

Legislative History for Connecticut Act

HB 7165	PA 42	FAT	1987
House	1632, 1712-1713		3 p.
Senate	962-963, 967		3 p.
Labor and Public Employees	251, 254, 304-308		7 p.
			13 p.

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

PROCEEDINGS
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House of Representatives

Tuesday, March 17, 1987

DEPUTY SPEAKER LAVINE:

Rep. Balducci.

REP. BALDUCCI: (27th)

Mr. Speaker, at this time I would like to place a couple of items on the Consent Calendar for action at tomorrow's Session.

DEPUTY SPEAKER LAVINE:

Please proceed.

REP. BALDUCCI: (27th)

Thank you, Mr. Speaker, beginning on Page 3, Calendar 114, House Bill 5377, AN ACT PERMITTING THE USE OF FLASHING WHITE LIGHTS ON AMBULANCES, File 105.

Calendar 115, Substitute for House Bill 7165, AN ACT CONCERNING EMPLOYMENT PROMISSORY NOTES, File 109.

On Page 5, at the tope of the page, near the top of the page, Calendar 124, House Bill No. 5651, AN ACT CONCERNING POLICE MATRONS, File 24.

I'd like those items placed on the Consent Calendar.

DEPUTY SPEAKER LAVINE:

Is there any objection to any of these matters being placed on the Consent Calendar? If not, so moved.

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House of Representatives

Wednesday, March 18, 1987

items on today's Consent Calendar. Rep. Linda Emmons.

REP. EMMONS: (101st)

Mr. Speaker, I would like to have Calendar 129, File 92, Senate Bill 766 removed from the Consent Calendar.

SPEAKER STOLBERG:

At Rep. Emmons' request, Calendar 129, Senate Bill 766, File 92 will be removed from the Consent Calendar. Any further objections to any items on today's Consent Calendar? Seeing none, those items will be placed on the Consent Calendar for action later. Rep. Balducci.

REP. BALDUCCI: (27th)

Thank you, Mr. Speaker. At this time I would like to move adoption of today's Consent Calendar which is located on Page 1. I'll just read off the Calendar numbers.

Calendar 114, House Bill No. 5377, AN ACT PERMITTING THE USE OF FLASHING WHITE LIGHTS ON AMBULANCES,

Calendar 115, Substitute for House Bill No. 7165, AN ACT CONCERNING EMPLOYMENT PROMISSORY NOTES and

Calendar 124, House Bill No. 5651, AN ACT CONCERNING POLICE MATRONS.

I move that those items be adopted,

SPEAKER STOLBERG:

Motion is adoption of today's Consent Calendar. Is

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there objection to the adoption of any of those items?

Is there objection from any members to the adoption of any of those items?

If not, the Consent Calendar is adopted,

Are there any announcements or points of personal privilege at this time.

REP. NICKERSON: (149th)

Mr. Speaker.

SPEAKER STOLBERG:

Rep. Nickerson.

REP. NICKERSON: (149th)

Thank you, Mr. Speaker. Mr. Speaker, we have in the Gallery today, a Mr. Jerry Finn of the Town of Greenwich, a former member of the representative town meeting, its legislative body and a former chairman of the Republican Town Committee and I hope you'll join me in giving him a welcome.

SPEAKER STOLBERG:

Thank you. Are there further announcements or points of personal privilege? Rep. Terri Bertinuson.

REP. BERTINUSON: (57th)

Mr. Speaker, would the Journal please note that Rep. Pat Dillon may be missing some votes today due to an

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accordance with Chapter 54. If there are no questions, I'd ask that this be placed on the Consent Calendar.

THE CHAIR:

Without objections, so ordered.

THE CLERK:

Cal. 148, File 109, Substitute for House Bill 7165. An Act Concerning Employment Promissory Notes. Favorable Report of the Committee on Labor and Public Employees.

THE CHAIR:

Senator Spellman.

SENATOR SPELLMAN:

Thank you Mr. President. I move acceptance of the Joint Committee's Favorable Report and passage of the bill.

THE CHAIR:

Will you remark?

SENATOR SPELLMAN:

Yes, Mr. President. Existing law prevents the use of what is referred to as 'employment promissory notes', and states that they shall be void as against public policy. The existing language is a little over broad, however, and would possibly prevent some arrangements between employers and employees that would be to their mutual benefit. Therefore, we've added language to make it clear that the law will not prevent nor render void any agreement which would require the employee to repay a loan from the employer. Any-

thing that would require the employee to pay the employer for equipment which was sold or leased to him, anything that would require the employee to comply with the terms of a sabbatical, if they are educational personnel. Nor any voluntary agreement which is entered into by both the employer and the employee, pursuant to collective bargaining. The bill enjoyed unanimous support in Committee and was passed on the Consent Calendar in the House. If there's no objection, I would move that it be placed on the Consent Calendar here.

THE CHAIR:

Without objection, so ordered.

THE CLERK:

Cal. 151, File 179, Substitute for Senate Bill 972. An Act Requiring Supervision of Deputy Fire Marshals and Fire Inspectors and Permitting the Appointment of Regional Fire Marshals. Favorable Report of the Committee on Public Safety.

THE CHAIR:

Senator Herbst.

SENATOR HERBST:

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

THE CHAIR:

Will you remark?

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Calendar page 4, Cal. 133, House Bill 5840. Cal. 134, Substitute for House Bill 7147.

Calendar page 5, Cal. 137, House Bill 7171. Cal. 138, Substitute for House Bill 5672. Cal. 140, House Bill 7255. Cal. 141, House Bill 7257.

Calendar page 6, Cal. 142, Substitute for House Bill 7134. Cal. 146, Senate Bill 978.

Calendar page 7, Cal. 147, House Bill 7334. Cal. 148, Substitute for House Bill 7165. Cal. 151, Substitute for Senate Bill 972.

THE CHAIR:

Any changes or omissions or corrections? The machine is open, please record your vote. Senator Lovegrove. Has everyone voted? The machine is closed, Clerk please tally the vote.

Result of the vote: 36 yea, 0 nay. The Consent Calendar is adopted. Senator Truglia. Senator DiBella.

SENATOR DIBELLA:

Thank you Mr. President. I'd like to take this opportunity for a Point of Personal Privilege to introduce my assistant for the day. He's a little reluctant at being introduced. My son, Mark, he's with me. Will you stand up Mark? (He receives a standing round of applause.)

THE CHAIR:

Senator Truglia.

JOINT
STANDING
COMMITTEE
HEARINGS

LABOR AND
PUBLIC
EMPLOYEES
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LABOR

February 19, 1987

SEN. SPELLMAN: Mr. McCarthy, that 90% figure in terms of agencies which are not charging employees, could you document that? HB 7164

MR. MCCARTHY: Well, let me put it this way, Senator. I believe almost all of the agencies now holding licenses which allows them to also deal with individual persons, they report to us that many of them deal exclusively with employers.

If the licenses were different, we could do it very empirically, but for that reason, it's our understanding, based upon working with the group, that about 90% of those involved in the association like to deal exclusively with employers. But the license allows them to deal with an individual should they so choose.

SEN. SPELLMAN: But is it accurate to say that 90% of them do not charge any fees to applicants for employment?

MR. MCCARTHY: I believe it is.

SEN. SPELLMAN: Questions from the committee. Thank you very much.

MR. MCCARTHY: Thank you very much.

SEN. SPELLMAN: We've passed two o'clock and although we have some other people signed up - agency heads and legislators - we'll have to go to the public portion of the hearing. We'll begin with Jan Spegele to be followed by Mary Conklin.

JAN SPEGELE: My name is Janet Spegele and I'm a staff attorney with the Connecticut Business and Industry Association.

I'm here to speak in support of Committee Raised Bill 7165, and to speak in opposition to Committee Bill 5335.

I'll start with Committee Bill 5335. This bill would require Connecticut employers to pay unemploy-

MS. SPEGELE: (continued)

danger zone when the system is used for that purpose and I urge you to oppose these changes in the Unemployment Compensation Law.

I'd like to also speak in support of Raised Committee Bill 7165. This bill is designed to correct some problems and consequences of legislation enacted in 1985. The legislation - Public Act 85-521 - was written to prohibit any employment promissory notes. And the bill defines employment promissory notes as any agreement between an employer and employee that requires the employee to pay a sum of money should that employee leave employment before a stated period of time.

The bill, I think, was intended to protect employees but, in fact, it is written so broadly that it has jeopardized a lot of employee perquisites or benefits, that are optional benefits. Because this agreement to repay a sum of money if you leave early, that vehicle or instrument has been used to provide employer-funded tuition grants and loans, sabbatical leaves, moving expenses, employer sponsored group purchase plans, and a series of other benefits that are optional benefits.

I think this bill makes it clear that what is prohibited by law or what would be prohibited by law if this bill were passed, would be only those employee/employer agreements that are required as conditions of employment. Leaving those agreements that are optional agreements clear of the law and employers and employees free to negotiate those things.

I urge your support of H.B. 7165. Any questions?

SEN. SPELLMAN: Jan, in regard to Committee Bill 5335

MS. SPEGELE: Yes -

SEN. SPELLMAN: Existing law provides for eligibility based upon a loss of transportation.

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ROBERT BOONE: (continued)

except when they invade personal privacy, except when disclosure would invade personal privacy, should be public.

So, bill 6163 and legislation like it presents a fundamental test in deciding whether to preserve the sound policy of past Legislatures. Each of you must ask a basic question: is my allegiance to be to some limited interest or is it to be to the public at large? To the general welfare? In this case, for the good of Connecticut, the Connecticut Council on Freedom of Information urges a resounding vote for the later choice and against bill 6361....6163.

REPRESENTATIVE ADAMO: Any questions? Thank you very much.

ROBERT BOONE: Thank you.

REPRESENTATIVE ADAMO: Fred Stainken? followed by Howard Specter.

FRED STAINKEN: Chairman Adamo, Members of the Committee, my name is Fred Stainken. I am the IBM Manager of External Programs for the State of Connecticut. I am here to speak very briefly in favor of Committee Bill 7165, an act concerning employee promissory notes, as far as IBM is interested.

IBM employs more than 5,000 people now in Connecticut at business facilities in Hartford, Stamford, Milford, Hamden, Norwalk and Danbury.

From time to time, IBM may advance funds or credit to employees for such purposes as personal installment purchases of equipment or home equity loans in connection with relocation. In such cases, clearly the employer has a right to repayment, and one which would survive any period of employment. The language of Public Act 85-521 enacted in October 1, 1985, inadvertently nullified

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> FRED STAINKEN: (continued)

that right by prohibiting any agreement containing an employee payment obligation upon termination of employment.

Committee Bill 7165 very aptly both corrects this inadvertent consequence and retains a good protection for employees against signing a promissory note as a condition of employment.

As a Connecticut employer, IBM commends this Committee for introducing this balanced and corrective action and supports passage of Raised Committee Bill 7165.

Thank you.

REPRESENTATIVE ADAMO: Thank you, Fred. It was our hope to draw the language to take care of that....so that it would veto the message of last year, and also take care of the concerns of your industry if it had the problem with..... And I think that it does, and I hope that it will go forward. Thank you. Mr. Specter?

HOWARD SPECTER: Mr. Chairman, Members of the Committee, I am Howard Specter, and I am here today representing private employment

REPRESENTATIVE ADAMO: Excuse me, sir. Would you bring the microphone closer so that we can hear....and because we do have to record you, please. Thank you, sir.

HOWARD SPECTER: I am representing the private recruitment industry to the State of Connecticut. In my capacity of Chairman of the Legislative Liason for the Connecticut Association of Personnel Consultants. Privately, I am president of Gilbert Lane. We are a company which operates three recruitment and search offices, two of which are in Connecticut. I have been in business for 24 years. I am also Past-President of our Association.

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HOWARD SPECTER: (continued)

My testimony as I said is on behalf of the CAPC and which by the way is a local chapter of the National Group....called the National Association of Personnel Consultants.

The existing legislation which probably goes back as many as 50 years which was provided sensibly perhaps in the '30's and the '40's to regulate the employment agency industry because of its nature of its dealings with the public. It charged applicants fees for services which related to the applicant. Today, the outgrowth of that industry which is the Association and the group that I represent, no longer charges fees to the applicant.

In my own organization, we haven't charged an individual a fee in 20 years. Those members of our organization and many who are not, under similar circumstances, they simply do not charge individuals's fees for the services they provide. Fees are only charged to client companies. Yet, we are restricted and subjected to the existing legislation based on its original presentation to the State which requires us to obtain a bond, which will insure the refund of the fee....each and every one to obtain a fee, to insure the refund of a fee to an applicant, who we haven't charged in the first place.

We are required to keep records for receipts of fees that we must give to each applicant, but we don't charge applicants fees. We must list a fee schedule with the Department of Labor and seek their approval if we wish to change it, which can impede us from making an arms' length, sepcial arrangement with a client company. I think a lot of....many of the circumstances which are now outmoded and no longer apply to us. The representative of the Labor Department has made the comment with regards to the relationship that we have had with the Labor Department , saying that it was always a good one and that we always have worked

HOWARD SPECTER: (continued)

well together. It is true; we do. We are good people and they are too, and we are not rebellious and by no means do we ever consider working outside of whatever the regulations of the law is.

The fact is: times have changed. Our industry no longer functions as it did 50 years ago.... nothing really does. There are probably 8 or 10 types of services that can be rendered to an individuals or on behalf of companies, where fees are exchanged. We are aware of 8 or 9 or 10 of those groups. But, we are the only ones that are required to be liscenced and to go through these procedures as I have outlined them ...to be bonded, retain receipts, etc.

Executive Search Firms, so-called head hunters, are not required to be liscenced. It is very easy from the Big 8 companies, Price-Waterhouse, Arthur Anderson, etc. very often have recruiting arms that they use to provide placement services for their clients. They are not required to be liscenced. The great irony is the fact that there are consulting services which will hold out to the public that they can find...help those individuals find opportunity for new employment....anywhere form \$30,000 - \$250,000 a year. They will ask them to come to them, they advise them, counsel them and help them market themselves.

They charge these individuals a fee that can be substantial....and this is not a critical comment of their work, merely of the fact that they are unliscenced. So, you have a substantial group of operators who charge fees and are unliscenced and we never do and are. I think that it is reasonable that today if we ask merely that those of us that do not charge fees ever to an individual for placement services be exempt from the existing laws.

I hope, gentlemen and ladies, that you can agree

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HOWARD SPECTOR: (continued)

with this and if I can answer any questions, I would be very pleased to do so.

Thank you.

REPRESENTATIVE ADAMO: Are there any questions from the Committee? If not, thank you very much, sir. Charles Molchriski? I can't read this....

CHARLES MOLCHRISKI: Excuse the name or the handwriting. I apologize. My name is Charles Molchriski. I am an attorney with the firm of Daybury and Powers practicing in Hartford. I represent the Connecticut Daily Newspaper Association.

You have already heard quite a bit of testimony on House Bill 6163, and I think that you have heard some very good analysis and anecdotal testimony from some of the people who were involved in the controversies that apparently have given rise to this bill. I would just like to say that this Legislature has time and time again, over the last dozen years, come to the rescue of the public's right to know when executive agencies out there, either at the state or the local level have created or imagined loopholes for the public's right to know.

Last year, for example, you addressed the public's right to know in the area of the attorney/client privilege which was being abused by several executive agencies. Two years ago, you put a stop to the use of Committees and SubCommittees to get around public access to public meetings. And even earlier, you took care of a bogus distinction between the deliberational and decisional process in the government.

That is why I am doubly dismayed to see this Committee and this Legislature getting...giving serious consideration to a bill that would go