is a person of the age of either sixteen or seventeen. We extended the jurisdiction of the Juvenile Court to youths in the area of dependent, neglected or uncared for. We made no change in the jurisdiction of the Court with respect to child...a person under sixteen with respect to delinquency. This is crystal clear in the first section of that bill, which gives definitions. However, in Section 77 of the bill, and 78, the

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gremlins crept in, and the terms "child" or "youth" were used together with respect to certain situations of delinquency, which obviously is incorrect. The amendment does nothing other than to delete in Section 77 and 78 the reference to "youth". I move acceptance of the amendment, and I remark, sir, that this has been prepared in collaboration with Mr. Stolberg, who is Chairman of the committee concerned.

MR. SPEAKER:

The question's on adoption of House "A". Will you remark further? If not, I will try your minds. All those in favor of adoption of House "A" will indicate by saying "aye". Opposed. House "A" is adopted. Will you remark further on the bill as amended?

JAMES T. HEALEY:

Mr. Speaker, I move its passage.

MR. SPEAKER:

The gentleman of the 72nd for further remarks.

IRVING STOLBERG:

Mr. Speaker, the Clerk has an amendment, L.C.O. 9923

MR. SPEAKER:

The Clerk please call L.C.O. 9923, House "B".

THE CLERK:

House Amendment Schedule "B", L.C.O. 9923, Mr. Stolberg, of the 93rd.

IRVING STOLBERG:

Mr. Speaker, I would ask leave of the body to summarize the amendment.

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MR. SPEAKER:

efr

Is there objection? Hearing none, the gentleman of the 93rd to summarize.

IRVING STOLBERG:

Mr. Speaker, this amendment has to do with the powers and duties of the Commissioner for Children and Youth Services, and it simply allows his designee to appear on his behalf in terms of hearings before the Juvenile Court to determine transference of youths in his jurisdiction to appropriate institutions. The reason this is before us now is because another bill recommitted within the last several days was substituted in the Senate and became quite cumbersome. This was the one technical aspect that was necessary to correct, and that's why this amendment is before us to the Technical Amendments Act. I move adoption of the amendment.

JAMES T. HEALEY:

Mr. Speaker, I concur that this is simply a technical amendment designed to take care of an inadvertant oversight.

MR. SPEAKER:

Will you remark further on the amendment? The question, then, is on its adoption. All those in favor will indicate by saying "aye". Opposed. House "B" is adopted. Will you remark further on the bill as amended?

ALAN H. NEVAS:

Mr. Speaker, I would ask that the Clerk call L.C.O. 9933.

THE CLERK:

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House Amendment Schedule "C", L.C.O. 9933, Mr. Stevens efr  
and Mr. Nevas. One page and one line.

ALAN H. NEVAS:

Yes. May I have permission to summarize, and I move adoption of the amendment.

MR. SPEAKER:

Is there objection to the gentleman summarizing? Hearing none, the gentleman of the 136th to summarize House "C".

ALAN H. NEVAS:

Yes. Mr. Speaker, I would be less than honest with the Members of the House if I said that this was a technical amendment to a Technical Amendment Bill. The amendment which Mr. Stevens and I are offering this afternoon is an amendment that will permit the reimposition of real estate attachments in the commencements of lawsuits where or in a section of the statute that now permits attachments where a post attachment hearing is promptly granted. The existing law, which was passed about a year ago in response to decisions of District Court here in Connecticut and the United States Supreme Court, which, in effect, threw out the old attachment and garnishment procedure, the existing law provides for attachments and garnishments without notice and without hearing upon the occurrence of various circumstances, but it also provides that subsequent to what lawyers call ex-party attachments, the defendant...the person whose property has been attached or garnished...is entitled to move immediately to dissolve or modify the attachment. That's in the law now. That is the law in Connecticut today. What we

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seek to do by this attachment is to put into that section of the statute a provision for a real estate attachment so that you could, should our amendment pass, commence a lawsuit by making a real estate attachment, as was previously done prior to 1974, but the defendant would be entitled to move immediately for a hearing to determine whether or not there was probable cause and to resolve the various other issues that he's now entitled to do under existing statute. Now, until a recent decision of the United States Supreme Court, it was generally held that this procedure would not satisfy the due process cause, but in my view, and in the view of other lawyers who have carefully read and studied so-called "Mitchell Decision", and other decisions, the Supreme Court seemed to, in my view, back away from the Fuente Decision, and the Fuente Decision was a decision which, in effect, held these procedures un-Constitutional, and in my opinion, and in the opinion of a number of other lawyers, this procedure which we are now proposing would be held Constitutional, and we are offering this amendment, Mr. Speaker, and Members of the House, because a very serious problem has developed in our Courts with respect to pre-judgment remedy applications, and the Calendars are clogged. The Judges are devoting hours and hours of time to these applications and these hearings that are unnecessary at cost and expense to the taxpayers and to the litigants who are involved, and in my view, I think that this amendment will help ease this problem and meet the Constitutional tests set forth in recent Supreme Court decisions. I urge adoption of the amendment.

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JAMES T. HEALEY:

efr

Mr. Speaker, with some reluctance, I must oppose the amendment. I oppose it on two grounds. One, I think that it is a very bad precedent for us to adopt what is truly a matter of substantive law as an amendment to the Technical Amendments Act. The Technical Amendments Act is exactly that. It is so involved and so complicated that if I were to explain it line by line we'd be here through eight o'clock tomorrow night. It is so involved and so complicated that it's something which most Members of the House just about have to accept on faith, and if we start getting off into substantive matters, we will endanger it not only in this session but in future sessions. Second, I oppose it on a substantive basis. The Committee had before it a number of proposals with respect to real estate attachments. We put counsel to work on it, and they worked day after day trying to satisfy themselves as to what clearly would be a Constitutional way out of the morass. Judge Lexton himself, who was very much aware of and very upset over the jam-up in the Courts because of these pre-judgment remedy hearings, came to me in the early part of the session and said that he felt that he'd be able to develop a brief which would demonstrate that an approach along the line which Mr. Nevas has just proposed would be Constitutional. Toward the tag end of the session he admitted to me he could not come up with such a brief. He could not substantiate it. There is of record a case of a Federal Court in Maine where a prompt hearing was permitted right after the ex-party filing of a real estate attachment, and the Federal Court ruled that that did not

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meet the requirements of due process. If we were to pass this in the House and it would go to the Senate and be knocked out there on these Constitutional grounds, we would very properly lose the Technical Amendments Bill, which would be a disaster. The matter has been given very thorough consideration and on-going consideration and will continue to be given consideration. I do not think that at the last hour in the face of this tremendous amount of study which has been given to this matter we ought to shoot from the hip and adopt something which we considered very, very seriously in Committee, hoping very strongly that we would find an answer, and bumping into a stone wall. I, therefore, ask the House to reject the amendment.

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MR. SPEAKER:

Are you prepared to vote on House "C"?

HERBERT V. CAMP, JR.:

Mr. Speaker, having been involved in this subject somewhat extensively, I understand fully the points that Mr. Healey has raised as to substance, and as a matter of fact, I, as a lawyer, would be hesitant to use the procedure that's adopted here for a sizeable case...that is, a case that involves a great deal of money. However, it would seem to me that this amendment might solve some of the lesser cases, which are the ones that are clogging up our Courts I think extremely badly. I think for that reason that we could take the Constitutional risk, if any involved, and frankly in view of the case of North Georgia Fishing, Inc. that I think possibly we have resolved the question on the side of the okay of a post judgement attachment

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procedure...or rather, hearing...although I am by no...I take efr  
that back...post attachment hearing...thank you...although I am  
no means certain. I think the bill might help us, and for that  
reason I'll support it.

DOMINIC J. BADOLATO:

Mr. Speaker, I rise in opposition to the amendment and in support of the Chairman of the Committee. In all of the years that I've been here this is one bill that has been considered as the sacred cow...one that we could all trust in, in that it will not have matters of substance in it, and if we were to get involved with amendments on a bill such as this with 77 sections in it dealing with so many different statutes, with all of us running wild with substantive amendments, we would be here from the beginning of the session to the end attempting to pass those amendments or consider them. This bill...this General Assembly, rather, has been giving serious consideration to this bill over the years and has been giving great credit to the Judiciary Committee in the handling of this type of a bill. They have certainly conducted themselves in such a manner that their credibility has been recognized in this bill, and there has never been a challenge made to the Committee that they have included in it matters of substance. I would hope that we would not start the process of amending this bill, or this type of a bill, in the future with substantive amendments.

MR. SPEAKER:

Are you prepared to vote on House "C"? All those in favor of its adoption will indicate by saying "aye". All those

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opposed. The "nays" clearly have it. House "C" is rejected. efr

Will you remark further on the bill as amended? If not, will the Members please be seated, and the staff come to the well. The machine will be opened. The machine is still open. Have all the Members voted? Is your vote properly recorded? If so, the machine will be closed, and the Clerk will take a tally.

The following is the result of the vote:

Total number voting . . . . .	144
Necessary for passage . . . . .	73
Those voting yea. . . . .	144
Those voting nay. . . . .	0
Those absent and not voting . . . . .	7

The bill is passed.

THE CLERK:

Page 5, Calendar 1414, Substitute for H.B. 7172, an Act concerning charitable fund raising.

ALBERT R. WEBBER:

Mr. Speaker. Thank you, Mr. Speaker. Mr. Speaker, and ladies and gentlemen, this bill, an Act concerning charitable fund raising, come about at the pleading of the Office of Consumer Protection and many others, because for many years, particularly in recent years, it's learned many truly near-fraudulent fund raising events are and have been taking place unaware to the public. Many, many people are contributing sums of money to ostensibly worthy and needy charitable causes not realizing that in many instances 85¢ or 90¢ of that dollar goes to the professional fund raising organization. This bill, we