

Legislative History for Connecticut Act

HB 7834	PA 521	1985
House 7897, 7928, 7937-7951, 10689-10695		24p.
Senate 4730-4763, 5206-5208		37p.
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CONNECTICUT
GEN. ASSEMBLY
HOUSE

PROCEEDINGS
1985

VOL. 28
PART 21
7490-7905

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House of Representatives

Thursday, May 23, 1985

REP. ESPOSITO: (137th)

Mr. Speaker, I would like to move the following items be placed on the Consent Calendar for final action at our next session day.

On Page 2, Calendar No. 272, bill number 7430, File No. 950.

On Page 3, Calendar No. 430, bill number 7478, File No. 940.

Calendar No. 444, bill number 6676, File No. 944.

Page 5, Calendar No. 605, bill number 7834, File No. 740.

Page 9, Calendar No. 724, bill number 7536, File No. 882.

Calendar No. 741, bill number 7539, File No. 898.

Page 11, Calendar No. 754, bill number 7559, File No. 973.

Calendar No. 757, bill number 7445, File No. 966.

Page 15, Calendar No. 775, bill number 6499, File No. 959.

Page 16, Calendar No. 778, bill number 7577, File No. 941.

Calendar No. 779, bill number 7646, File No. 947.

Calendar No. 781, bill number 5652, File No. 945.

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House of Representatives

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may it please be removed from the Consent Calendar and I understand that members from both sides of the aisles have amendments.

DEPUTY SPEAKER BELDEN:

Calendar 605 will be removed from the Consent Calendar.

Would the Clerk please return to the Call of the Calendar.

CLERK:

Page 6, Calendar No. 630, Substitute for House Bill 7681, File No. 890, AN ACT REINSTATING AND VALIDATING THE CORPORATE EXISTENCE OF COBBLERS GREEN, INCORPORATED, AMERICAN INSTITUTE OF UTOPIAM STUDEIS, INC., IVERY & DUDLEY, INC. AND DUFFORD FRILLING CO., INC. Favorable Report of the Committee on Judiciary.

REP. WOLLENBERG: (21st)

Mr. Speaker.

DEPUTY SPEAKER BELDEN:

Rep. Wollenberg.

REP. WOLLENBERG: (21st)

Mr. Speaker, I move acceptance of the committee's Favorable Report and passage of the bill.

DEPUTY SPEAKER BELDEN:

The motion is for acceptance of the committee's

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DEPUTY SPEAKER BELDEN:

Will you remark further on the bill as amended?

REP. WOLLENBERG: (21st)

Mr. Speaker.

DEPUTY SPEAKER BELDEN:

Rep. Wollenberg.

REP. WOLLENBERG: (21st)

Mr. Speaker, the Clerk has on her desk, LCO No. 7526. Would she please call and I be allowed to summarize?

DEPUTY SPEAKER BELDEN:

Will the Clerk please call LCO 7526 which will be designated House Amendment Schedule "B".

CLERK:

House Amendment Schedule "B", LCO 7526, offered by Reps. DeZinno, Zajac, Antonetti.

DEPUTY SPEAKER BELDEN:

The gentleman has requested permission to summarize. Is there objection? Hearing none, please proceed, Rep. Wollenberg.

REP. WOLLENBERG: (21st)

Thank you, Mr. Speaker. Mr. Speaker, this amendment would ask that this body validate the Curtis Home, which is another corporation, in a similar fashion and I move the amendment.

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DEPUTY SPEAKER BELDEN:

Are there other Points of Personal Privilege or announcements at this time? If not, the Clerk will please return to the Call of the Calendar.

CLERK:

Page 5, Calendar No. 605, House Bill 7834, File No. 740, AN ACT CONCERNING MUNICIPAL EMPLOYEE'S RIGHT OF ACTION AGAINST A FELLOW EMPLOYEE. Favorable Report of the Committee on Appropriations.

REP. WOLLENBERG: (21st)

Mr. Speaker.

DEPUTY SPEAKER BELDEN:

Rep. Wollenberg.

REP. WOLLENBERG: (21st)

I move acceptance of the committee's Favorable Report and passage of the bill.

DEPUTY SPEAKER BELDEN:

The motion is for acceptance of the Joint Committee's Favorable Report and passage of the bill.

Will you remark, Sir?

REP. WOLLENBERG: (21st)

Thank you, Mr. Speaker. Mr. Speaker, this bill would give a municipal employee who is eligible to receive worker's compensation for an injury caused by a

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fellow employee's negligence the right to sue. Presently he does not have the right to sue for -- if the act is committed by a fellow employee for negligence and this would give him that.

Other employees do have the right to do this now. This would just extend that.

Mr. Speaker, the Clerk has LCO No. 7555 on his desk. Would he call and I be allowed to summarize?

DEPUTY SPEAKER BELDEN:

Would the Clerk please call LCO 7555 which will be designated House Amendment Schedule "A".

CLERK:

House Amendment Schedule "A", LCO 7555, offered by Rep. Wollenberg.

DEPUTY SPEAKER BELDEN:

The gentleman has requested permission to summarize. Is there objection? Hearing none, please proceed, Sir.

REP. WOLLENBERG: (21st)

Thank you, Mr. Speaker. Mr. Speaker, this bill would allow that after the effective date, no one employer might require as a condition of employment the employee to sign a promissory note for -- to his employer. This happens -- I move the adoption.

DEPUTY SPEAKER BELDEN:

The gentleman has moved adoption. Will you remark further on House "A"? Will you remark further? If not, I will try your minds. All those in favor of adoption of House "A" please indicate by saying aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER BELDEN:

All those opposed nay. The ayes have it. House "A" is adopted and ruled technical.

House Amendment Schedule "A".

In line 1, before "Section" insert "Section 1."

After line 102, add section 2 as follows:

"Sec. 2. (NEW) (a) As used in this section:

(1) "Employer" means any person engaged in business who has twenty-six or more employees, including the state and any polical subdivision thereof.

(2) "Employee" means any person engaged in service to an employer in the business of his employer.

(3) "Employment promissory note" means any instrument or agreement executed on or after the effective date of this act which requires an employee to pay the employer, of his agent or assignee, a sum of money if the employee leaves such employment before the passage of a stated period of time. "Employment promissory note" includes any such instrument or agreement which states such payment of moneys constitutes reimbursement for training previously provided to the employee.

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(b) On or after the effective date of this act, no employer may require, as a condition of employment, any employee or prospective employee to execute an employment promissory note. The execution of employment promissory notes is against public policy and any such note shall be void. If any such note is part of an employment agreement, the invalidity of such note shall not affect the other provisions of such agreement."

REP. TULISANO: (29th)

Mr. Speaker.

DEPUTY SPEAKER BELDEN:

Rep. Tulisano.

REP. TULISANO: (29th)

Mr. Speaker, the Clerk has an amendment, LCO 7128.

DEPUTY SPEAKER BELDEN:

Would the Clerk please call LCO 7128 which will be designated House Amendment Schedule "B".

CLERK:

House Amendment Schedule "B", LCO 7128, offered by Rep. Tulisano.

DEPUTY SPEAKER BELDEN:

The gentleman has requested permission to summarize. Is there objection? Please proceed, Sir.

REP. TULISANO: (29th)

Mr. Speaker, the amendment would authorize

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municipalities, at their discretion, to have the power to provide for a pension system for volunteer, active members of a volunteer fire department. I would move its adoption.

DEPUTY SPEAKER BELDEN:

The motion is for adoption. Will you remark further on House "B"?

REP. TULISANO: (29th)

Mr. Speaker.

DEPUTY SPEAKER BELDEN:

Rep. Tulisano.

REP. TULISANO: (29th)

Mr. Speaker, the bill is very clear. I think there are some towns who are in fact doing -- providing pension benefits for volunteer fire department members under terms that they have worked out. Other towns have not had the desire to do so but have had some interpretations of current statutes by the town attorneys that said they don't think they have the powers in our current statutes.

I do not agree with that last interpretation, Mr. Speaker. I think Section 7-301, the last sentence in that section of the statute says that the town may appropriate funds to a volunteer company for services rendered or to be rendered as they may deem it in the public interest to do so and I think that gives some

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towns descretion. However, there are many towns who, because of town attorney's opinions, and those town attorneys never having read that particular section of the statutes, I guess, believe they do not have the power and they have asked for the right to be able to do -- be able to give that town -- have that power to give pensions to their volunteer fire department members.

Mr. Speaker, I think it is a good piece of legislation. It is not mandatory. It's descretionary. There are towns who are doing it and there are towns who have the desire to do it and I think we ought to give them that power because they do want it. Thank you, Mr. Speaker.

DEPUTY SPEAKER BELDEN:

Will you remark further?

REP. EMMONS: (101st)

Mr. Speaker.

DEPUTY SPEAKER BELDEN:

Rep. Emmons.

REP. EMMONS: (101st)

Thank you, Mr. Speaker. This bill was before one of the committees that I sit on and was soundly defeated and I hope it is soundly defeated as an amendment. I would like to point out a few things. If a town is

already doing this then they obviously must have the power to do it -- gotten the power to do it through their own charter and they themselves made a decision to preempt this type of a benefit. It is difficult when you have a volunteer fire department to determine benefits in the old sense of the term, because they are not paid.

Do you then have benefits based upon the number of years? If you have it on the number of years would there be a certain number of fires to which they go? There are some municipalities whose fire departments have -- can be more of a social group with some staying on because there is prestige that they remain there without necessarily being called to a number of fires.

The question I would have for you, Mr. Speaker, if you were to grant this type of a thing and have a volunteer fire department become -- receive fringe benefits, so to speak, as to paid fire departments, would you, Mr. Speaker through you to the proponent of the bill, would there be any chances that they would be able to get benefits under Heart and Hypertension Laws?

DEPUTY SPEAKER BELDEN:

Rep. Tulisano, will you respond?

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REP. TULISANO: (29th)

As I understand the Heart and Hypertenstion Law currently, volunteer firemen do get benefits. Volunteer fire department members do get benefits under the Heart and Hypertension Law.

DEPUTY SPEAKER BELDEN:

Rep. Emmons, you have the floor, Ma'am.

REP. EMMONS: (101st)

Thank you, Mr. Speaker. I'm not sure that that was the correct answer but I will let it go by. However, I do think it is a very poor precedent. If a municipality wants to give a pension, the way they can do it is they pay certain amounts of money to the fire company that is supposed to be used for their on-going expenses and then the volunteer fire department uses those funds that they collect from the general public to pay for their pensions.

This has been done in municipalities as a way to give liability insurance and it is a perfectly bona fide way to go so I would oppose the amendment, Sir.

DEPUTY SPEAKER BELDEN:

Will you remark further House "B"?

REP. GILLIGAN: (28th)

Mr. Speaker.

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DEPUTY SPEAKER BELDEN:

Rep. Gilligan.

REP. GILLIGAN: (28th)

I would like to speak in behalf of the amendment. For the benefit of those who haven't had a chance to look at it yet, I just want to underscore one thing and that is that it's permissive. We're not asking for any state funding. We're not mandating that towns do this. We have provided in our local budget for this type of line item and the funds have been allocated for this purpose. The simple problem is that some legal scholars have raised the question as to whether this type of pension is permitted under the Home Rule provisions or not so we are here this morning with a request that it be clarified and that this type of pension fund be authorized by this Assembly and I urge you to vote in favor of the amendment. Thank you.

REP. SAVAGE: (50th)

Mr. Speaker.

DEPUTY SPEAKER BELDEN:

Rep. Savage.

REP. SAVAGE: (50th)

Mr. Speaker, I rise to oppose this amendment for many of the same reasons as Representative Emmons.

DEPT. However, I would add that when one town does this, it puts on a great deal of pressure on another nearby town and this can mushroom and I think it's a very bad precedent. You either have volunteers or you have paid people and if a town is reaching the size where the volunteer program no longer works, perhaps they themselves should consider going to a paid department.

The other problem that I have beyond possibly the emphasis that Rep. Emmons put on, is one of who decides who has the pension. Being familiar with quite a few departments, I'd like to emphasize one thing that Rep. Emmons said. There are some departments that are unfortunately more social clubs than others and then the majority certainly aren't. They are very hard working departments but we have some where the Chief is less than an officer that we might to pick the people that we pay.

It's a real problem and until we get some answers, I think it is unwise to move in his direction. Thank you.

REP. POLINSKY: (38th)

Mr. Speaker.

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DEPUTY SPEAKER BELDEN:

Rep. Polinsky.

REP. POLINSKY: (38th)

I know that there have been some reservations about this. One just was voiced about how do you define active firemen. Early in the session members of both sides of the aisle filed a bill that went to find what an active fireman was and rather than making that definition contingent on years or participation, which has been pointed out doesn't necessarily make that person really an active fireman, the definition that was used, and I think could be used by any municipality who wishes to adopt a pension plan for their volunteers, was that of attendance at fires and I think if memory serves me, that we had a sliding scale, that the municipality could choose anywhere from those firemen who participated in 25% of fires all the way up to 45% so they -- if a particular town had a volunteer fire company and it was an extremely active one, maybe they'd want to say that all those firemen who attended 40-45% of the fires were considered active firemen.

In those towns where, and this is sad to say but true, where they are having trouble recruiting volunteer firemen, that municipality might want to

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choose 25%. All that would be incumbent upon the municipality and the Fire Chief's of the companies would be that they keep attendance records of those who attend the fire calls. I think that that problem is easily licked by just keeping attendance.

As far as the good that this amendment does, aside from recognizing the value of volunteer firemen, is the fact that as I indicated earlier, some towns are having problems recruiting members into their fire companies and this might be the incentive they need to keep volunteer firemen in place in our smaller towns in Connecticut.

I think this is a good amendment.

REP. O'NEILL: (98th)

Mr. Speaker.

DEPUTY SPEAKER BELDEN:

Rep. O'Neill. Point of order.

REP. O'NEILL: (98th)

Mr. Speaker, a question to the proponent of the amendment, please.

DEPUTY SPEAKER BELDEN:

Please frame your question, Sir.

REP. O'NEILL: (98th)

Who's the proponent of the amendment?

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DEPUTY SPEAKER BELDEN:

Rep. Tulisano.

REP. O'NEILL: (98th)

Oh, Rep. Tulisano, thank you. Rep. Tulisano, is it conceivable that if an individual was a volunteer fireman and he got injured while serving the town, would he be eligible for Workmen's Compensation?

REP. TULISANO: (29th)

Through you, Mr. Speaker --

REP. EMMONS: (101st)

-- Mr. Speaker, Mr. Speaker --

DEPUTY SPEAKER BELDEN:

-- Rep. Emmons, why do you rise?

REP. EMMONS: (101st)

Mr. Speaker, I'd like to make a Point of Order.

DEPUTY SPEAKER BELDEN:

What is your Point of Order?

REP. EMMONS: (101st)

Under Mason's Section 402, Subsection 6, the germaneness of the amendment to the body of the bill.

DEPUTY SPEAKER BELDEN:

The lady's Point of Order is that the amendment is not germane to the file before us and cites Mason's 402, Subsection 6. The House will stand at ease for

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just a minute. The House will come to order. The Chair has reviewed House "B" and the file before us and Mason's 402, Sub 6 and finds that the file deals with a person's civil rights under certain conditions and also with the Department of Health's regional planning agencies and in accordance with Chapter 368f and 127, the amendment before us deals with an entirely different subject covered under Chapter 7-148. The amendment is not in the spirit of the file. The point is that it is not germane so the point is well taken.

Will you remark further on -- House "B" is no longer before us. Will you remark further on the bill as amended? Will you remark further?

If not, staff and guests please come to the well of the House. An immediate roll call is ordered. Will the Clerk please announce a roll call.

CLERK:

The House of Representatives is now voting by roll call. Please return to the Chamber immediately.

The House of Representatives is now voting by roll call. Please return to the Chamber immediately.

DEPUTY SPEAKER BELDEN:

Have all the members voted? Please check the board to determine if your vote is properly recorded.

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The machine will not be kept open for long intervals today. We are here to do business. All members in the Chamber must vote.

The machine will be locked. The Clerk will take a tally.

The Clerk will please announce the tally.

CLERK:

House Bill 7834 as amended by House "A".

Total number voting	150
Necessary for passage	76
Those voting aye	149
Those voting nay	1
Those absent and not voting	1

DEPUTY SPEAKER BELDEN:

The bill as amended is passed.

CLERK:

Page 7, Calendar No. 667, Senate Bill No. 436, File No. 658, AN ACT CONCERNING FALSE STATEMENTS UNDER THE WORKERS' COMPENSATION ACT. Favorable Report of the Committee on Judiciary.

REP. O'NEILL: (98th)

Mr. Speaker.

DEPUTY SPEAKER BELDEN:

Rep. O'Neill.

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House of Representatives

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Friday, May 31, 1985

ACTING SPEAKER SMOKO:

The bill as amended passes, (APPLAUSE)

SPEAKER VAN NORSTRAND:

It was the intention of the Chair at this time to invite to preside, the Hon. Richard Balducci. He advised me some time ago that he had some family obligations and would be gone, if not for the duration of the remainder of the evening, or at least at this point in time, and so the members could know, I did, he said he would happily take a bill tomorrow and I forewarned him, you have just made a mistake. But in any event, so perhaps Brother Balducci will inherent one of the talkers for tomorrow.

Would the Clerk please return to the Call of the Calendar.

CLERK:

Calendar 605, House Bill 7834, File No. 740, AN ACT CONCERNING A MUNICIPAL EMPLOYEE'S RIGHT OF ACTION AGAINST A FELLOW EMPLOYEE, as amended by House Amendment Schedule "A" and Senate "A". Favorable Report of the Committee on Appropriations.

REP. WOLLENBERG: (21st)

Mr. Speaker.

SPEAKER VAN NORSTRAND:

Rep. Wollenberg.

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REP. WOLLENBERG: (21st)

Mr. Speaker, I move acceptance of the Committee's Favorable Report and passage of the bill.

SPEAKER VAN NORSTRAND:

The question is on acceptance of the Joint Committee's Favorable Report and passage of the bill. Will you remark?

REP. WOLLENBERG: (21st)

Thank you, Mr. Speaker. Members of the House, this bill was before us and we passed it and we also passed it with House "A". Basically, it gave to employees a right that other people have to sue fellow employees in automobile accidents.

And House "A" basically dealt with employee promissory note. I'm sure you'll remember that. There is an amendment, Senate "A", I believe on the Clerk's desk. Would she please call LCO No. 5792 and we be allowed to summarize.

REP. O'NEILL: (98th)

Mr. Speaker.

SPEAKER VAN NORSTRAND:

Rep. Francis O'Neill.

REP. O'NEILL: (8th)

A Point of Order, Mr. Speaker. I question the germaneness of this particular Senate amendment. This is

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a bill pertaining to Section 7-465 of the code, municipal employees. The particular amendment has to do with Section 31, unemployment compensation.

SPEAKER VAN NORSTRAND:

If you would pause until the amendment is called, your point will be taken up.

He has asked it to be called. It is the Clerk that calls, sir. But momentarily, you'll have your opportunity.

Will the Clerk please call LCO No. 5792 previously designated Senate Amendment Schedule "A".

CLERK:

Senate Amendment Schedule "A", LCO 5792 offered by Sen. O'Leary.

SPEAKER VAN NORSTRAND:

The gentleman has sought permission to summarize. Is there objection?

REP. O'NEILL: (98th)

Yes, for a Point of Order, Mr. Speaker.

SPEAKER VAN NORSTRAND:

What is your point, sir.

REP. O'NEILL: (98th)

Mr. Speaker, I question the germaneness of this particular bill, I mean of this Senate amendment. The

bill in question has to do with municipal employees right of action against the fellow employees, specifically in promissory notes type situations. This amendment has to do with a change in the unemployment compensation law and Section 31 of the code. It has nothing to do whatsoever with the bill.

SPEAKER VAN NORSTRAND:

The House will stand at ease. I would note this bill was previously amended by House "A" and I'd like to compare it as amended, to Senate "A".

The House will please come to Order. The gentleman from Guilford has raised a Point of Order as to the germaneness of Senate Amendment Schedule "A" to the file before us as amended by House "A". The file before us relates to a change relating to, a change relating to employees' negligence in the operation of a motor vehicle and hence affecting, because of that negligence, the rights of a fellow employee to receive workmen's compensation under Chapter 5-68 of the General Statutes.

There was an amendment, House "A" which relates to the requirement of an employer to request an employee, incident to employment to execute a so-called employment promissory note. Senate "A" provides for a, affects the rights of an individual in terms of unemployment compensation

if that person has been incarcerated for not more than 60 days. It is obviously in another title or chapter of the statutes, but I do not think that alone is positive. However, referring to Section 402 of Mason's, understanding we are dealing with the file and House "A" as amended, one with employment and one might have questioned House "A" at one time, perhaps.

But the short of it is, the file copy deals with rights under the workmen's compensation laws. Senate "A" deals with the rights under the unemployment compensation laws. I think it's fairly clear under Mason's that Sections 1, 2, 3 and 4 are unavailing in terms of support of relating Senate "A" in a germane manner to the file copy as amended by House "A". The basic proposition running through all of those subsections is that it may change, but it must relate to the main thrust or purpose of the main question.

The main thrust or purpose of the main question deals with rights under the workmen's compensation law. Senate "A" deals clearly with rights under the unemployment compensation law. Your Point of Order is well taken, sir. Senate "A" is not properly before us.

Will you remark further on the bill as amended by House "A"?

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REP. WOLLENBERG: (21st)

Mr. Speaker:

SPEAKER VAN NORSTRAND:

Rep. Wollenberg.

REP. WOLLENBERG: (21st)

Mr. Speaker, I move passage of the bill as amended by House "A".

SPEAKER VAN NORSTRAND:

The question is on passage of the bill as amended by House "A". Will you remark? Will you remark? If not, staff and guests please come to the well of the House. The machine will be opened. The Clerk please announce the pendency of a roll call.

CLERK:

The House of Representatives are now voting by roll call. Will all members please return to the Chamber immediately. The House of Representatives is now voting by roll. Will all members return to the Chamber to see that their votes are properly recorded.

Have all the members voted? If so, the machine will be locked. The Clerk will please take a tally.

The Clerk please announce the tally.

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Fridsy, May 31, 1985

CLERK:

House Bill 7834 as amended by House "A".

Total number voting 142

Necessary for passage 72

Those voting yea 139

Those voting nay 3

Those absent and not voting 9

SPEAKER VAN NORSTRAND:

The bill is passed as amended by House "A".

At this time, the Chair would announce that as a result of actions taken earlier today, we are in abject disagreement with our colleagues on the third floor as to two particular matters, one being Calendar 592, House Bill 6722, File 1025. The Chair would pursuant to rule 22, appoint the following to be members of a conference committee to meet with our brethren and sistren in the Senate, as the case may be. Rep. Richard Tulisano of the 29th, Rep. Norma Gyle of the 108th and Rep. Glenn Arthur of the 42nd.

Likewise, we were in a similar posture of abject disagreement with the Senate as to Calendar No. 600, House Bill 7487, File No. 1020. The Chair would appoint to the conference committee Rep. Elinor Wilber of the 133rd, Rep. Eugene Migliaro of the 80th and Rep. Ronald Smoko of the 91st.

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this amendment makes it more a reality. That's why I'd like a roll call vote.

THE CHAIR:

All right. A roll call vote has been requested. Is there further comment on the bill? If not, Mr. Clerk, please announce a roll call.

THE CLERK:

Immediate roll call has been ordered in the Senate. Will all Senators please return to the chamber. Immediate roll call has been ordered in the Senate. Will all Senators please return to the chamber.

THE CHAIR:

Thank you, Mr. Clerk. We are voting on calendar No. 740, Substitute for House Bill 6701, Files 797, 1149 as amended by Senate Amendment "A", LCO 8301. The machine is open. Senator Connair. Senator Gunther. Senator Truglia. Senator Hampton. Senator Hampton. Senator Truglia. Senator Hampton. Senator Truglia. Relax. We've only been waiting ten minutes. Thank you, Senators. Machine will be closed. Clerk, please take a tally. Those voting in favor, 35, those voting against, 1. The bill has been adopted. Mr. Clerk, if I could impose upon you, will you call the next item?

THE CLERK:

Page 4, calendar 780, House Bill 7834. An Act Concerning

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A Municipal Employee's Right Of Action Against A Fellow Employee. File 740. (As amended by House Amendment Schedule "A").

Favorable Report of the Committee on Appropriations.

THE CHAIR:

Does anyone care to bring this bill out? Thank you, Senator Smith. Calendar 780 on page 4.

SENATOR SMITH:

Thank you, Mr. President. Move acceptance of the joint committee's favorable report and passage of the bill. I believe there is an amendment.

THE CHAIR:

Thank you, Senator. Mr. Clerk, will you please call the amendment?

THE CLERK:

Senate Amendment Schedule "A", LCO No. 5792 introduced by Senator Harper.

THE CHAIR:

Senator Harper.

SENATOR HARPER:

Yes, thank you, Mr. President. I move adoption of the amendment. May the reading be waived and may I be permitted to summarize?

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THE CHAIR:

Hearing no objection, Senator, please proceed.

SENATOR HARPER:

This amendment, Mr. President, Members of the Circle, would preclude payment of unemployment compensation to an individual who has been convicted and as a result of that conviction, incarcerated for more than sixty days, and as a result of that incarceration is discharged or suspended by their employer. I would first move adoption of the amendment. Then I'll comment.

THE CHAIR:

Senator, do you care to remark? You have moved adoption.

SENATOR HARPER:

Yes. It appears recently that there is a flaw in the statutes governing unemployment compensation eligibility. I believe this very day there was a report in a daily newspaper indicating how some individual was able to collect unemployment benefits while being incarcerated, and while this proposed amendment may not address the specifics of that case, because I don't have all the details of that case, the general concern is that apparently individuals who are let go from their jobs because they are incarcerated as a result of a court conviction, is, in fact, an unfair loophole for employers and we would seek

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to close that by this provision, and I would ask that the vote be taken by roll on this amendment. Thank you.

THE CHAIR:

Roll call vote has been requested. Do you wish to remark on the amendment? Senator Kenneth Hampton.

SENATOR HAMPTON:

Thank you, Mr. President. Very seldom would I rise to oppose the ranking member on the Labor Committee, but I believe that this amendment correctly should be referred to the Labor Committee. I, too, am concerned about the newspaper stories and a meeting is scheduled for tomorrow afternoon with the commissioner pertaining to this article in the newspaper where a person was placed in jail and was still eligible to collect unemployment compensation. This amendment has not been discussed by the Labor Committee. I believe that's the proper way to go and I would urge rejection of the amendment.

THE CHAIR:

Will you remark further? Senator Harper.

SENATOR HARPER:

Thank you, Mr. President. I generally would agree with Senator Hampton. I realize that at the outset of a session issues addressed by this amendment are very common in terms of proposed committee bills, but with just a couple of days left to the session and with so much concern voiced during the

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1985 session about flaws and problems with the eligibility standards and the unemployment compensation law, Senator O'Leary and myself who have brought this amendment forth, are really trying to nip a problem in the bud before it's repeated and gets out of hand and we really don't have time to bring this matter before the Labor Committee and process it as Senator Hampton would like. We must adjourn, I believe, by next Wednesday, and I think the issue is very clear. Somebody who is incarcerated for a substantial period of time due to a conviction and has been let go because the employer cannot afford to carry that person, why should that employer have to be charged for those benefits? Why should that person be collecting unemployment benefits? They are not able and ready and available for work. It's a very simple issue, and I really don't know why we would have any more thoughts on this issue if we put it through the process. Thank you.

THE CHAIR:

Senator Lovegrove.

SENATOR LOVEGROVE:

Thank you, Mr. President. Through you, Mr. President, I have a question for Senator Harper.

THE CHAIR:

Please proceed, Senator.

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SENATOR LOVEGROVE:

Senator Harper, do I understand your amendment correctly that if you have been incarcerated for less than sixty days, you would still be eligible to collect unemployment?

THE CHAIR:

Senator Harper, do you care to respond, Sir?

SENATOR HARPER:

Through you, Mr. President, if a person is sentenced for less than sixty days, that's true.

THE CHAIR:

Senator Lovegrove.

SENATOR HARPER:

They could be considered, it doesn't mean they necessarily would be. They would not be specifically precluded in the law.

THE CHAIR:

Senator Lovegrove.

SENATOR LOVEGROVE:

Through you, Mr. President, I wondered why Senator Harper would not have his amendment include anybody who had been incarcerated and lost their job through really, through absenteeism, not showing up for work.

THE CHAIR:

Senator Harper, I believe that's a question, Sir, through

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the Chair to you.

SENATOR HARPER:

Through you, Mr. President, there's an effort here to recognize the fact that somebody could be incarcerated for what we're trying to define as a reasonably short period of time, sixty days you might say is an arbitrary threshold, but on the other hand, we feel we have to draw a threshold. We could say a week. We could say two weeks. We felt sixty days was a fair threshold.

THE CHAIR:

Senator Lovegrove.

SENATOR LOVEGROVE:

Thank you, Mr. President. I think Senator Harper is half right. For my support on the amendment, I think the amendment should have gone all the way. Anyone who loses their job because they're locked up, they're in jail, I don't think should be allowed to collect unemployment. As a taxpayer, it's not my fault the individual got in trouble and went to jail and I don't know why I should have to use my taxes to pay his unemployment. Possibly the bill should be PTd and a more proper amendment should be drawn up. As a matter of fact, I will make that a motion right now - to PT
the bill.

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THE CHAIR:

Motion is to pass temporarily on this item. Senator O'Leary.

SENATOR O'LEARY:

Mr. President, I object to the motion to pass temporarily simply because of this fact. We're in the waning days of the session. An issue has arisen on a very difficult subject, a subject that causes great consternation among the public. An individual, we read in the newspaper on May the 29th, this past Wednesday, was incarcerated for, was sentenced to three months in jail and was able to collect unemployment compensation when he was released from jail. We think that's wrong. On the other hand, if an individual is sentenced to a weekend in jail, as sometimes is the case, or to two days or one day or forty-eight hours, that should not be an excuse to fire a person and deprive the individual unemployment compensation, so there's a balance that should be struck. Now, when the legislature is sitting, and when we have a clear and simple remedy to a problem which has hit the front newspapers of the state, and is causing great consternation among the public, we should not hesitate to correct the problem. There are in the unemployment statute, twelve reasons why an individual may be discharged and not receive unemployment compensation. We are adding a third. We are saying that if an individual is

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sentenced to jail for sixty days, sentenced, he may not serve that time, but if the sentence is sixty days, and if that individual is fired as a result of that ...

THE CHAIR:

Senator O'Leary. Senator O'Leary.

SENATOR O'LEARY:

Yes.

THE CHAIR:

Might I remind you that the motion is to pass temporarily? I believe that you are discussing the issue, Sir?

SENATOR O'LEARY:

Mr. President, are you raising a point of order?

THE CHAIR:

Sir, I think that the lateness of the day and the length of the calendar, Sir, I think you should be reminded that the motion is to pass temporarily.

SENATOR MATTHEWS:

Mr. President.

THE CHAIR:

Senator Matthews.

SENATOR MATTHEWS:

Mr. President, it is my believe that Senator Hampton made a motion that this bill should be referred or the amend-

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ment should be referred to the Labor Committee.

THE CHAIR:

Excuse me, Senator Matthews. A motion was not made. An inference was made to refer the amendment. The amendment doesn't exist until it is adopted to the bill. There was no motion. The motion was to pass. Then the motion was to adopt the amendment and there is now a motion to pass temporarily. Senator O'Leary is presently speaking against the motion to pass temporarily. Senator O'Leary, do you wish to proceed on the motion to pass temporarily, Sir?

SENATOR O'LEARY:

Thank you, Mr. President. I was explaining why I don't think we ought to pass on this. The rationale, it would seem to me, to pass or to refer to Labor, would be that you're dealing with a situation so complex that you don't have time to understand it, and I'm pointing out to you that if you look at the amendment and you look at lines 125 through 127½ in the amendment, it's quite simple. It's quite straightforward. I think anyone can read it here and let me just put it into context. It adds a thirteenth reason. If an individual is incarcerated and if they're fired and if that sentence was sixty days or more and an employer feels they can't carry that individual, they can't carry that job, they've got to

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let them go, and the employer lets the individual go, what we're saying is that when that individual gets out of jail, even if they're only in jail for fifteen days, if that sentence was for sixty days and the employer made a decision that he couldn't carry the individual and he lets him go, that individual may not come back and register an unemployment claim and collect unemployment compensation and have it charged to that employer's benefit ratio. We think that would be wrong. That addresses exactly the situation that arose recently and was reported in the paper. That remedies it. Now the legislature, in its last week, has an opportunity to remedy it. Clear-cut. All we're saying is, do it. Now you can argue that sixty days is too short, some can argue sixty days is too long. You can examine it, you can come back and make it ninety days next year or a hundred and twenty or you can reduce it to thirty or do whatever you want, but we've taken and addressed the problem which is causing consternation among the public, and had this amendment been law, the individual referred to would not have received unemployment compensation and his employer would not be having that charged against him, so I think we ought to do what's right, show the public that we can respond to a pressing situation and correct it and vote for the amendment, and we will have shown

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the public that the legislature can react speedily and do some good.

THE CHAIR:

Will you remark further on the motion to pass temporarily?

SENATOR O'LEARY:

Mr. President, if we pursue on the motion to pass temporarily, if the Senator cares not to withdraw it, I would ask for a roll call vote on the motion to pass temporarily and I would oppose it.

THE CHAIR:

All right. The motion has been made to have a roll call vote. Is there further discussion on the motion to pass temporarily? Senator Smith.

SENATOR SMITH:

Thank you, Mr. President. In order for me to make a good judgement on this, I do need to get one thing clarified on the amendment and if that's in order, if I could just ask one question with regard to that.

THE CHAIR:

Senator Smith.

SENATOR SMITH:

The amendment, the language on line 128, if someone could just clarify it for me where it says, "For the commission of a

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crime," and then it says, "He has been discharged or suspended during such period of incarceration," what does that mean?

THE CHAIR:

Senator O'Leary.

SENATOR O'LEARY:

Thank you, Mr. President. That means that if an individual is convicted, not merely arrested, but is convicted, and is sent to jail and incarcerated, and during the time in which the individual is in jail, the employer fires the individual, which is the case that was reported in the paper, that individual may not then collect unemployment compensation.

THE CHAIR:

Senator Smith.

SENATOR SMITH:

Thank you, Mr. President. That clarifies in my mind.

THE CHAIR:

Is there further comment about passing temporarily which is the motion before us? Motion of passing temporarily.

Senator Matthews.

SENATOR MATTHEWS:

Mr. President, I do not agree with passing the bill

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temporarily. I think the bill should be brought forward. The amendment should be brought forward. I think it's an ill-advised amendment. The elements which have been itemized by Senator O'Leary and Senator Harper are always present in any situation. The circumstances that exist here are that as for an example, a person could be in difficulties with his company inside employmentwise for a number of different reasons and then finally have something that is so serious that he's not only arrested but convicted and placed in jail and then, because of this new amendment, if he were released within sixty days, he would be in a position to be eligible for unemployment insurance if he were discharged. I think that we have too many ifs, ands and buts involved in this kind of a situation and it seems to me that there's another element involved also, that if this did occur to a person without this amendment, there's always the right for the person to make an appeal to the Labor Commissioner for a reason that he has and if it's a justifiable reason, then the Labor Commissioner or the Appeals Commission can do something about it. It strikes me that this is an unwise amendment. We ought to vote it down right now. Thank you very much.

THE CHAIR:

Will you remark further on the motion to PT? Senator Lovegrove.

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SENATOR LOVEGROVE:

Thank you, Mr. President. I will withdraw my motion to PT.

THE CHAIR:

Request from Senator Lovegrove is to remove the motion to pass temporarily on this item. Is there any opposition to removing the motion to passing temporarily? Hearing none, so ordered. Now we are back on the amendment. Do you wish to remark on the amendment? Senator O'Leary.

SENATOR O'LEARY:

Yes, Mr. President, I have to clarify a misunderstanding that Senator Matthews has with respect to the amendment. It's clear that what we're talking about is conviction for the commission of a crime and sentencing for sixty days. If the person meets that criteria, that he's convicted of a crime and is sentenced, he may not collect unemployment compensation. If the individual is discharged from the jail after one month, he may nevertheless not collect unemployment compensation because he has been convicted of a crime and he has been sentenced to sixty days, so Senator, clear reading of the bill would indicate that you are not correct with respect to that. We are saying that if he is sentenced for sixty days, he will not collect. The point of not going lower than that, Senator, is

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that we don't feel that there should be a situation where an individual was sentenced for a very minor situation that you might not want to have it be used as an excuse to discharge a person and prevent him from collecting, so sixty seems like a reasonable figure, and it addresses the (in-audible) and difficulty that was pointed up in the recent case. In fact, I have the case before me and, therefore, I urge you to join us in supporting this. It's proper reform and I think that when reform is made expeditiously, it prevents a situation from getting out of hand and more rash measures being taken later on. I think, for example, I can cite you, had proper reform been initiated on something such as the Quits Bill or any number of other issues earlier on, we might not have had extreme measures brought before this legislature as we did, and so we're offering reasonable reform and timely reform and I see no reason whatsoever to oppose this amendment.

THE CHAIR:

Senator Eaton, do you care to remark on the amendment, Sir?

SENATOR EATON:

Through you, Mr. President, just one question for clarification to Senator O'Leary.

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THE CHAIR:

Please proceed, Sir.

SENATOR EATON:

Thank you. Through you, Mr. President, Senator I was confused by your comment then. Everything was going along fine until you said what seems to indicate that anyone accused of a crime, sentenced for sixty days, would then not be eligible to collect unemployment compensation. Now is that what you were just saying?

THE CHAIR:

Senator O'Leary, do you care to respond, Sir?

SENATOR O'LEARY:

Thank you. Through you, Mr. President, no, that's not quite correct, Senator. What I was saying was that the individual must be convicted of the crime, must be sentenced, must be incarcerated, and must be fired while in jail.

SENATOR EATON:

Fine. That's essentially what I was asking. I left a couple of steps out of the question. Through you, Mr. President, again ...

THE CHAIR:

Please proceed, Senator Eaton.

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SENATOR EATON:

Just how long a time under your conception would that person be ineligible for unemployment compensation?

THE CHAIR:

Senator O'Leary, do you care to respond, Sir?

SENATOR O'LEARY:

Thank you, Mr. President. It would be exactly the same as the twelve other items for which the individual is not eligible for unemployment compensation. In other words, wilful misconduct, felonious conduct, repeated wilful misconduct on the job, any of the other areas for which a person is ineligible for unemployment compensation. If they're fired, they can't collect it. If they go back to work, they have to be at work a certain period of time, I think they have to earn ten times their benefit ratio, then they're eligible for unemployment. This would be exactly as all the rest of them.

THE CHAIR:

Senator Eaton, the floor is yours, Sir.

SENATOR EATON:

Thank you, Mr. President. I have no further questions except that I must now having heard this response, associate myself with Senator Matthews. I think that the point that he made that frankly there are just too many ifs, ands or buts,

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that this amendment just throws open the opportunity for additional court cases over eligibility or denial thereof. To associate employment with a jail term and the likelihood that a person could lose unemployment compensation for all time because of one miscreant act at one point in time, is ludicrous, just as ludicrous as it is, Mr. President, for a person to receive it, unemployment compensation, while doing time. Therefore, again, I associate myself with Senator Matthews and urge rejection of the amendment.

THE CHAIR:

Will you remark further? Senator Giulietti.

SENATOR GIULIETTI:

Yes, Mr. President. Through you to Senator O'Leary. I keep reading this amendment a couple times and my only question is, as I read it it says, "If it is found by the Administrator that, after having been sentenced to a period of incarceration of not less than sixty days," when I read it, "of not less than sixty days" to me that sounds as if a person was even more than sixty days. A year or two years. he still could be eligible on this amendment. I think the wording is very confusing. I find it that way. Could you clear it up for me?

SENATOR O'LEARY:

I'd be happy to. "not less than sixty days," means that

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the sentence for which he is incarcerated must be at least sixty days. If the sentence is two years or five years or something of that sort, of course the same section would pertain. If it would not pertain, if the individual was incarcerated or sentenced, rather, not incarcerated, but sentenced for less than sixty days, so for example, if an individual received a five day sentence or a ten day sentence, this would not pertain, but if the sentence is sixty days at least, or more than that, and the employer fires the individual, he then does not have the opportunity to collect more than sixty days. That must be the sentence, sixty days or more.

THE CHAIR:

Thank you, Senator O'Leary, for responding to the question through the Chair to Senator Giulietti.

SENATOR GIULIETTI:

That's fine. Thank you.

THE CHAIR:

Will you remark further? Senator Smith.

SENATOR SMITH:

Thank you, Mr. President. I believe this is a good amendment. It should be passed. It does add some additional clarification and teeth to the existing law and if, in fact, the Labor Committee does determine in its wisdom, between now

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and the next session that further changes are necessary, then that would be the time to take it up, but I believe the circle should support this amendment at this time.

THE CHAIR:

Further remarks? Further remarks on the amendment? Are there further remarks on the amendment? I believe a roll call was requested by Senator Harper when he introduced the amendment. Mr. Clerk, will you please announce a roll call.

THE CLERK:

Immediate roll call's been ordered in the Senate. Will all Senators please return to the chamber. An immediate roll call's been ordered in the Senate. Will all Senators please return to the chamber.

THE CHAIR:

Ladies and Gentlemen, we are voting on Senate Amendment "A", LCO 5792 to calendar 780. The machine will be opened. Senator Upson. Senator Markley. Senator Giulietti. Senator Morano. Machine will be closed. Clerk, please take a tally. Those voting in favor of Senate Amendment "A", 33, those opposed, 3. Senate Amendment "A" is adopted. Care to remark on the bill? Senator Hampton.

SENATOR HAMPTON:

Mr. President, we now have approved the amendment and

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it becomes a part of the bill. Am I clear on that?

THE CHAIR:

That is correct, Senator.

SENATOR HAMPTON:

Several times this morning, Mr. President, our Minority Leader referred to passing legislation rather quickly without thorough study. I believe that this is a piece of legislation that we're passing simply because of an article in the paper. Rightfully, it belongs to the Labor Committee. The committee has not seen this before. The leadership of the Labor Committee has a meeting scheduled with the commissioner that made the decision that caused the article to appear in the paper, and I would urge that the bill be referred to Labor. I move that the bill be referred to Labor. Recommitted to Labor.

THE CHAIR:

Motion has been made to refer the bill to the Labor Committee, is that correct, Senator Hampton?

SENATOR HAMPTON:

Referred to Labor.

THE CHAIR:

The motion has been made to refer ... Senator Zinsser, do you wish to comment?

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SENATOR ZINSSER:

Thank you, Mr. President. I think we've proven once and for all, by the way, that the Minority party gives us reasonable amendments, we'll do the right thing with them as we did with this past one. As far as recommitting the bill to Labor, I'm not a hundred per cent sold on that, Senator Hampton, as I think I mentioned to you, and you know, maybe you could give us a little bit more depth into this issue, if you would, of why we should, after having just passed 33 to 3, an amendment, why we should now take that amendment and that bill and send it back to the Labor Committee and if so, what happens in the meantime? I'm not saying I would or would not go along with what you're asking, but I think I need more reason to do that.

THE CHAIR:

Senator Hampton, the question has been proposed to you, Sir. Do you care to respond?

SENATOR HAMPTON:

Thank you, Mr. President. It was my understanding that the only way that we could properly get this amendment before the Labor Committee is that if it would pass and then we could refer it to Labor for consideration. I, too, read the article in the paper. I have talked with the commissioner that made

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the decision. The first fellow that made the decision says that he made an error. It has gone through three hearings. One made a mistake, agreed he made a mistake and it was re-considered, and I just think that we're, we're reacting to a story in a newspaper and writing legislation without properly looking at it. I think all of us would agree that a person, as the story describes, should not collect unemployment compensation, but I don't believe that we should simply take an amendment, put it on another bill and say this is correcting the problem. We have a committee that's charged with the responsibility of looking at unemployment compensation labor laws. I believe that is the proper way to go, and I so urge.

THE CHAIR:

Senator Zinsser, the floor is yours, Sir.

SENATOR ZINSSER:

Just one other question, Senator Hampton, if I may. Senator Hampton, through you, Mr. President, does it do any harm to now pass this bill and send it back in the House while you are doing whatever work the committee can do to try to get a long term solution to the problem, and if you see a problem there, maybe you could enlighten me.

THE CHAIR:

Senator Hampton.

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SENATOR HAMPTON:

Through you, Mr. President, I believe that this problem can be corrected administratively for the present time, and then will give us an opportunity to study this problem and come back with proper legislation.

THE CHAIR:

Senator Zinsser. Senator Harper.

SENATOR HARPER:

Thank you, Mr. President. I oppose the motion to refer to the Labor Committee and I would ask that the vote on that motion of referral be taken by roll. I want to also say that I'm sorry to oppose Senator Hampton. I respect his work as chairman of the committee and as ranking member, I think we've gotten along very good in many cooperative ventures in that committee, but the vote on this amendment of 33 to 3, I think, speaks for itself and it appears the members of this circle are comfortable with taking some action that will put some control on this type of situation that the amendment addresses. in the interim and certainly while I clearly and I'm sure others respect the jurisdiction of the Labor Committee and as Senator O'Leary previously said, if in February it is the will of that committee to offer changes or something else, we certainly will be back in session to consider that, but I really think it

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would be a dereliction of our duty to send this to that committee now because we know the bill would not come out, and, again, I oppose that motion to refer. Thank you.

THE CHAIR:

The request has been made for a roll call vote which will be called at the appropriate time. The motion is to refer. Do you care to respond or remark on the motion to refer? Senator O'Leary.

SENATOR O'LEARY:

Thank you, Mr. President. If this were a complicated amendment, I think the motion to refer would have some substance to it. We have taken eighteen page amendments in this past week and I have made suggestions that those should be referred to committee and they have not been referred to committee. This is a four line amendment. I don't know how I can explain this amendment any more clearly than I already have as to exactly what it does. It's clear for the reading what it does. The Senator says it can be handled administratively. Did you read the article? The administrator who felt they had to give this individual unemployment compensation says what's fair and what's the law are two different things in this situation. He says the decision irked him too and he's the one who made it because unemployment was intended for people who lose their jobs through no fault of their own, and I've heard

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many of you say that here, and here's an amendment, crystal clear, designed to remedy that, and with a matter of days left in this session, you want to kill it by sending it to the Labor Committee? That makes no sense to me whatsoever. You send this to the Labor Committee, you're voting not to reform this unemployment compensation problem which occurred this week when the legislature is sitting. What is the public to think? The legislature is sitting and you can't solve a problem, but you can come up with eighteen page amendments that some special interest may have introduced and get them passed, that have never seen a public hearing? I think it's a bad request to send it to the Labor Committee. If we amend this bill, we have amended it, if we pass it, it's going down to the House. They will take a look at it again, Senator Hampton will have time. He can meet with Representative O'Neill. They can call the Labor Committee together. They can discuss it and debate it still further. Meanwhile, the vehicle will move to the House. If you find problems with it down in the House, you can put another amendment on it there or you can urge the House to kill it if you think there's a problem. I'm telling you, there's no problem with it. If you find a problem between now and when it's taken up in the House, you can remedy it. If you send it to the Labor Com-

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mittee, you're going to lose the vehicle, and make no mistake about it, there's only one way to interpret a vote to send this to the Labor Committee. It's a vote not to reform the system, for whatever reason I can't imagine, but that's what it is, and so I oppose the motion and ask that the vote be taken on it by roll call if the Senator does not wish to retract it.

THE CHAIR: (THE PRESIDENT IN THE CHAIR)

Wish to remark further? Senator Robertson followed by Senator Lovegrove.

SENATOR ROBERTSON:

Thank you very much, Mr. President. Mr. President, I'd like to ask, through you, Sir, a question of the chairman of the Labor Committee.

THE CHAIR:

You may proceed.

SENATOR ROBERTSON:

Thank you very much, Mr. President. Senator Hampton, as I read the amendment, the amendment as I read it, seems to be suited for a specific case which has just been reported in a local newspaper. My question to you, Sir, are you aware that the specific language here, specifically, "not less than sixty days," are you as a member of the Labor Committee comfortable that it shouldn't be forty-five, it shouldn't be thirty, it

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should be fifty or it should be seventy-five or are you comfortable that it should be exactly that of sixty to end all the problems or are we dealing with an issue here in a panic situation to deal with one specific case?

THE CHAIR:

I think the language says, "not less than sixty days."

Senator Hampton.

SENATOR HAMPTON:

Thank you, Mr. President. I don't know where the sixty day came from. The Labor Committee has not discussed it, but in response to comments by Senator O'Leary, if this bill or amendment is referred to the Labor Committee, the Labor Committee will meet tomorrow morning and we will discuss it, and bring it back if necessary.

THE CHAIR:

Motion is to refer. Wish to be heard further? Senator Robertson.

SENATOR ROBERTSON:

Mr. President, again, one other question, through you, Sir, if I might.

THE CHAIR:

You may proceed.

SENATOR ROBERTSON:

Thank you very much, Mr. President. Senator Hampton, if

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I understand you correctly that the Labor Committee will meet, will discuss not only this specific newspaper issue but will discuss the problem. Also potentially in the meeting tomorrow morning, will also discuss it with the administrator who administered over this decision and you also give us your word as a chairman of the committee that this bill will return for us to act on potentially with amendments which will not be so narrow-minded towards one specific case, but possibly will consider the whole problem and possibly within a day, we can correct the whole problem.

THE CHAIR:

Senator Lovegrove, I think - excuse me - I think there's a response from Senator Hampton on that. That was in the form of a question.

SENATOR LOVEGROVE:

My questions have been answered, Mr. President.

THE CHAIR:

Senator Hampton.

SENATOR HAMPTON:

The response would be affirmative. Yes.

THE CHAIR:

Senator Robertson.

SENATOR ROBERTSON:

Mr. President, because I don't wish to react to specific

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situations, though I do believe it is our responsibility to react but I believe it's our responsibility to react in the most knowledgeable fashion, I think with the committment from the chairman that this bill will come back to us, I would like to see the committee of cognizance, the committee who's been dealing with this issue all year, I would like to see it referred to committee. Thank you, Mr. President.

THE CHAIR:

Wish to remark further? Senator O'Leary.

SENATOR O'LEARY:

Mr. President, normally, this could be solved quite simply. This bill is going to go right back down to the House. The Labor Committee can meet to their hearts content between now and Saturday. You got a better idea? Bring it right back down to the House, have your Labor Committee chairman amend it in the House if you have a better idea. That's a simple solution. The bill stays alive. You don't start it bouncing back and forth between a committee and a chamber with only days to go. Something's wrong here. Something is wrong. There's an attempt to kill the amendment. I don't know why. I've given you the solution. If you have good faith, if you've got a better idea, go sell it to the House. This just passed 33 to 3 in this chamber. I think the Senate has indicated a

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clear intention to reform unemployment compensation. This is as good a solution as any. I didn't see any of you coming forward with a solution. Maybe it just burns you up to think that the Democratic Party is willing and able to offer reasonable reform of the unemployment compensation system, and somehow, now, you want to kill this. It absolutely befuddles me when everything you want to do you could do without jeopardizing the bill. Therefore, I would suggest to the Senator, the chairman of the committee, call your committee together. Tell your House members what we've done here. Show them the bill we're sending to them. You have a better idea? Give it to your House members. Ask them to amend it in the House. The vehicle will remain alive. The issue will remain alive and it will not be quietly strangled in a committee or miss the end of the session. That's all. What are you afraid of? Let it go.

THE CHAIR:

The motion is to refer to the Labor Committee. A roll call has been requested. Clerk, please make an announcement for a roll call.

THE CLERK:

Immediate roll call has been ordered in the Senate. Will all Senators please return to the chamber. An immediate roll

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call's been ordered in the Senate. Will all Senators please return to the chamber.

THE CHAIR:

The question before the chamber is a motion to refer calendar No. 780, House Bill No. 7834, File No. 740 as amended by House Amendment Schedule "A" and Senate "A". If you wish to refer, you vote yea, contrariminded, nay. The machine is open. Please record your vote. Has everyone voted? Senator Casey. Has everyone voted? Machine is closed. Result of the vote, 15 yea, 21 nay. The motion to refer is defeated. We're now on the bill as amended. Senator Hampton. Senator Hampton.

SENATOR HAMPTON:

Mr. Chairman, I move the bill to the consent calendar.

THE CHAIR:

Any objection to placing on the consent calendar? Hearing none, so ordered. Senator Matthews.

SENATOR MATTHEWS:

Yes. I object, Sir.

THE CHAIR:

The Senator objects. Clerk, please make the appropriate call.

THE CLERK:

Immediate roll call's been ordered in the Senate. Will

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all Senators please return to the chamber. An immediate roll call's been ordered in the Senate. Will all Senators please return to the chamber.

THE CHAIR:

Question before the chamber is a motion to adopt calendar No. 780, House Bill No. 7834, File No. 740 as amended by House Amendment Schedule "A" and Senate Amendment Schedule "A". The machine is open. Please record your vote. Has everyone voted? Machine is closed. Clerk, please tally the vote. Result of the vote, 35 yea, 1 nay, the bill is adopted. Are we ready to proceed with the next item?

THE CLERK:

Page 5, calendar No. 796, Substitute for House Bill 7117, File 1031. An Act Concerning Authorization Of Bonds Of The State For A Demonstration Program For The Development Of Innovative Housing To Meet The Needs Of Certain Homeless Persons. (As amended by House Amendment Schedule "A").

Favorable Report of the Committee on Finance, Revenue and Bonding.

THE CHAIR:

Who wishes to report this bill? Senator Consoli.

SENATOR CONSOLI:

Mr. President, I move acceptance of the committee's

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THE CLERK:

For the record, Conference Committee appointments by the Senate President Pro Tem on Senate Bill 436, File 658, Senate Calendar 436, AN ACT CONCERNING FALSE STATEMENT UNDER THE WORKERS COMPENSATION ACT, Senate members, Senator Ken Hampton of the 33rd; Senator Joseph Harper of the 6th and Senator Andrew Santaniello of the 25th.

On Substitute House Bill 6701 concerning testimony in cases involving insanity with Senate A, Senate appointments are Senator Richard Johnston of the 9th, Senator Donald Schoolcraft of the 18th and Senator Anthony Avallone of the 11th.

Page 11, Calendar 780, House Bill 7834, File 740, AN ACT CONCERNING A MUNICIPAL EMPLOYEE'S RIGHT OF ACTION AGAINST A FELLOW EMPLOYEE, as amended by House Amendment, Schedule A and Senate Amendment, Schedule A, Favorable Report of the Committee on Appropriations. House ruled Senate A not germane and passed with House A.

THE CHAIR:

Senator Hampton.

SENATOR HAMPTON:

Thank you Mr. President. I move acceptance of the Joint Committee's Favorable Report and passage of the Bill in concurrence with the House.

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THE CHAIR:

Will you remark? This has been debated before.

SENATOR HAMPTON:

This has been debated for hours Mr. President. I
move to the Consent Calendar if there are no questions.

THE CHAIR.

Any objection? Senator O'Leary.

SENATOR O'LEARY:

No objection Mr. President.

THE CHAIR:

Hearing no objection, the item is placed on--
Senator O'Leary.

SENATOR O'LEARY:

No objection, just an observation. There's no point
in amending this at this stage of the game or we will
imperil the Bill but we did have an Amendment which we
felt and the Senate felt would address a problem that
had occurred in recent times. I hope that it can be
addressed but I hope that it can be addressed in a
reasonable manner and not in a draconian fashion such
as the first labor Bill which passed this chamber at the
beginning of the session. That's what worries me, but I
think that at this stage of the game we'd rather have
the Bill and if the House is not prepared to accept our

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Amendment I can go along with that and will support the Bill and don't object it going to Consent.

THE CHAIR:

Hearing no objection, the item is placed on the Consent Calendar.

THE CLERK:

Page 11, under Committee on Conference, Calendar 445, Senate Bill 943, File 680, AN ACT CONCERNING PERSISTENT LARCENY OFFENDERS, as amended by Senate Amendment, Schedule A.

THE CHAIR:

Excuse me for a second. The Senate will stand at ease. May I have the Committee's report please? Senator Richard Johnston.

SENATOR JOHNSTON:

Thank you Mr. President. I would move acceptance of the Conference Committee's report.

THE CHAIR:

Wish to remark?

SENATOR JOHNSTON:

Yes. The Conference Committee report in essence, was to reject Senate Amendment A. The legislation deals with correcting erroneous statutory reference with respect

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MR. SWEENEY: (continued)

isolated situations, but for the judge who is on the bench on a day to day basis, standards that he or she should employ are important to give. I haven't read Rep. Ritter's bill in its entirety, I have read it, but I haven't had a chance to analyze it. I can see from it that it is, it takes some of its or maybe all of its characteristics from the federal principles that were talked about by Mr. Shortall from the Public Defender's Office. As you may or may not be aware of, the Comprehensive Crime Control Act which has just gone into effect at the federal level has had an entire section that relates to this problem and I would suggest that the manner in which it was dealt at that level would be an appropriate way for this committee to move. And to the extent that Rep. Ritter's bill is consistent with that, I think that the trial lawyers would support that.

There are certain provisions about Rep. Ritter's proposal that you probably should have comment to, but as I said before, I haven't had a chance to review it thoroughly and I would prefer not to give comment. Although much of what's in here, I must say, I notice are things that already happened, things like putting specific conditions on parole on probation go on every day of the week. I mean, much of what's in here are things that already are being done. As to the issue of bond on appeal, that's something that isn't really intended, it seems to me from 7834, but as a practical matter, very few circumstances, in my experience where a conviction comes in and an appeal bond isn't set, it's two, three, four or five times the amount that was set at the trial level and I don't see the abuse being in that area, but again, as I said, I haven't had that much chance to review it.

The trial lawyers would also like to be on the record as in support, oh, I'm sorry, I was referring to 7834 incorrectly. The bond bill that, the bail bill that I was meant to be referring to is 7857. We would be in support of 7834 which is the proposed amendment to allow municipal employees to bring a right of action against the (inaudible) municipal employee if it arises, the accident arises out of negligence involving a motor vehicle for only the reason that the municipal employees are presently denied a right that other people have. It seems that they ought to be able to that as well. I'd be happy to entertain