

Legislative History for Connecticut Act

PA 91-32

Act Number:	32	Year:	1991
Bill Number:	HB 6820		
House Pages:	1959-1965		7
Senate Pages:	835-837, 881-882		5
Committee:	Labor 16-39		24
		Page Total:	36

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

PROCEEDINGS
1991

VOL. 34
PART 5
1581-1987

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House of Representatives

Wednesday, March 27, 1991

SPEAKER BALDUCCI:

The bill as amended is passed.

CLERK:

Please turn to Page 1, Calendar 75, Substitute for House Bill 6820, AN ACT REVISING CERTAIN PROVISIONS OF CHAPTER 568 OF THE GENERAL STATUTES CONCERNING WORKERS' COMPENSATION. Favorable Report of the Committee on Labor and Public Employees.

SPEAKER BALDUCCI:

Representative Adamo of the 116th.

REP. ADAMO: (116th)

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

SPEAKER BALDUCCI:

The question is on passage. Will you remark?

REP. ADAMO: (116th)

Yes, Mr. Speaker. The bill before us is the product of two years of hard work by the Law Revision Committee, the Workers' Compensation Commission, members of this Chamber and others to do a complete and total recall, or rewrite, I'm sorry, of the Workers' Compensation Statutes as we know them today.

This particular bill before us revises and reorganizes the entire law. It brings into focus a new

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House of Representatives

Wednesday, March 27, 1991

section of describing all the definitions that were utilized and sprinkled throughout the entire chapter, chapter 568, and repeals certain provisions whose substance have either been destroyed by changes that were made through this Chamber and other pieces of legislation, or have been found to be inadequate or inappropriate or which are taken care of in other portions of the statute.

Mr. Speaker, the Law Revision Commission, along with our screening attorneys saw some changes that had to be made and I would ask that the Clerk call LC05102 and I be given the liberty to summarize.

SPEAKER BALDUCCI:

Will you remark further on the bill? The Clerk please call LC05102 designated House Schedule "A".

CLERK:

LC05102, House "A" offered by Representative Pelto et al.

SPEAKER BALDUCCI:

The question is on summarization. Is there objection? Representative Adamo.

REP. ADAMO: (116th)

Thank you, Mr. Speaker, as stated earlier, this is a very technical amendment. It was the work of our screening committee of the Law Revision Commission that

pat

House of Representatives

Wednesday, March 27, 1991

in fact put together these small changes in language, letters, commas, and the effective date of July 1, 1991.

It deals with approximately 25 or 30 small technical changes in the bill to make sure that all of the language tracks, all of the terminology and definitions tracks, and I would move its adoption, Sir.
SPEAKER BALDUCCI:

The question is on adoption. Will you remark on the amendment? Will you remark? If not, all those in favor signify by saying aye.

REPRESENTATIVES:

Aye.,

SPEAKER BALDUCCI:

Opposed, nay. The ayes have it. The amendment is adopted and ruled technical.

House Amendment Schedule "A".

In line 216, strike our "REQUIRES" and insert "PROVIDES" in lieu thereof

In line 293, after the semicolon strike our "OR"

After line 293, insert the following:

"(v) IS A VOLUNTEER POLICE OFFICER, WHETHER THE OFFICER IS DESIGNATED AS SPECIAL OR AUXILIARY, UPON VOTE OF THE LEGISLATIVE BODY OF THE TOWN, CITY OR BOROUGH IN WHICH THE OFFICER SERVES; OR"

In line 294, strike out "(v)" and insert "(vi)" in lieu thereof

pat

House of Representatives

Wednesday, March 27, 1991

In line 306, insert a period after "EMPLOYMENT" and strike out "OR ANY VOLUNTEER POLICE"

Delete lines 307 to 310, inclusive, in their entirety

In line 321, insert a comma after "IF"

In line 322, insert a comma after "INSURANCE"

In line 601, insert opening and closing brackets around "benefits" and after the closing bracket insert "COMPENSATION"

In line 645, strike out "FOR THE USE OF THE STATE"

In line 648, strike out "HIS" and insert "THE EMPLOYER'S"

In line 649, strike out "HIS" and insert "THE EMPLOYER'S"

In line 652, before "FAITH" insert "FULL"

In line 713, strike out "FOR THE USE OF THE STATE"

Delete line 717 in its entirety and insert the following in lieu thereof: "CARRIER ON THE EMPLOYER'S BEHALF IN PAYMENT OF THE EMPLOYER'S LIABILITY"

In line 720, before "FAITH" insert "FULL"

In line 759, insert opening and closing brackets around "benefits" and after the closing bracket insert "COMPENSATION"

In line 761, insert opening and closing brackets around "benefits" and after the closing bracket insert "COMPENSATION"

In line 850, insert an opening bracket before "and"

In line 851, insert a closing bracket after "assurance"

In line 1004, insert an opening bracket before ", including" and insert a closing bracket after "expenses,"

House of Representatives

Wednesday, March 27, 1991

In line 1335, insert opening and closing brackets around "appoint" and after the closing bracket insert "SCHEDULE"

In line 1338, insert opening and closing brackets around "appointed" and after the closing bracket insert "SCHEDULED"

In line 1504, insert an opening bracket before "(1)"

In line 1505, insert a closing bracket after "(2)"

In line 1506, after "filed" insert ", ["

In line 1507, after "it" insert a closing bracket and after the closing bracket insert "THE COMPENSATION REVIEW DIVISION"

Delete line 1511 in its entirety and insert the following in lieu thereof: "include its findings, [and award and] conclusions of"

In line 1512, after "law" and before the period insert "AND AWARD"

In line 1573, insert an opening bracket before "and"

In line 1574, insert a closing bracket after "assurance"

In line 1685, insert opening and closing brackets around "benefit" and after the closing bracket insert "COMPENSATION"

In line 2040, insert opening and closing brackets around "benefits" and after the closing bracket insert "COMPENSATION"

In line 2052, insert opening and closing brackets around "rate of" and after "compensation" insert "RATE"

In line 2183, after "THE" insert "LOSS OF THE MEMBERS AND THE"

In line 2184, strike out the comma and insert a colon in lieu thereof

pat

House of Representatives

Wednesday, March 27, 1991

Delete line 2185 in its entirety

In line 2237, before "USE" insert "OF"

In line 2424, insert opening and closing brackets around "benefits" and after the closing bracket insert "COMPENSATION"

In line 2541, insert an opening bracket before "and" and a closing bracket after "assurance"

In line 2552, insert opening and closing brackets around "benefits" and after the closing bracket insert "COMPENSATION"

In line 3010, insert an opening bracket before "and" and insert a closing bracket after "assurance"

In line 3067, insert opening and closing brackets around "benefits" and after the closing bracket insert "COMPENSATION"

In line 3094, insert an opening bracket before "and" and insert a closing bracket after "assurance"

In line 3177, strike out "AND"

In line 3178, strike out "COMPENSATION ASSURANCE"

In line 3196, insert an opening bracket before "and" and insert a closing bracket after "assurance"

Delete lines 3250 to 3252, inclusive, in their entirety and insert the following in lieu thereof:

"Sec. 41. This act shall take effect July 1, 1991."

SPEAKER BALDUCCI:

Will you remark further on the bill as amended by House "A". If not, staff and guests to the well. Members please be seated. The machine will be opened.

CLERK:

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185

House of Representatives

Wednesday, March 27, 1991

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

SPEAKER BALDUCCI:

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

Representative Gilligan of the 28th.

REP. GILLIGAN: (28th)

Mr. Speaker, in the affirmative. Thank you, Sir.

SPEAKER BALDUCCI:

Representative Gilligan in the affirmative.

The Clerk please announce the tally.

CLERK:

House Bill 6820 as amended by House "A".

Total number voting	147
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Necessary for passage	74
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Those voting yea	147
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Those voting nay	0
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Those absent and not voting	4
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SPEAKER BALDUCCI:

The bill as amended is passed.

CLERK:

Calendar 120 on Page 8, Senate Bill 654, AN ACT CONCERNING INTEREST PAYMENTS ON HEALTH INSURANCE CLAIMS. Favorable Report of the Committee in Insurance

S-316

CONNECTICUT
GEN. ASSEMBLY
SENATE

PROCEEDINGS
1991

VOL. 34
PART 3
707-1094

WEDNESDAY
April 10, 1991

34
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on the Consent Calendar.

THE CHAIR:

Is there any objection to placing Senate Calendar 65, Substitute SB650 as amended on the Consent Calendar? Is there any objection? Hearing none, it is so ordered.

THE CLERK:

Calendar Page 3, Calendar 96, Files 51 and 160, Substitute HB6820, AN ACT REVISING CERTAIN PROVISIONS OF CHAPTER 568 OF THE GENERAL STATUTES CONCERNING WORKERS' COMPENSATION. As amended by House Amendment Schedule "A". Favorable Report of the Committee on LABOR AND PUBLIC EMPLOYEES. Clerk is in possession of one amendment.

THE CHAIR:

Thank you.

THE CLERK:

Correction. The amendment has been withdrawn.

THE CHAIR:

Thank you. So we have no amendment on this item. The Chair will recognize Senator Maloney.

SENATOR MALONEY:

Thank you, Madam President. I would move for approval of the Joint Committee's Favorable Report and passage of the bill in concurrence with the House.

WEDNESDAY
April 10, 1991

35
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THE CHAIR:

Thank you very much, Senator. Would you care to comment further sir?

SENATOR MALONEY:

Very briefly, on a very long bill, this bill is the bill that makes technical recodification of the Workers' Compensation statute. It has been worked on for almost a year by a wide variety of parties representing employers and employees, the legal community and insurance interests and the like. It was approved unanimously in the Labor Committee and it was approved unanimously recently by the House of Representatives. It cleans up the statute in regard to Workers' Compensation and gives us a starting point for some major substantive changes which we anticipate to be forthcoming in the Session.

THE CHAIR:

Thank you very much, Senator. Does anyone else wish to comment on Senate Calendar 96. Are there any other comments or remarks to be made? Senator.

SENATOR MALONEY:

I would move the item to the Consent Calendar.

THE CHAIR:

Thank you very much, Senator. It has been moved that Senate Calendar 96, Substitute HB6820 as amended

WEDNESDAY
April 10, 1991

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by House Amendment Schedule "A" be moved to the Consent
Calendar. Is there any objection? Hearing none, it is
so ordered. Mr. Clerk.

THE CLERK:

Calendar 104, File 84 and 152, Substitute HB6939,
AN ACT CONCERNING AN EMPLOYEE'S RIGHT TO ACT. As
amended by House Amendment Schedules "A" and "B".
Favorable Report of the Committee on LABOR AND PUBLIC
EMPLOYEES.

THE CHAIR:

Thank you very much, Mr. Clerk. The Chair
recognizes Senator Maloney.

SENATOR MALONEY:

Thank you, Madam President. I would move approval
of the Joint Committee's Favorable Report and passage
of the bill in concurrence with the House.

THE CHAIR:

Thank you very much, Senator. Would you care to
remark further?

SENATOR MALONEY:

I had understood that there was an amendment.

THE CLERK:

Mr. Clerk, do you have in your possession an
amendment?

THE CLERK:

WEDNESDAY
April 10, 1991

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Is there any objection to moving Calendar 114,
Substitute 719 as amended on the Consent Calendar? Is
there any objection? Hearing none, it is so ordered.
Mr. Clerk. I believe we are ready now to do the
Consent Calendar.

THE CLERK:

Immediate roll call has been ordered in the Senate
on the Consent Calendar. Will all Senators please
return to the Chamber. Immediate roll call has been
ordered in the Senate on the Consent Calendar. Will
all Senators please return to the Chamber.

THE CHAIR:

Thank you very much, Mr. Clerk. Please give your
attention to the Clerk who will read to us the items
that are on the Consent Calendar.

THE CLERK:

Madam President, the first Consent Calendar begins
on Calendar Page 2, Calendar 65, Substitute SB650.
Calendar Page 3, Calendar 96, Substitute HB6820.
Calendar Page 3, Calendar 104, Substitute HB6939.
Calendar Page 4, Calendar 112, Substitute SB820.
Calendar 113, Substitute SB344. Calendar Page 5,
Calendar 116, Substitute SB802. Calendar 117,
Substitute SB316.

Calendar Page 6, Calendar 121, Substitute HB7107.

WEDNESDAY
April 10, 1991

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Calendar 124, Substitute HB5055. Calendar 125, HB6515.
Calendar 126, HB5344. Calendar 129, HB5380. Calendar
Page 8, Calendar 138, Substitute SB713. Calendar 140,
SB696. Calendar Page 9, Calendar 145, Substitute
HB7180. Calendar 146, HB7053. Calendar 147, HB7063.

Calendar Page 10, Calendar 148, Substitute HB7105.
Calendar 149, Substitute HB5373. Calendar 152, HB6935.
Calendar Page 11, Calendar 67, Substitute SB651.
Calendar 133, Substitute HJ37. Calendar Page 12,
Calendar 134, HJ57. Calendar 135, HJ60. Calendar 153,
HJ62. Calendar 154, Substitute HJ64. Madam President,
I believe that that completes the first Consent
Calendar.

THE CHAIR:

Thank you very much, Mr. Clerk. You have heard the
Clerk read the items on the Consent Calendar. The
machine is open. You may cast your vote. All Senators
voted that are going to vote. The machine is closed.

The result of the vote.

34	Yea
0	Nay
2	Absent

The Consent Calendar is adopted.

I believe that that...Senator Przybysz, I'm sorry,
I didn't see you.

JOINT
STANDING
COMMITTEE
HEARINGS

LABOR AND
PUBLIC
EMPLOYEES

PART 1

1-267

1991

avk LABOR AND PUBLIC EMPLOYEES

February 14, 1991
3:00 p.m.

PRESIDING CHAIRMAN: Senator Maloney
 Representative Adamo

COMMITTEE MEMBERS PRESENT:

SENATORS:

REPRESENTATIVES: Betkoski, Dargan, Emmons,
 Gambardella, Joyce,
 Loffredo, Miller,
 Radcliffe

REPRESENTATIVE ADAMO: We'd like to call the Public
Hearing to order. And I would like to, for a
moment, to the chair to Senator Maloney. HB 6820

SENATOR MALONEY: Thank you chairman. Just so
everyone understands, a couple of people have
approached me prior to the hearing. The bill that
we're gonna hear today is a technical revision in
affect to the existing statute. It doesn't change
substantive law, or if it does, we want to hear
about it. What are those substantive changes? The
purpose of this bill, the purpose of this bill is
to give us a clean starting point for all of the
additional work we're gonna do during this session.

We have many substantive changes that are under
consideration. This still gives us a clean
starting point. The analogy I use was if you go
into a classroom, and you're gonna start having a
discussion, the first thing you do is you erase the
blackboard. So this bill theoretically gives us
that clean starting point. I want everyone to
understand that. So we're not really dealing with
changes in the substantive legislation today. If
there are substantive changes that are made because
of the draft, we do want to hear about that because
that's not what's supposed to have occurred with
this instrument. Thank you Mr. Chairman.

REP. ADAMO: Thank you Senator. The first person to
testify is Commissioner John F. Goody,
Commissioner Arcudi, please proceed.

COMM. JOHN ARCUDI: (gap in tape) -- because of a concern of both the law revision commission and the workers compensation commission on the prolixity of language that had occurred during the seventy-eight year history of this compensation law, which was originally enacted in 1913, the statute as it now exists in the part of the General Statutes from 31275 to 31355, still contains some of the old language that originally was in it in 1913.

The law itself, in the seventy-eight years of its history, has undergone many many changes. Some of the changes were fairly substantial. In 1919 when occupational disease was added to the definition, in 1939 when repetitive trauma was added, in 1959 when they eliminated any any limitations upon total disability, permitting those with disability for lifetime rather than for ten years or fifteen years.

And in 1967, probably the last great rewrite of the statute, and it wasn't totally re-written, was in 1967 so that we're twenty-four years away from that partial rewrite. As a result, a lot of the language that's in there, it was just added to old language and it has caused much confusion in interpretation. This statute was supposed to have been for the benefit of the injured worker, and the injured worker supposedly was able to represent himself in an informal hearing.

Some of those statutes, as they now exist, with the language that has become encrusted over the years upon it, make it pretty difficult to interpret even for a Philadelphia lawyer, never mind the worker whose education hasn't put him through three years of law school and so forth. So that, this is the purpose of the bill, not to change substance, but to try to simplify language and eliminate archaic language, reduce language if possible, that's been the attempt and it's taken a year and a half in which the two commissions have worked together along with advisory committees from the bar association, from labor, from business organizations, from employees.

This has been the the work of this eighteen month

or more undertaking, to come out with this bill and I strongly urge the legislature to act upon it. And I would be very happy to answer any questions.

REP. ADAMO: (gap in tape)

SEN. MALONEY: Thank you. Mr. Chairman, the question I would have, are there any areas in the legislation where there have been substantive changes that we should be pay attention to?

COMM. JOHN ARCUDI: I can't honestly say that there are any areas that we are, of which we are aware because we've gone over everything with a fine tooth comb. The statutes that that cried out for for rewriting, were from instance, Section 31294 a statute that now occupies three pages and had so much encrustation, that I mean, I'd look there at the language which results here (inaudible) and we've really gone over that.

I don't think there's anything I can honestly do not believe that there's anything that is in anyway a substantive change. The 290-7B statute, the one that's had so much the twenty day, or the twenty-eight day requirement before a rebuttal of presumption of compensability. That that was looked at, the second injury fund, which occurs from 31349 through 31355 in the present statute, that was attempted to be looked at. And the second injury fund was represented in this rewrite, so there was always somebody from the second injury fund legal staff, at our various committee meetings, as well as somebody from the department of administrative services personnel division, concerning state employees.

That that was there too. So, I don't think so. To answer your, maybe I've been to to prolix in my answer, but I've been trying to go over the sections where that might possible.

SEN. MALONEY: Very good. Thank you.

REP. ADAMO: Representative Loffredo.

REP. LOFFREDO: Question regarding Section 12 in terms of the employers, and the employees right.

COMM. ARCUDI: What page are we on?

REP. LOFFREDO: Page 27, 28.

COMM. ARCUDI: Okay.

REP. LOFFREDO: To the best of your knowledge, the information, or the statements contained therein to this section do not change any shape or fashion the current rights of an employee regarding physician selections?

COMM. ARCUDI: No. The the history of the statute, the present statute, is that in 1967, the statute was changed to make the, give the employee the choice of physician. But the employer was obligated especially in a factory situation if there were a dispensary or an employer doctor on a scene to furnish emergency aid to first few minutes or hours of injury. And that language, of the employer being obligated to furnish the emergency aid, the employee to, as of 1967, to have the choice of physician, that language was one of the confusing bits of language in 294 which we attempted to sift out and preserve the intention of the 67 legislature on the employee choice of physician and to define what the employer obligation was.

So I do not think it's any change, I think that there was one of the places where the new language is a great simplification of the present language.

REP. LOFFREDO:

REP. ADAMO: Any further questions? If not, thank you very much commissioner.

COMM. ARCUDI: Thank you.

REP. ADAMO: Are there any other legislatures or department or agency heads that wish to speak in this first hour? If not, with permission of the committee, we move on to the public list. On the public list, we have a group of people signed up from justice. Is it your intention to speak as a group or one individual or to speak at all? Okay, than I'll call Anthony Madden please.

ANTHONY MADDEN: I have a few problems. I have a workers compensation case going since 1985, where I was injured on the job. And I've gone to numerous doctors which have all been insurance companies doctors or the commissioners doctors, who he picked. Well, if you go (inaudible) so called preferred list, I wish somebody could explain this to us.

Because the preferred list is the yellow pages, that's what we're told. And if you start setting doctors fees, you're not going to have very good doctors to take care of people, such as specialists. Your not going to have any body coming out of a garage or something, if you have to do a heart operation you're going to have a shoemaker work on you. That's our feeling, anyhow, I'm sorry. But the problem with the commissioners, I mean he picked this commissioner that I'm dealing with is Frank (inaudible) down in Bridgeport.

He picked an independent doctor for me to go to. I went to this doctor. The doctor has been treating me for a year. Now the second injury fund comes in because the hundred and four weeks have elapsed. Well, the doctor (inaudible) who the commissioner picked, raised by disability rating. The commissioner's questioning it. Now, this is the doctor that the commissioner picks, so, why is the commissioner so abrupt to what's going on?

But, I went to another doctor, I have nothing to hide. After going to the doctor, he agreed that I have this disability. Well, the commissioner wouldn't agree to to doing this with what the doctor said, I'm doing job searches you have to go out every week and look for a job. He takes away from my job searches and wants to put it towards the disability rating, which was another twenty-six weeks.

To me, this is just a commissioner harrassing me. Because I'm doing what the law tells me I have to do. Now, he came down to a voluntary agreement again, and I wouldn't sign the voluntary agreement because I didn't agree to it. The commissioner

okayed the voluntary agreement, without me signing it. So where's the rights of the injured person at five years?

I mean, he did the volunteer, just a voluntary agreement. I'm not lying, I wouldn't sign it. But he's the commissioner, so he has the authority to sign it and say you're stuck with it. So where do laws help me? I mean, I can't understand this. And every time the commissioner orders through a formal order, I have to go to the insurance commissioner one, two, three, four, five, six times to get paid. I'm waiting since November to get paid. Where's my money?

There's no law here on this book that I could see to help the claimants. I mean, I hope please don't misunderstand, I'm not here to cause trouble. I want somebody to help me because I'm tired. I mean, we go to the commission, I'm waiting since October, where I met with the review board, Mr. Arcudi was there, I have to wait till October of this year to get an answer?

This is a speedy and fair trial? Not to me it's not, because my life is going down the tubes and I have no help. That's all I have to say.

SEN. MALONEY: Mr. Madden, the I appreciate your coming here today, I know it's always an imposition for the public to come and testify in the middle of the day and all that. And we're glad to have you here. We are at the beginning, as you know, last year we did some substantial work. This year, we intend to do even more than we did last year. This is only the first step. There will be a hearing on the program who reviews specific substantive recommendations.

There may be a second hearing in regards to other proposals that this committee may consider and there may be, at that time, or and even a further time, some discussions about medical cost containments and other issues. So, I just want you to understand that you say, you're looking for some help, my message is that's why we're here, we're really trying very hard to give you exactly the kind of help you want. We regret that we cannot, we can't we do not have a magic wand, we can't

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LABOR AND PUBLIC EMPLOYEES

February 14, 1991

solve all the problems today, but we are trying very hard to to really overhaul this situation. And I thank you for coming.

REP. ADAMO: Any further questions or comments? If not, thank you sir. Karyn Econo, Economu. Economu.

KARYN ECONOMU: I just would like to say one thing briefly. Representative O'Donnell came over and spoke with me and I have a better understanding of why we're here. I would just like to make sure that whatever is in these books is just a reiteration of the present workmen's comp system. The way I read it, it almost seems that to give more authority to the commissioner and if that is the case, I'd be very angry about it because, as the review board has already established last year, the system has a lot of faults.

And, obviously, commissioners can't handle the workload as it is. Giving them more would cause a lot more problems and that's the only thing I really wanted to say today. I'm not gonna sit here and reiterate what happened to me and my case. That will come another time. That was my only concern. Thank you.

REP. ADAMO: Thank you. Further comments or questions? Thank you. Frank Awara please.

: (Inaudible)

REP. ADAMO: Okay, Linda Thompson.

LINDA THOMPSON: Hello, I'm not feeling to well so I'll try to do the best I can. I cannot speak to whether these are substantive changes or not because we were just handed this today. You know, we didn't know about the hearing and found out about it by accident on Monday, even though it's my understanding that the Justice Committee has been asked to be called before to be notified when something's coming up.

It is hard for us to get here when we're sick. But we do it anyway, because we all seem to be going through the same experiences and having the same problems. But getting back to whether these are

substantive or not, as I said, I'm not qualified to say that. I will have to sit down and compare this one with the old one, but I do feel there are some changes in the wording that it appears that it's again going against the employee to our disadvantage.

My own opinion is that on this Section on page fourteen, line 470, that the commissioner now has the authority to establish classifications of approved physicians by speciality to establish fees for services and to remove physicians that have been (inaudible) from the approved list for cause, etc. etc. etc. Those three main points there, I'd like to talk to each one.

One, is that my understanding that any license certified physician who is in the phone book should be qualified to treat you and that the employee should the choice of their own doctor. There sometimes, you'll go into a doctor who may be a perfectly fine doctor and you have a personality conflict with that person, or you don't like their so-called bedside manner. You have to have a right to feel comfortable with your physician.

As far as removing any doctors from the list, I would have to hear why that's necessary. I think that's up to the AMA. If somebody isn't a qualified physician, that shouldn't be up to workmen's comp to remove them. We're afraid that that will mean that we're going to get doctors removed who are sympathetic to the employees physician. And what I mean by that, is that there's a lot of hostility on the part of industry to people with occupational illnesses.

They just routinely challenge when we're sick, and treat us like we're the criminals. Now, on the setting fees, I want to say my understanding, and again, I may be wrong, I'm not an expert on all of this stuff or anything, but I think that you could not have a law that sets fees unless you also have a state law saying that every doctor is required to take up workmen's compensation clients, because you'll have the same situation you do with the dental work and welfare where you set the fees at

one quarter of the going rate, and than no self-respecting or talented doctor will even take a welfare recipient.

It would be the same with a workmen's comp. They wouldn't want to touch us, because they know they aren't going to be compensated and you'll get, as as Tony says, a bunch of inferior doctors that we have to go to. So I'm totally against that. Now, on the review committee, I know that's going to be coming up. You said, there's a separate hearing for that, but, at this point, the when I read that review, I would pray there are no changes implemented out of that review committee.

Because it seems to me that most of the new recommendations that are coming up, will be dealt with in the future hearing, are all cuts at the employees expense. That's the way I see it, my initial reaction. And I went through point by point pretty much, and so, my hope is that, you know, I think industry and the businesses have been saying we'll, business is hurting and these costs are getting to high.

You know, but, they're they're worried about making more profits and we're worried about when they they're saying their hurting, we were in the hospital, and it's the employees that are absorbing the real course of this recession, not the businesses. They may be hurting a little, but we're the ones who are hurting houses, and we're out on the street. Thank you.

REP. ADAMO: Thank you Linda. I think that

LINDA THOMPSON: I'm sorry, I said that I don't feel good.

REP. ADAMO: That's okay. Personally, I think that the language that you referred to is existing language. When you read one of these bills, remember that the language that's in capitals are represent the changes.

LINDA THOMPSON: The language, oh okay

10
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LABOR AND PUBLIC EMPLOYEES

February 14, 1991

REP. ADAMO: The small, the regular letters are the existing language unless the whole paragraph says new.

LINDA THOMPSON: Okay

REP. ADAMO: So the commissioner have always had the right to select physicians and have always had the rights to set fees. They have not, by the way, there is no fee schedule to set that I know of. Maybe that's the problem, I'm not sure, maybe it isn't. You were reading from existing language, that does not represent a change.

LINDA THOMPSON: Okay

REP. ADAMO: Thank you.

LINDA THOMPSON: But I'm saying that's a bad idea to have them begin to set fees, that will hurt us.

REP. ADAMO: I understand, thank you. Any comments? Thank you. Wayne Germain.

WAYNE GERMAIN: I wasn't really prepared to be testified. I just heard about this hearing on Monday. I just want to get a point across. When there is a hearing like this, I got to understand from Tony that for years they've been looking into this matter for our rights. That every time we call up, to supposed to notify your office, to find out when there's going to be a hearing like this, and there's never, they call and they never get a call letting know if there's going to be a hearing.

Just luckily, this past Monday, happen to be up here find out about today about this hearing. And I was wondering just why, there just getting the run around on this and there's nothing being done about it or there not getting any calls and looking into this matter strongly. Like I said earlier, I wasn't prepared for this, I didn't bring any notes or anything with what I wanted to testify with, because I don't have all my information what I went through.

I'm a victim of the work related injury and I feel the same for the future victims, there should be some kind of change in all these house of rights of workmen's comp with this commissioner, and how everything is boiled down to a person who is hurt and injured in a work related injury. Why isn't everything, you know, it has to be this way, it's bad enough that they've been hurt, and their families are being hurt, and their losing their houses, their losing all the medical bills and stuff like that.

I, you know, I'm not feeling well, I'm not in a strong state of mind. I may not know what I'm talking about but I'm just letting out my (inaudible) today because I wasn't prepared for this hearing.

REP. ADAMO: First, let me make it clear. The committee has always as followed the appropriate procedure for notice in regards to hearing. No one generally gets special call. We'll make an effort to notify your group if we can, we can't hold our clerk to it or staff to it, because there are other issues that come before us. We have met the requirements, there are notice through the bulletin, generally, when this particular subject matter comes up, there's generally a pretty good press or media on it.

You got as much notice as every other citizen of Connecticut got.

SEN. MALONEY: I would add one thing though, and I made this recommendation. Your particular state legislature or your particular state senator has a special duty to you and I think if you call them and tell them of your particular concern, they should keep their eye open for workers comp hearings. We will, Representative O'Donnell and I have agreed, we will ask our clerk to call the justice representative for the additional workers comp hearings. We will do that.

And we will try to give you as much notice, alright? But that's our best effort. Please be in touch with your own individual state reps. and state senators too, okay? Thank you.

12
azk

LABOR AND PUBLIC EMPLOYEES

February 14, 1991

: Thank you.

WAYNE GERMAIN: Like I said, I wasn't prepared to

: I understand

REP. ADAMO: Okay, the next Mary Hicks.

MARY HICKS: I'm afraid I've misinterpreted the purpose of this, and when I first read it, I thought it gave additional discretionary powers to the commissioner. You've explained to me that's not so, that it's just a rewording of the laws that are already on the books. I think that something interesting just happened here, today. When it was mentioned about the fee and it was mentioning about the list of doctors.

Well, it's not done. That's the problem with workers comp. It's not done. (inaudible) Thank you.

REP. ADAMO: Okay, John Milette.

JOHN MILETTI: Thank you Chairman Adamo, Chairman Maloney, members of the committee. My name is John Milette, I'm counsel to the Insurance Association of Connecticut. I've submitted some written testimony, I'll just try to skim through it. There's basically four areas that we address in there, which we think minor changes which we would request that the committee would consider.

Before getting into that, I would like to publicly acknowledge the that this bill represents the work of, work product of many, many dedicated individuals who've spent some long hours (inaudible) over the compensation statutes. The IAC was pleased to be a part of that process. We were happy that we were invited to the table and we'd like to give some special recognition the Chairman Arcudi and the law revision staff including Dave Bicklin and Joe Roberts for their dedication.

First area I'd like to draw the committees attention to, is really just in Section one of the bill, page ten. This deals with the phrase,

employer primary liability period. And it's defined as the first one hundred and four weeks of disability. And having an opportunity to sit down with some folks who are far more knowledgeable than I am on the specific wording of the statutes as they presently exist, it was brought to my attention that, for example, Section 31284B subsection D of the present statutes, which would find in Section 8 of the revision, deals with the continuation of accident and health or life insurance.

After one hundred and four weeks of totally incapacity, and there just seems to be an inconsistency there because, if we are defining the hundred and four weeks, the typical hundred and four week period, getting into the second injury fund, as disability, yet this particular section talks about total incapacity, it seems to be a little bit of confusion. I've been in touch with the law revision commission and it's my understanding that that change wasn't intended to be made there and I'll leave it up to their efforts to follow through on that.

But along the lines of this phrase employer primary liability period, we also think there's also a similar situation. On page 66 line 2260 through lines 2283, and this deals with Section 31-349 again, a second injury fund section. And this is a section that deals with death benefits being picked up by the second injury fund after a hundred and four weeks. And again, if we're defining an employers primary liability period as a period with specifically (inaudible) disability, but we're talking about death benefits, it just doesn't seem to be consistent.

We would suggest, just very simply perhaps, in all the sections that deal with this hundred and four week period, as the as the waiting period to basically get someone into the second injury fund, we would suggest just leaving that phrase and the statutes wherever it presently exists rather than the substitution phrase, employer primary liability period, we think it's pretty simple the way it was set out.

This is certainly something that never occurred to me, going through this before, again these are these are things that were pointed out by some folks who had an opportunity to pour through this (inaudible) in the last week or so. The second thing which I would like to bring to your attention, deals with Section 33 of the revision on page 62. And, this deals with the the acknowledgement of prior fiscal defects. And there's a change on Line 2141 which the word, the phrase may impose was substituted for the word, imposes.

And it seems to be a broadening of the use of the acknowledgements of prior defects. I, I don't really think that was intended, again, I don't think there was any intent here to create any substantive changes and we would just like to point out that there has been a great deal of concern over the growth of the use of the second injury fund and that you know that's something that we really shouldn't be touching upon in this technical revision of this statute, so we just bring that to your attention.

The third item, deals with page 25 line 851 through 856. And again, these are all in my in my written remarks, the specific page references. This deals with the issue of prompt notification by the employee to the employer and the current statutes have a penalty type provision where if there isn't prompt notification, there could be some reduction in benefits and we think, some clarification language should be in there because the way it's presently worded in a revision, it just seems like the only way you can get a reduction if there's no notification and the issue seems to be prompt notification.

So we have some suggestive language on page three of my written remarks for you. And finally, now the fourth item, which I will bring to your attention deals with the issue of medical examinations. This would be Section 14 of the revision on page 29. The revision language seems to add some phraseology about the situation, where an employee fails to go to a a medical examination and there's potential first suspension of benefits.

There seems to be an addition of a phrase after a formal hearing. And again, it has been brought to my attention by at least one former commissioner, indicated that usually these are things get resolved through the informal process and I think we'd hate to see the requirement of a formal hearing for this type of situation be imposed, and if that's the judgment of the legislature at some point, you know, that may very well be, but, for this technical revision, we don't think that kind of language really belongs in here.

I thank you for this opportunity. I'm we look forward to providing any further info which this committee needs.

REP. ADAMO: Questions? Representative Radcliffe.

REP. RADCLIFFE: Mr. Chairman. John, your suggesting that the statutory language remain at a hundred and four weeks rather than

JOHN MILETTI: Right, there are various parts where the statutes various different parts talk about a hundred and four week waiting period. I think what the committee tried to do was say, let's use a short-hand phrase. And I think it sounded good, and I think, at least when I had somebody look over this, they kind of said you know, it deals with things other than disability, so why don't we just leave the hundred and four weeks in it, really

REP. RADCLIFFE: Of course there's nothing magic about a hundred and four weeks except the fact that we've chosen to use one hundred and four weeks for the for the second injury fund.

JOHN MILETTI: Right, that's already in the statutes. Right. Right.

REP. RADCLIFFE: And I suppose if a hundred and four weeks were either expanded or contracted than you could, it would if this phraseology in the current recommendation were used, it would merely expand and contract along with the change in the number of weeks, if they were made earlier.

JOHN MILETTI: Yes, that's correct, except that the employer primary liability period specifically as its defined in the revision refers to disability. And that hundred and four week period, and death benefits, refers to death benefits and health and accident, it comes after total incapacity not disability. So it just creates a little bit of an ambiguity in there.

REP. RADCLIFFE: Alright, I see that. I assume that it was shorthand, and perhaps this could be brought to the attention of the Commission. I assume that it was shorthand for simply recognizing that 104 weeks as in the statute, but it's not cast in concrete and some might even say that it doesn't bear any reasonable relationship to when the second injury fund should begin to assume part of the cost, so that it might have anticipated some look at the 104 week standard.

JOHN MILETTI: I'm not sure I follow that. I think all I'm saying is that to say employer primary liability period it's just as easy to say 104 weeks, or if somebody decides to change it to 200 weeks or 52 weeks, it doesn't matter. But it's 104 in the current statutes, and that's what it's supposed to be and that's where we'd like to keep it.

REP. RADCLIFFE: Of course, as I reiterated, there's nothing magic about 104 weeks except that we choose to in fact use it and it represents a certain figure that's been used.

One other question on page 3 of your testimony in regard to Section 31-297, you read the current recommendation as requiring a hearing, a formal hearing if in fact a claimant objects to a certain position?

JOHN MILETTI: That's what has been brought to my attention. I looked it over myself. It seems to be a little bit of a departure from, because it does say subject to a hearing in accordance with 31-297, that's what the revision says, which is the section for formal hearings, and former commissioner has informed me that gee, if there is a dispute and if somebody wants to be heard on it, we usually

resolve it at the informal process and it sounds like saying that the suspension of benefits, or whatever it is, is subject to a formal hearing, that any time there's a dispute you have to have a formal hearing and I don't think we want to go to that step to begin with.

REP. RADCLIFFE: That's a full evidentiary hearing. They don't even require that in a civil case that's returnable to the Superior Court in terms of an objection.

JOHN MILETTI: Correct.

REP. RADCLIFFE: Once an objection is raised, really, the person objecting has the benefit of showing, or the burden of showing that it wasn't a frivolous objection. I think you may be right, that we may be here creating a standard that's even much higher than that in a civil case, even though we have a statute that says, no person shall be required to undergo an examination by a physician without his or her consent.

JOHN MILETTI: Right.

REP. RADCLIFFE: Okay, thank you.

REP. ADAMO: Further questions? Thank you, John.

JOHN MILETTI: Thank you.

REP. ADAMO: Ken Carroll. Okay, Ken.

KEN CARROLL: I'd first start off by saying that I was somewhat misimpressed by this bill myself. But, you know, I understand what it's about now. And the thing I'd like to acknowledge out of this is that I would like to think that this is one of the byproducts of what we were asking for in the first place, is a plain language writing of the statutes for people to understand what is going on, which I really applaud the Legislature for taking on this task, as well as the Commission and a lot of revision and everybody else.

I think it will be a big help for the system overall. One concern that I have about that, though, is that the laws that are written on the

books now in black and white, they look good on paper. But everybody has to keep in mind somebody has to enforce these laws and I would venture to think that that would be one of the major objectives of the Legislature in the near future, to rectify this problem and put more accountability on behalf of the Commissioners, on behalf of the Second Injury Fund, on everybody's part to adhere to all these laws because everybody, there's a lot of time and effort put into this.

Not only on your part, but on our part, the law revisions part. Arcudi's part. So I would like to really emphasize on that fact that this is the biggest part of the problem. Everything looks good on the books, but the laws clearly state that you should be provided with such and such benefit. But those laws do not get adhered to.

So this has got to be one of the main objectives from here on out, to get rectified. I think that you know, we should continue working together and any more suggestions that we come up with we'll be glad to bring to your attention. That's about it.

One thing I'd like to make public here and now is, I gave you one for instance, that there's a law, I just spoke with Senator Maloney about it on the books that clearly states that the employer should carry your benefits. If he's in the process of contesting your benefits, he has to go through the process.

But there's the situation where an employer took it upon himself to stop a person's benefits without notifying the claimant, without notifying the Commissioner, without notifying anybody and what does the claimant do when he gets injured? I want everybody to think about that when you go home. Think about it. Where does that person turn to when he gets injured? Or his kid has to go to the hospital for something?

They have no recourse. They're in limbo. This has got to stop. This is the kind of business that's got to stop and that's about it. That's all I've got to say.

REP. ADAMO: Questions or comments? Thank you, Ken. Shawn Garris. Bonnie Stewart.

BONNIE STEWART: Good afternoon, my name is Bonnie Stewart. I'm an attorney with the Connecticut Business and Industry Association. I've submitted written comments, so I'm going to make this real brief because John Milette said everything I was going to.

Basically, as John said, we appreciate the work that the Advisory Committee, Commissioner Arcudi and the Law Revision staff did working on this bill. It took an awful lot of time and effort and it's a good product.

We also have some similar concerns with the exact same sections of the bill that John already mentioned and we've outlined these in our written testimony as well. And we'd be more than willing to work with the Committee and the Advisory Committee of Law Revision as well to cover these.

It is exactly though the same things that John said, so I'm not going to go through it again.

REP. ADAMO: Bonnie, are you satisfied that the document is really and truly technical and the technical revision doesn't change substances as far as benefits and other requirements.

BONNIE STEWART: Yeah, there's just, there are minor changes but they're important ones to us, the ones that John had mentioned earlier concerning the additional hearing and the employer liability period going back to 104 weeks, with the exception of that, and that's not really a major substantive change. But like I said, it's a really important one to us nonetheless.

But other than that, yes, we're comfortable that it is simply a technical bill.

REP. ADAMO: Thank you very much, Bonnie. Questions? Remarks? Thank you very much, Bonnie. Bill Nugent.

BILL NUGENT: Good afternoon. I came here this afternoon basically out of frustration. The timing, I guess, I couldn't ask for better timing. I just left my lawyer's office earlier this afternoon and received a discontinuation of payment. Claimant failed to keep scheduled appointment for steroid injection with a doctor on January 21st.

I'd just like to let it be known, I haven't been at this process or through this process all that long. However, on July 9th of 1990, I sustained an injury at work which disabled me totally. The company at that time denied that the accident even happened, so now I was forced to go through the process.

Three weeks later I was forced out onto the street because of my indignancy and I was forced to seek shelter through the House of Bread located here in Hartford and through their good will they found a room for me. I was put through, the degradation I was put through, the humility, after being independent and self-supporting for the past 15 years, it was pretty hard to swallow.

After an informal hearing where nothing was accomplished and after a wait of 3 months for that hearing, again, nothing being accomplished, I was forced to wait for an informal hearing which took another 3 or 4 months, which brought me up to around December.

At that time, the Commissioner suggested to the insurance company that they pay benefits, however not ordering them to. They went along with that suggestion and paid retroactively back to July. They suggested at that time that I have an I & E which I attended and was still found totally disabled.

January 21st there was a severe ice storm that morning and I could not attend the appointment with the doctor. I rescheduled 4 days later. However, today, again, after hoping to go pick up my check from the lawyer's office as scheduled, I received a discontinuation.

So now, basically what has happened, after receiving these benefits retroactively I got to be back on my feet, and now I'm forced to just, you know, where do I go. It's really, really sad. And I just think that, I don't think anybody should have to go through this. I really don't.

Again, I really came here out of frustration today and I just hope you take my story into account and hope it helps whoever else down the way. Thank you.

REP. ADAMO: Just a moment. You said you have a notice of discontinuation of benefits.

BILL NUGENT: Right.

REP. ADAMO: Effective when?

BILL NUGENT: Effective January 21st, which says here, you are notified that the undersigned employer will on the 21st day of January, 1991 discontinue payments. Claimant failed to keep scheduled appointment. And I'd like to let it be known that this is my only appointment I missed.

REP. ADAMO: Was it approved by the Commissioner?

BILL NUGENT: It just says --

REP. ADAMO: Was the lawyer asking for a hearing about that discontinuance?

BILL NUGENT: Yes, at that stage.

REP. ADAMO: Okay. Because that's a form 36. Payments are not supposed to stop until the Commissioner approves their stoppage. We did a statute last year that we even put a penalty in place about that. If they stop the benefits, they are breaking the law.

BILL NUGENT: Well, what recourse do I have at this point?

REP. ADAMO: Ask for a hearing as quickly as possible.

22
azk

LABOR AND PUBLIC EMPLOYEES

February 14, 1991

BILL NUGENT: Exactly. And the backlog, I understand that the backlog at the Compensation office, it's probably going to take another 3 or 4 months.

REP. ADAMO: Senator Maloney.

SEN. MALONEY: Two questions. Have your benefits in fact been terminated?

BILL NUGENT: As of January 21 they were terminated.

SEN. MALONEY: That's what the letter says.

BILL NUGENT: That's what the letter says. I have not, in January last month they paid retroactively all my back comp benefits. Today, and I've been receiving my weekly benefit checks right along, today I received no check.

SEN. MALONEY: I see.

BILL NUGENT: So, you know, I'm in limbo.

SEN. MALONEY: Apparently they have in fact stopped your benefits.

BILL NUGENT: For this reason, right.

SEN. MALONEY: Who is the employer?

BILL NUGENT: Capital Light and Supply located here in Hartford.

REP. ADAMO: I think there's one critical question here, though. Where was that notice sent?

BILL NUGENT: This notice was sent to my attorney.

REP. ADAMO: If you didn't appeal and the 10 days ran, you may have a serious problem.

BILL NUGENT: No, this letter was received by his office this morning or early this afternoon, in today's mail.

REP. ADAMO: Oh, okay.

BILL NUGENT: Normally, I pick up my check today, so I went to pick up my check and was handed this letter.

SEN. MALONEY: The employer may not, they should, but they may not know of the requirement to get permission. But that's why we put the penalty into the law so that if they have not proceeded correctly, there is a penalty and you should receive payments when that has been resolved at the hearing.

REP. ADAMO: Thank you. Any further questions?

BILL NUGENT: Thank you.

REP. ADAMO: Thank you. Nick Cecere.

BILL NUGENT: I, too, intend to keep my comments very brief, some of what has been echoed by the people I've heard, especially this gentleman right here that spoke just before me about the cutting off of benefits, the arbitrary cutting off of benefits simply because the employer, the insured, doesn't wish to pay them any more.

You spoke of penalties for people who cut off benefits and I think I and Ken Carroll and the great majority of us would like, as you had done, put some teeth into the law where we would have somewhere to go when what we consider these violations stop.

I've heard both of you say that this should (GAP IN CASSETTE) that law says this, we have penalties but these penalties aren't imposed. And as this gentleman has said, too, many times simply the Comp Commissioner merely suggests and those suggestions can last up to 10 informal hearings.

It's things like this. This man was put out of his abode and it's things like this that we wish that were addressed through these rewriting and the technical revisions of the law. As Representative Adamo is aware, I dropped off some papers where I am still having problems with the insurer that I have of finally getting a formal hearing after two years and having the insurance company's lawyer

dismiss my witnesses and then say to the insurance commissioner, I'm prepared to go, why doesn't he have his people here and I have that in writing.

And as I stated to you, I've been asked to leave from both the state's attorney's office, the attorney general's office and the insurance commissioner's office because none of them wish to investigate this violation in the law. I happen to look it up in 53-a-151 is interfering with the witness, which is anybody induces somebody who is subpoenaed to show at a formal proceeding, induces that person not to come, which is what this lawyer did and I gave you a copy of the letter saying he did indeed do that.

It's things like this that we need backed up. We appreciate all the, I am sure everybody here appreciates all the work you put into this effort and I'd like to thank you for your time and the effort you've put in just through me and everybody else.

REP. ADAMO: Any questions, comments? Thank you, Nick, very much.

NICK CECERE: Thank you very much for your time.

REP. ADAMO: Is there any other person who wishes to address the Committee? Is there any other person? If not, we will adjourn this meeting at 3:50 P.M. Thank you.