

Legislative History for Connecticut Act

HB 7339 PA 339 1991

House 2791, 6941-6942, 9033-9084 (55)

Senate 915, 3416-3421, 3435-3446 (19)

Labor 891-904, 907-910, 918-926, 931-935,
936-940, 944-960, ~~960~~ 960-967,
985-990, 991-993, 1007-1008,
1014-1017 (77)

151 p.

Transcripts from the Joint Standing Committee Public Hearing(s) and/or Senate
and House of Representatives Proceedings

Connecticut State Library

Compiled 2013

H-592

CONNECTICUT
GEN. ASSEMBLY
HOUSE

PROCEEDINGS
1991

VOL. 34
PART 7
2402-2822

tcc

House of Representatives

Friday, April 12, 1991

H.B. No. 6631 (COMM) ENVIRONMENT. 'AN ACT CONCERNING LITTERING AND ILLEGAL DUMPING', to clarify and strengthen the penalties for illegal dumping.

CLERK:

Change of Reference, Favorable Report of the Joint Standing Committee on Labor and Public Employees on Substitute for House Bill 7339, AN ACT CONCERNING COMPREHENSIVE WORKERS' COMPENSATION REFORM.

The committees have the bill under consideration and feels it should pass, but first be referred to the Committee on Governor Administration and Elections.

ACTING SPEAKER REP. IRELAND: (111th)

So ordered.

CLERK:

Business from the Senate, Change of Reference, Favorable Report of the Joint Standing Committee on Education on Substitute for Senate Bill 848, AN ACT CONCERNING AUTHORIZATION OF STATE GRANT COMMITMENTS FOR SCHOOL BUILDING PROJECTS.

The committee has had the bill under consideration and feels it should pass, but first be referred to the Committee on Finance, Revenue and Bonding.

ACTING SPEAKER REP. IRELAND: (111th)

So ordered.

CLERK:

H-603

CONNECTICUT
GEN. ASSEMBLY
HOUSE

PROCEEDINGS
1991

VOL. 34
PART 18
6655-7067

tcc

House of Representatives

Thursday, May 23, 1991

Representative Pelto.

REP. PELTO: (54th)

I move that this item be referred to the Committee on Government Administration and Elections.

DEPUTY SPEAKER MARKHAM:

The motion is to refer the bill to the Committee on Government Administration and Elections. Is there objection? Is there objection? Hearing none, so ordered.

CLERK:

Page 14, Calendar 665, Substitute for House Bill No. 7339, AN ACT CONCERNING COMPREHENSIVE WORKERS' COMPENSATION REFORM.

Favorable Report of the Committee on Appropriations.

REP. PELTO: (54th)

Mr. Speaker.

DEPUTY SPEAKER MARKHAM:

Representative Pelto.

REP. PELTO: (54th)

Thank you, Mr. Speaker. I move that this item be referred to the Committee on the Judiciary.

DEPUTY SPEAKER MARKHAM:

The motion is to refer the bill to the Committee on Judiciary. Is there objection? Is there objection?

House of Representatives

Thursday, May 23, 1991

Hearing none, so ordered.

CLERK:

Page 19, Calendar 383, Substitute for House Bill
No. 5392, AN ACT CONCERNING THE ESTABLISHMENT OF
REGIONAL PORT AUTHORITIES.

Favorable Report of the Committee on Government
Administration and Elections.

REP. PELTO: (54th)

Mr. Speaker.

DEPUTY SPEAKER MARKHAM:

Representative Pelto.

REP. PELTO: (54th)

I move that this item be referred to the Committee
on Commerce and Exportations.

DEPUTY SPEAKER MARKHAM:

The motion is to refer the bill to the Committee on
Commerce and Exportation. Is there objection? Is
there objection? Hearing none, so ordered.

CLERK:

Page 22, Calendar 564, Substitute for House Bill
No. 6351, AN ACT CONCERNING THE POWERS AND DUTIES OF
CONSERVATION OFFICERS.

Favorable Report of the Committee on Public Safety.

REP. PELTO: (54th)

Mr. Speaker.

H-608-B

CONNECTICUT
GEN. ASSEMBLY
HOUSE

PROCEEDINGS
1991

VOL. 34

PART 24

8972-9327

tcc

179

House of Representatives

Saturday, June 1, 1991

SPEAKER BALDUCCI:

The bill as amended fails.

Are there any announcements or Points of Personal Privilege? Representative LeBeau of the 11th.

REP. LEBEAU: (11th)

For purpose of an introduction, Mr. Speaker.

SPEAKER BALDUCCI:

Proceed.

REP. LEBEAU: (11th)

Sitting in the gallery, I'd like to ask them to rise, my wife, JoAnne, my mother and father, Malvena and Roland LeBeau, and my brother, Skip LeBeau. Please stand up and if the members could give them a warm welcome.

APPLAUSE

SPEAKER BALDUCCI:

Other announcements or Points? If not, we'll return to the Call.

CLERK:

Page 16, Calendar 665, Substitute for House Bill 7339, AN ACT CONCERNING COMPREHENSIVE WORKERS'

COMPENSATION REFORM.

Favorable Report of the Committee on Judiciary.

REP. ADAMO: (116th)

Mr. Speaker.

House of Representatives

Saturday, June 1, 1991

SPEAKER BALDUCCI:

Representative Adamo of the 116th.

REP. ADAMO: (116th)

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

SPEAKER BALDUCCI:

The question is on passage. Will you remark, sir?

REP. ADAMO: (116th)

Yes, Mr. Speaker, I don't think there is --.

SPEAKER BALDUCCI:

(Gavel) Excuse me, Representative Adamo.

REP. ADAMO: (116th)

Thank you, sir.

SPEAKER BALDUCCI:

It's a major bill, as most bills are in this Chamber. If we could give our attention to Representative Adamo for explanation. I'm sure the membership would appreciate it. Thank you.

REP. ADAMO: (116th)

Thank you very much, Mr. Speaker. Ladies and gentlemen, I don't think that any issue has ever come to the attention of each member of this Chamber in a bigger way than the question of Workers' Compensation and it's impact on the business community, it's impact

tcc

181

House of Representatives

Saturday, June 1, 1991

on the workers, it's impact on the economy of Connecticut as a whole.

Mr. Speaker, ladies and gentlemen, it was such an important issue that the Governor for the first time in many, many years ordered the Program Review Committee to in fact conduct a study of the subject and they did an indepth study. I would say did a remarkable job in the short time that they had to work in highlighting and finding and suggesting problems and corrections to the statutes. They in fact then sent that bill to our Labor Committee. We worked on it diligently and it came to be House Bill 7339.

Mr. Speaker, ladies and gentlemen, this is probably the most comprehensive change in the statutes regarding Workers' Compensation ever taken since its inception. Program Review had highlighted four or five issues, one, accountability of the board, two, the benefit levels that were being paid, and three and most importantly, the costs and how they've escalated.

Over the past four and a half years the indemnity payments have increased approximately 70 percent and over the past same four years the medical costs have increased 107 percent.

So this bill, with an amendment that I will call shortly, addresses each and every one of those

House of Representatives

Saturday, June 1, 1991

questions. Prior to going into the file copy, Mr. Speaker, I would appreciate the Clerk calling 7352 and I be given the opportunity to --.

REP. KRAWIECKI: (78th)

Mr. Speaker, a Point of Parliamentary Inquiry, sir?

SPEAKER BALDUCCI:

Representative Krawiecki.

REP. KRAWIECKI: (78th)

Mr. Speaker, I think the Chairman has not move for acceptance and passage and --.

SPEAKER BALDUCCI:

Representative Adamo, for clarification, would you move?

REP. ADAMO: (116th)

I'll do it again, sir, certainly. I would move acceptance of the Joint Committee's Favorable Report and passage of the bill.

SPEAKER BALDUCCI:

Now will you remark, sir?

REP. ADAMO: (116th)

Yes, Mr. Speaker. The Clerk has an amendment, LC07352. Would he call and I be given the opportunity to summarize.d

SPEAKER BALDUCCI:

The Clerk please call LC07352, designated House

tcc

183

House of Representatives

Saturday, June 1, 1991

Schedule "A".

CLERK:

LC07352, House "A", offered by Representative
Balducci, et al.

SPEAKER BALDUCCI:

The question is on adoption. Will you remark?

REP. ADAMO: (116th)

Thank you, Mr. Speaker, this is on summarization,
sir.

SPEAKER BALDUCCI:

Is there objection to summarization?

Representative Adamo.

REP. ADAMO: (116th)

Thank you, Mr. Speaker. Mr. Speaker, the amendment does many things and makes many changes in the file copy. It makes very clear that the advisory board would have staff provided for through the Workers' Comp. Commission. It would provide that the advisory board would in fact set its own regulations under Chapter 568. It provides whereas in the file there were plans, medical plans suggested for the treatment of Workers' Comp injuries. This particular amendment continues those plans with the approval of the Chairman, but also allows an employee to continue to have his or her right to choose his or her own

House of Representatives

Saturday, June 1, 1991

physician so long as those physicians are licensed in the state and are willing to treat and charge in the same fashion as set out in the plan.

It clearly indicates that the chairman of the board would also be the chairman of the Commission Review Division that he can hear appeals and appeals only. It goes on that the commissioner and chairman of the board would appoint a chief clerk to the Compensation Review Board and that the board would review appeals in accordance with the chapter and that the chief would select compensation commissioners to sit on the board for no longer than one year with the ability to make temporary appointments as well.

The significant parts of this particular bill, and I must add that this particular amendment is a compromise that I think is truly a compromise, as we know it in this Chamber, now deals with matters related to the benefit levels. It reduces and changes the method of payment for Worker's Compensation benefit to workers from 66 and two-thirds of their gross income to 80 percent of their spendable income after federal taxes.

It goes on to cap the benefits for specific indemnity under the permanent-partial disability clauses of the benefits at 100 percent rather than 150

House of Representatives

Saturday, June 1, 1991

percent of the manufacturing wage. It goes on to make those particular changes all through the statutes as necessary. It then goes on to put in place what I think is a very substantial and very important portion of the bill, that being, Mr. Chairman -- I'm sorry, Mr. Speaker, a provision that the Program Review Committee once again study a review on the Workers' Compensation insurance rate setting mechanisms related to the promotion of workplace safety.

The review shall also include examinations of ways to more equitably distribute Workers' Compensation insurance costs as they relate to variations in wage levels, payroll levels, hours of exposure and safety programs.

It goes on to repeal a number of sections under the act that are changed by this particular with, with most of the act being effective on July 1, 1991, the benefit levels being changed effective October 1, 1991 and it would not -- it would be prospective, everyone who are on the benefits would be grandfathered under those existing benefits and I would move adoption of the amendment.

SPEAKER BALDUCCI:

The question is on adoption. Will you remark?
Will you remark further on the adoption of House "A"?

House of Representatives

Saturday, June 1, 1991

Representative Radcliffe of the 123rd.

REP. RADCLIFFE: (123rd)

Thank you, Mr. Speaker. I rise in support of House "A" and I think it's instructive to look at the file copy and to see where some of the more significant changes have been made in House "A".

The first rather significant change is the reduction from 85 percent of spendable income to 80 percent of spendable income. What this amendment does and what the file copy also does is it replaces our current system of taking two-thirds of gross wages and replaces it with a spendable income approach.

That approach would mean that the worker's total salary reduced by federal income tax payments and Social Security would then be divided by 80 percent which becomes the compensation rate. I would call the attention of the Chamber to the file copy which indicates that at 85 percent there would be virtually no change in the existing rate and therefore virtually no savings in that rate.

Other states, including many industrial states, such as Michigan, which have adopted the spendable income approach, have used the 80 percent figure and have found that it is an acceptable figure which compensates the injured worker and at the same time

House of Representatives

Saturday, June 1, 1991

provides an incentive for that worker to receive rehabilitation and to return to work and to become a productive member of the workforce.

The second change involves a reduction from 150 percent of the average weekly production wage to 100 percent only in the event of permanent injury for the worker and I think this is a rather significant area because this is a change from the file copy.

One of the objections that we had heard repeatedly was that a worker who was injured on the job, who sustains injury, particularly a back injury or another disabling type of injury, who would not be able to return to work for some time had become accustomed to a particular lifestyle, had bills and obligations which would have occurred over a period of time.

This amendment ensures that the maximum compensation rate which is currently 150 percent of the average weekly production wage or \$719 a week by current calculations, would remain in effect for temporary-total or temporary-partial payments. In other words, the weekly payments to which a worker is entitled after the injury has been determined to be compensable.

However, the savings in this plan and in the significant savings without doing violence to the

tcc

House of Representatives

Saturday, June 1, 1991

injured worker, occur when it comes to the permanent injury aspect. After a worker has returned to work, after he or she is able to reenter the job force, we have used the calculation of 100 percent of the average weekly production wage for determination of what's commonly referred to as a specific award.

Basically what that means is, and we haven't changed the schedule of payments for the different parts of the body as compensation is determined, what that basically means is in a hypothetical situation an individual sustains an injury to the back, that individual, if the compensation rate were \$719 a week, would be entitled to a percentage of that disability multiplied by the number of weeks for that particular part of the body.

Essentially this is an area where there are significant savings, however, the injured worker does not receive the immediate impact of a substantial reduction in salary.

I think I should point out that in leaving the figure at \$719 a week for maximum weekly benefits, we are well in excess, well in excess of many of our neighboring states. For example, the rate in Massachusetts is \$490 a week. The rate in New York is \$340 a week. The rate in New Jersey is \$385 a week.

House of Representatives

Saturday, June 1, 1991

Our rate at \$719 a week or 150 percent of the average weekly production wage is substantial.

The final area of the amendment is the health plan area and in this area, which has been the subject of a great deal of discussion, we're attempting to control the increase in costs which have accounted for approximately 40 percent of the increase in Workers' Compensation payments and that is the cost of managed health care.

This amendment would allow an employer to adopt a health plan. It would allow him to adopt cost containment measures in that plan and would allow the employer to send the employee for an independent medical examination if the individual felt that maximum medical improvement had been reached.

It provides, however, for the employee freedom of choice at the outset. In other words, the employee has the ability to choose a provider on the condition that the provider will accept the compensation provided in the plan or in the alternative, the injured employee will pay the difference between the cost for services in the plan and the other services.

There will also be a study, as Chairman Adamo indicated, of insurance company costs. This amendment, as Representative Adamo indicated, represents a

tcc

House of Representatives

Saturday, June 1, 1991

compromise. I believe it represents an equitable balancing of the interest between making our industries in this state more competitive, reducing the cost of Workers' Compensation benefits so that the expedient increase in this area can be reversed and at the same time takes cognizance of the interests of legitimately injured workers, the desire to return them to the workplace and properly and adequately compensate them at a rate well in excess of many neighboring states for injuries sustained on the job.

Thank you, Mr. Speaker, and I hope this amendment will succeed.

SPEAKER BALDUCCI:

Further remarks on the amendment? Representative Bowden of the 31st.

REP. BOWDEN: (31st)

Mr. Speaker, thank you very much and I'd like to thank Representative Adamo for his very kind compliments on the work of the Program Review Committee staff. We appreciate that and we recognize that our people do do a good job.

I would like to address one section, Mr. Speaker, of this amendment. If I could ask members to look at Page 5, if I could ask members to look at Page 5, Section 55, you'll notice in that a quick, early

tcc

191

House of Representatives

Saturday, June 1, 1991

reading that the amendment has the Program Review Committee looking again at the rate setting mechanisms and reporting back. already fully involved.

I'm sure that's a job that our people can do and do well, but I point out to the members that here is also a case of a standing committee, namely Labor Committee, mandating a task for another committee. I don't need to tell the committee -- the membership that if this were to happen too often or very often or even sometimes, that the Program Review and Investigations Committee would be out of business. We would not be dictating our own agenda. We would be trying to keep up with everybody else's agenda.

I don't think any committee here would like others to mandate studies that it has to do. Now we're in the review business, I grant you that, but our agendas are set well ahead of time. I don't know if we can take on this by the date suggested, Representative Adamo, but I'll certainly speak to other members of the committee and my co-chairman, Senator Harper, to see if we can do this, but I suggest to the other committee people who might be here today to please do not mandate things for us to do. We will try to be cooperative. We will try to be cooperative and voluntarily assist, but to be mandated that we must take this on as a part of our

tcc

192

House of Representatives

Saturday, June 1, 1991

program for the next few months will conflict with projects that we have already gotten underway and on which our staff is already fully involved.

I bring that up to the attention to the chairman so he can understand our position in this matter and thank you, Mr. Speaker.

SPEAKER BALDUCCI:

Will you remark further? Representative Rapoport of the 18th.

REP. RAPOPORT: (18th)

Mr. Speaker, I'm going to support the amendment and appreciate that a great deal of work has gone into developing this compromise, but I think there are some things in it that have troubled some of the members in the Chamber and I want to make, for the record, state what some of these things are.

I think that what the bill focuses on and the amendment, in all the various cost centers of the Workers' Compensation system, some of them are going to be studied, the administrative costs, the rate setting process, but the focus here is on lowering the benefits for injured workers, okay? And the commentary that I've seen, the letters that I've received from businesses and others in my district indicate that the problem here is that we want to lower the costs to

tcc

193

House of Representatives

Saturday, June 1, 1991

businesses of the Workers' Compensation system. This has singled out one, that is, the benefits that workers receive when they are injured or when they are out of work.

We have now lowered the benefits for many of these workers. I'm not sure that there -- there is no guarantee here at all that the premiums that are actually paid under Workers' Compensation are actually going to go down for these businesses and I certainly hope that a year from now or two years from now the same businesses having lowered the benefits for these workers don't come back and say, gee, our premiums are still too high. Let's lower the benefits even further. I think we ought to make sure that we're looking at all the cost centers of the system.

Secondly, there are different kinds of workers and different kinds of workers are affected differently by this amendment. If you're a high wage worker and you're injured, the fact that the benefits, that the maximum benefit level is going to stay at 150 percent rather than be lowered to some other figure, say 100 percent as some had indicated. That saves you a substantial amount of money and I think that that's all to go the good, but frankly, we have many workers in this state whose weekly incomes are nowhere close to

House of Representatives

Saturday, June 1, 1991

the maximum benefit levels. They may be making \$300 or \$350 a week in the service sector and some of the most dangerous jobs are not in the high wage manufacturing or construction sectors. Some of the more dangerous jobs where health and safety are a real issue, they're not going to be affected, but what they are affected by is the change from the file copy going down to 80 percent of the federal taxable income from the 85 that was in the file copy.

That's not a huge loss, but when you're making in the area of \$200 or \$250 a week, losing two or four or six or eight or ten dollars a week, as this does, can be a substantial harm.

And secondly, those low income workers lose out in a second way and that is that the current system has a ten dollar a week bump for dependents which has been taken out in this amendment and in the file copy and so I think that we are here taking money out of the pockets of some of the lowest wage workers in the state. I'm not -- it's a direction that I'm not comfortable with. I understand that there were many, many other things that were considered. This is the best compromise that people felt they could get, and I'm intending to support it, but I don't think we should be unmindful of the fact that there are some

tcc

195

House of Representatives

Saturday, June 1, 1991

workers, particularly the lowest wage workers that are going to take a serious hit from this and I think, frankly, that that's quite unfortunate. Thank you, Mr. Speaker.

SPEAKER BALDUCCI:

Will you remark further? If not, Representative Krawiecki. Further remarks? If not, all those in favor of the amendment 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 402, after the period insert the following:
"The workers' compensation commission shall provide such staff as is necessary for the performance of the functions and duties of the advisory board."

In line 409, after the period insert the following:
"The advisory board may bring any matter related to the operation of the workers' compensation system to the attention of the chairman of the workers' compensation commission. The advisory board may adopt any rules of procedure that the board deems necessary to carry out its duties under chapter 568 of the general statutes and this act."

In line 411, before "recommendations" insert "written"

Delete lines 569 to 584, inclusive, in their entirety and insert the following in lieu thereof:
"SUBJECT TO THE APPROVAL OF THE CHAIRMAN. ANY EMPLOYEE COVERED BY A PLAN ESTABLISHED UNDER THIS SUBSECTION MAY

House of Representatives

Saturday, June 1, 1991

OBTAIN MEDICAL CARE AND TREATMENT FROM A PROVIDER OF MEDICAL SERVICES WHO IS NOT LISTED IN THE PLAN IF (A) THE PROVIDER HAS MET ANY LICENSING, CERTIFICATION OR REGISTRATION REQUIREMENTS NECESSARY TO LEGALLY PROVIDE THE SERVICES IN THIS STATE, (B) THE EMPLOYER IS REQUIRED TO PAY NO MORE THAN THE AMOUNT REQUIRED TO BE PAID FOR THE SAME OR SIMILAR SERVICES UNDER THE PLAN AND (C) THE EMPLOYER IS AUTHORIZED TO REQUIRE THE EMPLOYEE, UPON REASONABLE NOTICE AND AT A REASONABLE TIME AND PLACE, TO SUBMIT TO AN EXAMINATION PERFORMED BY A PROVIDER LISTED IN THE PLAN. THE REFUSAL OF AN INJURED EMPLOYEE TO SUBMIT HIMSELF TO SUCH EXAMINATION SHALL SUSPEND HIS RIGHT TO COMPENSATION, SUBJECT TO THE ORDER OF THE COMMISSIONER."

In line 658, after "ACT" insert ", EXCEPT APPEALS BROUGHT BEFORE THE COMPENSATION REVIEW BOARD"

Delete lines 839 to 873, inclusive, in their entirety and insert the following in lieu thereof:

"Sec. 7. (NEW) (a) There shall be a compensation review board within the workers' compensation commission. The chairman of the workers' compensation commission shall serve as chief of the compensation review board and shall have responsibility for the operation of the board. On or before January 1, 1992, the board under the provisions of chapter 67 of the general statutes who shall be responsible to the chairman for the efficient operation of the board.

(b) The board shall review appeals of decisions made by compensation commissioners pursuant to chapter 568 of the general statutes and this act. The chief shall annually select two compensation commissioners to sit with him to hear such appeals for a term of one year, except that no commissioner may sit in review of an award or decision rendered by him. The chief may select a third compensation commissioner to sit on the board if one of the board members is disqualified or temporarily incapacitated from hearing the matter under review.

(d) No compensation commissioner except the chief may serve as a member of the compensation review board for more than one year during the term for which he was appointed."

In line 1746, strike out "EIGHTY-FIVE" and insert "EIGHTY" in lieu thereof

In line 1750, before "TAXES" insert "FEDERAL"

In line 1925, strike out "EIGHTY-FIVE" and insert "EIGHTY" in lieu thereof

In line 1930, before "TAXES" insert 'FEDERAL"

In line 1940, strike out the opening bracket

In line 1942, strike out "]" AN AMOUNT EQUAL TO ONE

House of Representatives

Saturday, June 1, 1991

HUNDRED FIFTY PER" and insert ", AS AMENDED BY SECTION 29 OF THIS ACT," in lieu thereof

Delete lines 1943 to 1946, inclusive, in their entirety

In line 1947, strike out "OCCURRED,"

In line 1948, delete the opening and closing brackets and strike out "EIGHTY-FIVE"

Delete lines 1995 to 2008, inclusive, in their entirety

In line 2056, insert an opening bracket before "sixty-six" and a closing bracket after "two-thirds" and after the closing bracket insert "EIGHTY"

In line 2060, after "injury" insert ", AFTER SUCH WAGES HAVE BEEN REDUCED BY ANY DEDUCTION FOR FEDERAL TAXES AND FOR THE FEDERAL INSURANCE CONTRIBUTIONS ACT IN ACCORDANCE WITH SECTION 31-310, AS AMENDED BY SECTION 30 OF THIS ACT,"

In line 2061, after "injury," insert "AFTER SUCH AMOUNT HAS BEEN REDUCED BY ANY DEDUCTION FOR FEDERAL TAXES AND FOR THE FEDERAL INSURANCE CONTRIBUTIONS ACT IN ACCORDANCE WITH SECTION 31-310, AS AMENDED BY SECTION 30 OF THIS ACT,"

DELETE LINES 2070 TO 2072, inclusive, in their entirety and insert the following in lieu thereof: "shall not be more than [the maximum weekly compensation rate set forth in section 31-309] ONE HUNDRED PER CENT, RAISED TO THE NEXT EVEN DOLLAR, OF THE AVERAGE WEEKLY EARNINGS OF PRODUCTION AND RELATED WORKERS IN MANUFACTURING IN THE STATE, AS DETERMINED IN ACCORDANCE WITH THE PROVISIONS OF SECTION 31-309, AS AMENDED BY SECTION 29 OF THIS ACT, and shall"

In line 2084, strike out "EIGHTY-FIVE" and insert "EIGHTY" in lieu thereof

In line 2089, before "TAXES" insert "FEDERAL"

Delete lines 2094 to 2096, inclusive, in their entirety and insert the following in lieu thereof: "in no case more than [the maximum weekly compensation rate set forth in section 31-309] ONE HUNDRED PER CENT, RAISED TO THE NEXT EVEN DOLLAR, OF THE AVERAGE WEEKLY EARNINGS OF PRODUCTION AND RELATED WORKERS IN THE MANUFACTURING IN THE STATE, AS DETERMINED IN ACCORDANCE WITH THE PROVISIONS OF SECTION 31-309, AS AMENDED BY SECTION 29 OF THIS ACT, or less than"

In line 2221, strike out "TWO" and insert "ONE" in lieu thereof

In line 2224, strike out "EIGHTY-FIVE" and insert "EIGHTY" in lieu thereof

In line 2228, before "TAXES" insert "FEDERAL"

Delete lines 2234 to 2236, inclusive, in their entirety and insert the following in lieu thereof:

House of Representatives

Saturday, June 1, 1991

"not more than [the maximum weekly compensation rate as established in section 31-309] ONE HUNDRED PER CENT, RAISED TO THE NEXT EVEN DOLLAR, OF THE AVERAGE WEEKLY EARNINGS OF PRODUCTION AND RELATED WORKERS IN MANUFACTURING IN THE STATE, AS DETERMINED IN ACCORDANCE WITH THE PROVISIONS OF SECTION 31-309, AS AMENDED BY SECTION 29 OF THIS ACT, for up to two hundred"

In line 2278, before "Except" insert "(a)"

In line 2285, strike out the opening bracket

In line 2286, strike out "] IN"

In line 2287, strike out "EFFECT ON OCTOBER 1, 1990,"

In line 2295, strike out the opening bracket and insert "(b) in lieu thereof

In line 2308, strike out the closing bracket

In line 2408, strike out "EIGHTY-FIVE" and insert "EIGHTY" in lieu thereof

In line 2409, before "TAXES" insert "FEDERAL"

In line 2413, strike out "EIGHTY-FIVE" and insert "EIGHTY" in lieu thereof

In line 2416, before "TAXES" insert "FEDERAL"

Delete lines 2424 to 2460, inclusive, in their entirety

Delete lines 2981 to 2999, inclusive, in their entirety

In line 3061, strike out "chairman of the workers'" and insert "commissioner of administrative services" in lieu thereof

In line 3062, strike out "compensation commission"

In line 3065, strike out "chairman" and insert "commissioner" in lieu thereof

In line 3066, strike out "chairman" and insert "commissioner" in lieu thereof

Delete lines 3231 to 3245, inclusive, in their entirety and insert the following in lieu thereof:

"Sec. 55. Notwithstanding the provisions of section 2-53g of the general statutes, the legislative program review and investigations committee shall conduct a review of how the workers' compensation insurance rate setting mechanism relates to the promotion of workplace safety. The review shall include an examination of ways to more equitably distribute workers' compensation insurance costs among employers within the same class, taking into account variations in wage levels, payroll levels, hours of exposure and safety programs. The committee shall report its findings and recommendations to the general assembly not later than February 1, 1992.

Sec. 56. Sections 31-283b, 31-283h and 31-308b of the general statutes are repealed.

House of Representatives

Saturday, June 1, 1991

Sec. 57. Sections 31-275a and 31-281 of the general statutes are repealed.

Sec. 58. Section 31-275b of the general statutes is repealed.

Sec. 59. This act shall take effect July 1, 1991, except that sections 1, 12, 13, 15, 19, 25 to 29, inclusive, 33, 42 and 43 of this act shall take effect October 1, 1991; sections 2, 3, 5 to 11, inclusive, 14, 16 to 18, inclusive, 20 to 24, inclusive, 34, 35, 41, 46, 47, 51 to 53, inclusive, and 57 of this act shall take effect January 1, 1992; and sections 4 and 58 of this act shall take effect July 1, 1992."

SPEAKER BALDUCCI:

Will you remark further on the bill?

REP. ADAMO: (116th)

Yes, Mr. Speaker. Thank you, ladies and gentlemen and Representative Rapoport, thank you for putting that on the record, you're absolutely right. Some of the workers will be taking a very difficult hit, but it was the best we could do without harming too many people too badly, but most importantly, let us talk about the file copy for just a couple of moments.

Management wanted to have some input and workers wanted to have some input on the Workers' Compensation Board. We have made up an advisory board of management and workers who in fact have oversight and play a role in setting the rules, in setting the policymaking procedures of the Workers' Compensation Division.

We have given some formality to the informal

tcc

200

House of Representatives

Saturday, June 1, 1991

hearings so that workers will not have to be disappointed, one informal hearing after another. We have given all of the commissioners now statewide jurisdictions by not having them assigned to a specific district by statute.

We have put in place mechanisms for worker safety programs, in fact mandate that if an employer wishes to have a medical plan for his employees, that he must also have, if he's an employer of over 50 employees, a Worker Safety Committee.

We put in place through the statute a Worker Safety Task Force to continue to work on and look at those matters related to the Workers' Compensation Commission and its impact as regards to worker safety matters.

We go on also I think very importantly to finally mandate that the State of Connecticut become a partner in the Second Injury Fund and begin to make its contributions to that Second Injury Fund by 1993 and we go on to deal with a possible pilot program at the Southbury Training School with relation to the reduction of Workers' Compensation costs in that particular state facility.

As it relates to state employees, we have made changes. We have first very carefully crafted the language to assure that those people who received the

House of Representatives

Saturday, June 1, 1991

benefit that my good friend, Representative Farr, finds to onerous, the 100 percent of base pay, will receive it only as a result of the injuries that occur from the hazardous duty, that specific hazardous duty.

We have carved out a number of the people who had been added to that particular provision and indicated very clearly that the only time that they would receive the hazardous pay provision for pay would be as a result of an assault, for example a prosecutor and public defenders and the like in the courts.

We go on to now with our state employees on the same level as all others with a seven-day waiting period for Workers' Compensation to begin and we removed statutory language that provided for the replacement of personal items that might be damaged in the event of a personal injury, Workers' Compensation injury.

Ladies and gentlemen, Mr. Speaker, as I stated earlier, this is a widespread change in our Workers' Compensation statutes. Am I happy with it? Somewhat. I'm somewhat disappointed that I had to see the reductions in the benefit levels for workers. In fact, it was for that reason that I ironically even wore a union shirt to this Chamber today because it really bothered me a great deal, but I could read the mood of

tcc

House of Representatives

Saturday, June 1, 1991

this Chamber and I could read the mood of the business community. We need to go on. We need to go forward. A whole lot of work went into this. I thank all of those people who participated in the negotiations of putting this together. It was truly a massive effort and it was a whole lot of give and take. I thank you all from the bottom of my heart and I urge passage of the bill.

SPEAKER BALDUCCI:

Will you remark further? Representative Gelsi of the 58th.

REP. GELSI: (58th)

Yes, Mr. Speaker. I think I'd be remiss if I didn't say a couple of words on this bill. I'm going to support the bill as amended. I'd like to have myself associated with the remarks of Representative Rapoport, the Chairman of the Labor Committee, but I'll tell you what's disturbing to me and I want to see the changes that CBIA, the insurance industry and our large corporate community are going to come in with next year.

This bill starts the road in lowering the costs and it does it absolutely on the backs of the employee, who does not have the right to sue, by the way, and I just want that to be part of the record and most of the

tcc

203

House of Representatives

Saturday, June 1, 1991

lawyers and most of us that spent the time in this Chamber do know what Tort Reform is, especially when it goes to 4:00 or 5:00 in the morning.

The biggest thing that bothered me is small employers talking to me about Workmen's Comp costs to their business. What was one of their complaints? We're actually paying fraudulent payments. Why would you do that? Well, we told this insurance company this is a fraudulent payment and they said it's not worth fooling with. We're going to pay it and then the insurance company turns around and socks the business because they've had a claim. Boy, I'd like to see some penalties in there because if they ever do it again, we ought to really go after those insurance companies and I hope their lobbyists are up there and I hope they're listening, that if they are darn fraudulent claims out there, you better go after them instead of us going after the employees of this state.

The other area, it's too bad we don't have the numbers on how many people that have been out of Workmen's Comp and have asked to go back to work and the employer -- I'm not talking the employer of five or ten people. I'm talking about some of our large corporations that say that they absolutely don't have anything to bring them back to. Absolute baloney

tcc

House of Representatives

Saturday, June 1, 1991

because they hire their kids every summer when they come home from college and find them a job.

The other area, the medical, and I'm glad that that was addressed, and I hope we come back next year and let's make everybody pay a little bit. Thank you, Mr. Speaker.

SPEAKER BALDUCCI:

Representative Del Bianco of the 71st.

REP. DEL BIANCO: (71st)

Thank you, Mr. Speaker. The Clerk has an amendment, LCO7249. Would the Clerk please call and may I be allowed to summarize.

SPEAKER BALDUCCI:

The Clerk please call LCO7249, designated House "B".

CLERK:

LCO7249, House "B", offered by Representative Del Bianco, et al.

SPEAKER BALDUCCI:

The question is on summarization. Is there objection? Representative Del Bianco.

REP. DEL BIANCO: (71st)

Thank you, Mr. Speaker. Mr. Speaker, this amendment would allow the Worker's Compensation Commission chairperson to suspend or remove for cause

tcc

205

House of Representatives

Saturday, June 1, 1991

a commissioner after notice and an opportunity for a hearing. ~~BALDUCCI:~~

I move its adoption. ~~DE? OF THE AMENDMENT.~~

SPEAKER BALDUCCI: ~~DO I HEAR?~~

RE The question is on adoption. Will you remark?

REP. DEL BIANCO: (71st)

Thank you, Mr. Speaker. Mr. Speaker, I don't know how well the Chamber is aware of the problems that we've had at the Waterbury Office with getting claims heard and with a number of Workers' Compensation claims being delayed, but it was really for many people who were receiving benefits or not because of the lack of commitment on the part of that office and the commissioner at the time. It really wreaked havoc on those peoples lives and they felt like they had no recourse. A number of us spent months making calls, trying to get hearings for people whose benefits had not been paid even though the commissioner had ordered the benefits to be paid, but unfortunately the commissioner was ill and then there was another commissioner who was not staying on top of the companies that said they would pay the claims and did not, so those people had no recourse and we believe this is one step in really making the commissioners accountable and so I would ask the Chamber to consider

tcc

206

House of Representatives

Saturday, June 1, 1991

acting favorably upon the amendment. Thank you.

SPEAKER BALDUCCI:

Will you remark further on the amendment?

Representative Radcliffe.

REP. RADCLIFFE: (123rd)

Thank you, Mr. Speaker. I rise to oppose the amendment, but certainly not the sentiments behind it because the Labor Committee heard over the past year and I know the Program Review Committee also heard many -- much testimony and received much information concerning the situation in Waterbury and we are aware of the situation and in fact that awareness is contained in the bill that's before the Chamber right now.

I would call the Chamber's attention to the fact that the bill requires the commission chairman to hold a hearing in Waterbury and not only to hold a public hearing before October of this year, but to become familiar with the total issues in the area of Waterbury and to report those findings.

We have had members of the Coalition for Justice who've appeared before our committee and I won't detail some of the stories now, but essentially they've confirmed the age old adage that justice delayed is justice denied and justice has in fact been delayed and

tcc

House of Representatives

Saturday, June 1, 1991

many of these people have been denied their fair and just compensation under the Workers' Compensation Act.

That having been said, I think the amendment really is an unnecessary step at this time since the bill and the committee have taken cognizance of this situation. I certainly understand the feelings of those representatives from Waterbury who have received legitimate constituent complaints and concerns in this area, but I believe we should allow the bill to go forward, should allow the hearing to take place before October of this year so that the commission will become familiar with them and be able to address it in the total context of this reform package which is now before the Chamber. Thank you, Mr. Speaker.

SPEAKER BALDUCCI:

Will you remark further on the amendment?

Representative Migliaro.

REP. MIGLIARO: (80th)

Thank you, Mr. Speaker. For the record, the complaints are not only coming from Waterbury, they're coming from Wolcott and they're coming from many other towns throughout the State of Connecticut.

I know of cases where it's taken as long as 15 years for a claim to be taken care of, which is utterly ridiculous and under the present law the only due

tcc

House of Representatives

Saturday, June 1, 1991

course that they have is through the Appeals Board within the commission. You can't even take and choose to go to a civil action if you choose to do so. They say it will take too long that way and this would expedite things. I think it'd be better in the civil court. It wouldn't take no 15 years on some of these cases.

But I think the basic intent of the amendment is to put some people on notice within the Workers' Compensation Board that if you don't do your job, you're going to either shape up or ship out and I think you have to get that message across.

You know, it's pretty hard for people to go in there and insurance companies have a battery of lawyers and I know of cases where individuals were told you ought to listen to the insurance lawyers or you won't get anything. I always thought that -- insurance compensation commissioner, rather, were supposed to be impartial, was supposed to be there working on behalf of the people. That is not the case today in our state and I know of many incidents that I can cite and I won't bore you with them, but they're real. They're there and I get calls every day and some are waiting seven years, five years, eight years. It just doesn't seem fair and what it actually does to that individual,

tcc

House of Representatives

Saturday, June 1, 1991

supposed to do in the first place.

So there's a lot of inequities there and I think they have to be corrected. This little amendment is a step in the right direction and I hope you will support it.

SPEAKER BALDUCCI:

Representative Flaherty of the 68th.

REP. FLAHERTY: (68th)

Thank you, Mr. Speaker. Mr. Speaker, ladies and gentlemen, I rise in support of this amendment. All one has to do to figure out why this is -- why this amendment is before us is to take a look at Page 1 of the Worker's Compensation Report from the Program Review and Investigations Committee and I think we did a great deal of work on this over the summer. One sentence, "management is weak and accountability is lacking." And I know that when we first sent this out of committee, we had this advisory board -- it was not an advisory board, but it had this authority in here. That's been stripped out of the bill. That's why I think this is necessary.

For someone who is aggrieved by the Worker's Compensation Commission for whatever reason, they've been turning to us here in the House and in the Senate because they've got nowhere else to turn if they think

House of Representatives

Saturday, June 1, 1991

the've been wronged. These are the people that fall between the cracks. They're the reasons that I supported the study, not so much about the benefits or any of that other stuff. The amount of a benefit does you no good if you can't even get to it.

So I support the amendment, Mr. Speaker. This is not just a Waterbury area amendment, although I applaud the sponsors of it and I would urge adoption by this body. Thank you, Mr. Speaker.

SPEAKER BALDUCCI:

Will you remark further on the amendment?

Representative Wollenberg of the 21st.

REP. WOLLENBERG: (21st)

Thank you, Mr. Speaker. Mr. Speaker, I rise to oppose the amendment and not the thought behind it. I think the thought behind it is good and I sat through many, many hearings on the Judiciary Committee when we've had Workmen's Compensation Commissioners before us. I've heard many, many of the stories and I don't disagree, as I say, with the intent behind this, but I think if we're going to do something and Representative Flaherty reminded us of what Program Review did and what they said and I think he was exactly right and we've said that and I think Program Review was right, but I don't think the place for this is in the hands of

House of Representatives

Saturday, June 1, 1991

the chairman of the Workers' Compensation Commission.

Now if it was taken out, I was no part of the negotiations that went on in this compromise, but I think someone other than the chairman of the Compensation Commission should have this power and I don't know why it was taken out of the advisory council. It seems to me as though it's an ideal place for it to lie, but one of the things that has been brought to our attention from time to time is that the administration of the Workmen's Compensation Commission seem to leave something lacking in the administration, was in the chairman to this point.

Now we're taking some of that administration out and giving it to the advisory council which I think is excellent. I think it's something that needs to be done and has been need and in fairness to the chairman of the commission and in fairness to the commissioners, it isn't always their fault that this backlog is there. They're inundated with claims. The administration has been lacking. The chairman has been on the review commission doing those reviews time and again and doing a good job with them. The work load has been tremendous and I'm not saying that we couldn't have gotten a little more out of some of the commissioners from time to time, but this is the wrong place to place

tcc

213

House of Representatives

Saturday, June 1, 1991

this authority.

Let's do it right. Let's place it somewhere besides in the commissioner. Thank you.

SPEAKER BALDUCCI:

Will you remark further? Will you remark further on the amendment? If not, all those in favor signify by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER BALDUCCI:

Opposed nay.

REPRESENTATIVES:

No.

SPEAKER BALDUCCI:

The nays have it.

The amendment fails.

House Amendment Schedule "B":

Delete lines 346 and 347 in their entirety and insert the following in lieu thereof: "by law. They shall serve for a term of five years, but may be SUSPENDED OR removed [by impeachment] FOR CAUSE BY THE CHAIRMAN OF THE WORKERS' COMPENSATION COMMISSION AFTER NOTICE AND AN OPPORTUNITY FOR A HEARING. THE GOVERNOR"

tcc

214

House of Representatives

Saturday, June 1, 1991

SPEAKER BALDUCCI:

Will you remark further on the bill as amended?
Representative Farr of the 19th.

REP. FARR: (19th)

Thank you, Mr. Speaker. Through you, Mr. Speaker, to Representative Adamo. A question relating to Section 42, the hazardous work coverage for state employees. I heard your comments earlier about the changes, but just for the record and for purposes of legislative intent, in line 2876, it is my -- reads that the injury has to be a direct result of special hazards inherent in such duties. For someone employed in the Department of Mental Retardation, am I correct in assuming that that might be an assault from a patient, but it would not be a back sprain resulting from picking a patient up, through you, Mr. Speaker, to Representative Adamo?

SPEAKER BALDUCCI:

Representative Adamo.

REP. ADAMO: (116th)

Through you, Mr. Speaker, to Representative Farr, you hit on an excellent example. I think it would be somewhat broader than your example, however. All people who work in hospitals attain back injuries by lifting patients. If the back injury was obtained as a

tcc

House of Representatives

Saturday, June 1, 1991

result of a belligerent or a patient who was fighting that person, yes. If not, no.

REP. FARR: (19th)

Thank you very much, Representative Adamo. I just want to comment on this section. Unfortunately the section doesn't go further. I'm obviously not offering an amendment on this bill because I think the bill is significant, but I do think we've had -- this section is a very small step towards correcting a problem we have. A comment generally on the bill and addition one other thing that I'd be pointing out, an awful lot has been said and the focus is on benefit levels, but one of the significant things the bill does is it dramatically changes the administration of the commission and I think that that change in the administration is something which will benefit both workers and employers because what happens right now is that there is such a misallocation of resources, it takes months sometimes to get hearings and I think the quick hearing and the quick resolution of some of these claims will benefit everyone so I think that part is a terribly important part of this bill and I urge adoption of the bill. Thank you.

SPEAKER BALDUCCI:

Further remarks?

House of Representatives

Saturday, June 1, 1991

REP. ADAMO: (116th)

Mr. Speaker.

SPEAKER BALDUCCI:

Representative Adamo.

REP. ADAMO: (116th)

Yes, Mr. Speaker. Mr. Speaker, very briefly, there were questions posed earlier about savings to the employers with regard to this particular legislation. Let me say this, that in regards to that particular question, the 80 percent benefit alone, going to the 80 percent of spendable income, would reduce our Workers' Compensation costs by about \$20 million. We are sure that the costs related to the reduction of the permanent disability benefit will also generate as much savings as that if not more.

So my sense is that, yes, there will be a reduction in costs through the employers this year when the next rate reduction is asked, but, Mr. Speaker, prior to doing that, I have an amendment. Would the Clerk please call and read LC07593.

SPEAKER BALDUCCI:

The Clerk please call and read --.

REP. ADAMO: (116th)

Mr. Speaker, I withdraw my motion to have the Clerk call this amendment, but for the knowledge of the

tcc

217

House of Representatives

Saturday, June 1, 1991

Chamber, the amendment basically would have paid legislators double benefits if they were hit by flying gavels or any parts of gavels.

LAUGHTER AND APPLAUSE

SPEAKER BALDUCCI:

Representative Flaherty of the 68th.

REP. FLAHERTY: (68th)

Thank you, Mr. Speaker. Mr. Speaker, I rise I suppose with some of the disappointment that Representative Adamo had mentioned, to support the file, as amended, for different reasons that I think I just mentioned on the past file and that is at least my main concern at approaching this as, yes, the benefits are important and all the arguing that's gone on about it is one thing, but the accountability is still my main concern and I do appreciate the fact that as it is now amended the language regarding the advisory commission is back in and I'd like to ask, through you, sir, if I could, a question to Representative Adamo.

SPEAKER BALDUCCI:

Proceed.

REP. FLAHERTY: (68th)

Thank you. Representative Adamo, in reading the language that's put back there, saying that the advisory board may bring any matter relating to the

tcc

House of Representatives

Saturday, June 1, 1991

operation of the compensation system to the attention of the chairman. As the language reads right now, would this preclude this board as it meets and decides what it wants to do from providing any other services or assistance that it so chooses, such as collecting and disseminating caseload statistics or hearing complaints or assisting people within the system, through you, Mr. Speaker?

SPEAKER BALDUCCI:

Representative Adamo.

REP. ADAMO: (116th)

Thank you, Mr. Speaker. Through you, to the Representative, it would not really preclude them from doing many of the things that you mentioned, however, many of the aspects that you did in fact touch on were realistically given to the new chairman. I think if you take the time over the weekend, if you feel like it, I wouldn't this weekend, but if you take the time and look at the duties that we've assigned to the new chairman. One, we have made him accountable to the Governor. He is no longer a five-year commissioner. He serves at the pleasure of the Governor. And two, he is in charge. He really and truly will be the administrator of this particular agency, and three, the advisory board will have the ability to put in writing

tcc

219

House of Representatives

Saturday, June 1, 1991

their recommendations regarding the reappointment of commissioners, their recommendations regarding the reappointment of the chairman, so I think we have brought accountability back to it, Representative Flaherty in somewhat of a different way, but I sincerely believe it will work.

SPEAKER BALDUCCI:

Representative Flaherty.

REP. FLAHERTY: (68th)

Thank you, Mr. Speaker, and thank you, Representative Adamo. Again, just to convey a slight disappointment that some of those other duties did not remain in there. Again, I'm not going to vote against this because I don't want to deny the major advances that this will give to the injured worker. However, I haven't been convinced that this will get rid of the delay, get rid of the people falling in between the cracks who can't get their hearings scheduled or can't even get the benefits that we've been haggling about here today, I will monitor it closely and I do appreciate the fact that this language was back in there. This brings us a long way from where we used to be, not quite as far as we may have been under the Program Review study, but I will support it and I thank Representative Adamo for his comments. Thank you,

tcc

House of Representatives

Saturday, June 1, 1991

Mr. Speaker.

SPEAKER BALDUCCI:

Representative Schiessl of the 60th.

REP. SCHIESSL: (60th)

Thank you, Mr. Speaker. I rise in support of the bill as amended, as ranking member of the Program Review and Investigations Committee. The bill, as amended, in my mind, restores the integrity of the Program Review Committee work product and of course everybody knows that that is our favorite joint bipartisan statutory committee.

As Representative Adamo ably stated, this bill, as amended offers prospects for real relief for businesses presently burdened by high Workers' Compensation insurance rates. It also attempts to create and maintain the incentive for a worker to return to work and also compensate the worker sufficiently for his or her loss.

I'd like to recognize in particular the work of the Program Review Committee staff and members, George McKee, Catherine Conlin and Jill Jensen for truly planting the seeds of compromise back in January of 1991 and I'm delighted to rise in support of the bill as amended and hope you'll join me in voting yes. Thank you, Mr. Speaker.

tcc

House of Representatives

Saturday, June 1, 1991

SPEAKER BALDUCCI:

Will you remark further? Representative Winkler of the 41st.

REP. WINKLER: (41st)

Thank you, Mr. Speaker. My compliments to Representative Adamo and the group that have worked so diligently to put together this compromise. I do have a question, through you, sir, to Representative Adamo.

SPEAKER BALDUCCI:

Proceed, madam.

REP. WINKLER: (41st)

Representative Adamo, in your negotiation process with the business community, was anything done to encourage business to provide for more light duty to ease the worker back into the mainstream of things?

SPEAKER BALDUCCI:

Representative Adamo.

REP. ADAMO: (116th)

Through you, Mr. Speaker, that subject was spoken to. It was spoken to in depth in the committee process as well. The problem being in many cases, especially with the smaller employers, those particular light duty positions do not exist. I find, however, that many employers are beginning to get more and more involved in those particular situations. More and more

tcc

House of Representatives

Saturday, June 1, 1991

collective bargaining agreements are beginning to include light duty agreements and it's our hope that this entire plan concept, for example, will plant that seed. I think that that alone, for example, the treatment necessary and the return to work are all parts of that plan and I think that plan will bring it to the light duty concept.

SPEAKER BALDUCCI:

Will you remark further? Representative Winkler.

REP. WINKLER: (41st)

Thank you, Mr. Speaker. I'm encouraged to hear what Representative Adamo has just mentioned, but I do know that to be a problem and basically with your larger companies and I would strongly hope and urge that they would come along and develop light duty positions so that the worker can get back sooner. Thank you.

SPEAKER BALDUCCI:

Thank you. Will you remark further? If not, staff -- Representative Krawiecki.

REP. KRAWIECKI: (78th)

Thank you, Mr. Speaker. I wanted to just rise and thank all of the various individuals that had worked on this piece of legislation. I think they've done a very good job in dealing with a very complex problem and one that I think our business sector has been clamoring for

tcc

223

House of Representatives

Saturday, June 1, 1991

change in for many, many years.

Both small and large companies have indicated that the number one priority for them is reform in Workers' Compensation statutes and the adoption of this proposal will clearly provide them with immediate savings and an assistance in trying to move their system forward as we begin to move into economic recovery.

With regard to Representative Rapoport's earlier comments about where the shift is going, I want him to specifically note that there were those of us in these negotiations that were very concerned about it and we actually had a debate about taxes and one of the items was the specific inclusion in the technical Senate -- or House "A" that's before you of the word "federal" before the word "taxes" on the exclusions or reductions before we establish what the benefits are for employees and you ought to pay very close attention to it that should this General Assembly make other changes in those kinds of propositions that employees will in fact take a lower rate as well and that was an item that we were very cognizant of.

Let me also just close by saying that it is my hope that the Legislature will continue to be able to deal in such good bipartisan fashion on the many other issues facing the State of Connecticut as we attempt to

tcc

House of Representatives

Saturday, June 1, 1991

get into an economic recovery situation that will benefit all of us. This was certainly one of the best displays of that kind of activity that I've seen and I suppose it's in the spirit of all of the compromise and coalition building that's been going on this session and I think it bodes well for this Chamber.

SPEAKER BALDUCCI:

Thank you, Representative Krawiecki.

Representative Taborsak.

REP. TABORSAK: (109th)

Mr. Speaker, I don't want the debate to end on such flowery notes without pointing out that workers under the Workers' Compensation give up a right to sue in order to have these benefits and I'm particularly concerned about the removal of a Cost of Living adjustment, for instance, for survivor's benefits, for a worker in fact who has been killed because workers don't all make 150 percent of the state median wage. In fact, some workers make much less and I'm concerned about the elimination of the dependency allowance for those workers who have families, but this is a compromise package and I hope that perhaps as we take up auto insurance reform, that we'll go after the auto insurance industry in much the same way that we're attacking workers with this bill.

tcc

225

House of Representatives

Saturday, June 1, 1991

SPEAKER BALDUCCI:

Representative Wollenberg.

REP. WOLLENBERG: (21st)

Thank you, Mr. Speaker, just briefly. I have a couple of questions for Representative Adamo, if you please, sir, through you, sir.

SPEAKER BALDUCCI:

Proceed.

REP. WOLLENBERG: (21st)

Representative Adamo, a change indicates, on line 51 or so that the chairman needs to have three years of service as a Workmen's Compensation Commissioner. Doesn't that somewhat limit -- it certainly limits it from selecting anyone from outside and can you just tell me what kind of thinking went into that. I'm not going to belabor it? I know you put a lot of work into this.

REP. ADAMO: (116th)

Through you, Mr. Speaker, that really is existing language. We simply didn't remove it. There was some thought of removing it. We thought better of it and went forward with the existing language. You are absolutely right, though, it does limit the ability to pick certain persons, but since that -- I think it's important, Mr. Speaker, to say to Mr. Wollenberg that

tcc

226

House of Representatives

Saturday, June 1, 1991

this person, this chairman is going to in fact be the chief of the Review Division and literally making Workers' Comp. We thought it was very important that he in fact have the experience of the Workers' Compensation Commission.

REP. WOLLENBERG: (21st)

Through you, Mr. Speaker, to Representative Adamo. Representative Adamo, I don't know, was it in the old law? It was in the file copy, I know, but it was in the old law as well? It's new language in the file copy and that's what I was wondering, through you, Mr. Speaker.

SPEAKER BALDUCCI:

Representative Adamo.

REP. ADAMO: (116th)

It's new language in the file copy because I think that we had muddled with the concept of taking it out and put it back in again, sir.

REP. WOLLENBERG: (21st)

Okay. Through you, Mr. Speaker, a question to Representative Adamo.

SPEAKER BALDUCCI:

Representative Wollenberg.

REP. WOLLENBERG: (21st)

Thank you, Mr. Speaker. Representative Adamo, on

tcc

227

House of Representatives

Saturday, June 1, 1991

line 355, an advisory board to advise the chairman, is there any regulations or anything or will those be set as to how that works, through you, Mr. Speaker?

REP. ADAMO: (116th)

Through you, Mr. Speaker, I believe in the latter part of the bill or part of the amendment we indicated that that advisory board would set its own regulations as to the proper conduct that it would use.

REP. WOLLENBERG: (21st)

Thank you, Representative. Through you, Mr. Speaker, to Representative Adamo, you're setting up a plan, the employers may set up a plan. If they set up a plan, I'm assuming and I've read this quickly in some of the -- it's hard to digest 3,000 lines, but I would hope that the worker still has a right, and I think he does, to go to his own doctor and that that would be considered in any award. We're not precluding him from doing that in any way? I don't think you are, but through you, Mr. Speaker.

SPEAKER BALDUCCI:

Representative Adamo.

REP. ADAMO: (116th)

Through you, Mr. Speaker, to Representative Wollenberg, the amendment took care of that, sir. What we say basically in the amendment is the employee can

House of Representatives

Saturday, June 1, 1991

use his own doctor so long as the doctor plays by the rules of the plan.

REP. WOLLENBERG: (21st)

And, through you, Mr. Speaker, another question for Representative Adamo. On line 595, Representative Adamo, it says that the medical advisory panel may be appointed by the chairman. Are there any standards or anything as to who can serve on that or is it just at his insistence, through you, Mr. Speaker?

SPEAKER BALDUCCI:

Representative Adamo.

REP. ADAMO: (116th)

Through you, Mr. Speaker, it would be at his leisure and at his insistence with the thought in mind to have all of the specialties on that panel, sir.

REP. WOLLENBERG: (21st)

Thank you very much, Representative Adamo. Thank you, Mr. Speaker.

SPEAKER BALDUCCI:

Further remarks? Representative Frankel.

REP. FRANKEL: (121st)

Thank you, Mr. Speaker. Ladies and gentlemen, this issue probably loomed as one of the most potentially divisive that this Chamber could be facing, apart and aside from the budget perhaps. We all recognized it to

tcc

House of Representatives

Saturday, June 1, 1991

be of major importance to business, perhaps the largest issue that business was concerned about and so I just want to take a moment to single out a number of individuals whose roles made this final solution possible.

Both Representative Radcliffe and Representative Adamo in their efforts I think played pivotal roles and I think without their efforts, good faith efforts, we wouldn't be able to come together on a compromise without a long struggle on the floor, so I want to single those individuals out.

And for those of us who only played a peripheral role, I can tell you that the various representatives of business and labor operated in exceedingly good faith in trying to reach a compromise and I think but for their good faith efforts and hard work this also wouldn't have come to pass.

And finally, I'd like to single out our Speaker who presided over some fairly heated debates in order to keep the parties together and working and I would urge the membership to go forward with this measure. I believe it is a major achievement for our General Assembly and a tribute to what can be brought about by the hard work of individuals operating in good faith. Thank you, Mr. Speaker.

tcc

House of Representatives

Saturday, June 1, 1991

SPEAKER BALDUCCI:

Will you remark further? If not, staff and guest to the well. Members please be seated. The machine will be opened.

CLERK:

The House of Representatives is voting by roll. Members to the Chamber please. The House is voting by roll. Members please report to the Chamber.

SPEAKER BALDUCCI:

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

The Clerk please announce the tally.

CLERK:

House Bill 7339, as amended by House Amendment Schedule "A".

Total Number Voting	146
Necessary for Passage	74
Those voting Yea	144
Those voting Nay	2
Those absent and not Voting	5

SPEAKER BALDUCCI:

The bill as amended is passed.

CLERK:

Page 19, Calendar 563, Substitute for House Bill

S-316

CONNECTICUT
GEN. ASSEMBLY
SENATE

PROCEEDINGS
1991

VOL. 34
PART 3
707-1094

SATURDAY
April 13, 1991

5
aak

RADIO FREQUENCY ELECTROMAGNETIC FIELDS

4/11 House Passed

Judiciary

Substitute HB7133 AN ACT CONCERNING DISCRIMINATION
ON THE BASIS OF SEXUAL ORIENTATION. As amended by
House Amendment Schedules "A", "B" and "C"

4/11 House Passed as amended

4. DISAGREEING ACTION - to be tabled for the Calendar
Government Administration & Elections

Substitute SB858 AN ACT CONCERNING COLLECTION
SERVICES PERFORMED BY THE COMMISSIONER OF
ADMINISTRATIVE SERVICES AND STATE AGENCY REPORTS OF
SUPPLIES, MATERIALS AND EQUIPMENT. As amended by House
Amendment Schedule "A"

4/3 Senate Passed

4/11 House Passed as amended

5. HOUSE BILL FAVORABLY REPORTED WITH A CHANGE OF
REFERENCE - to be referred to committee indicated

Labor & Public Employees

Substitute HB7339 AN ACT CONCERNING COMPREHENSIVE
WORKERS' COMPENSATION REFORM

Referred to: GOVERNMENT ADMINISTRATION & ELECTIONS

6. ADJOURNMENT, SUBJECT TO THE CALL OF THE CHAIR

END SENATE AGENDA

S-323

CONNECTICUT
GEN. ASSEMBLY
SENATE

PROCEEDINGS

1991

TRAILER SESSION

VOL. 34

PART 10

3281-3627

WEDNESDAY
June 5, 1991

003416

60
aak

SENATOR ALLEN:

Yes, Madam President, if there is no objection, I would move this to the Consent Calendar.

THE CHAIR:

Thank you. Is there any objection in placing Senate Calendar 621, Substitute HB7353 on Consent? Is there any objection? Hearing none, so ordered. Mr. Clerk.

THE CLERK:

Calendar 623, File 804, Substitute 7339, AN ACT CONCERNING COMPREHENSIVE WORKERS' COMPENSATION REFORM. As amended by House Amendment Schedule "A". Favorable Report of the Committee on JUDICIARY.

THE CHAIR:

Thank you. The Chair recognizes Senator Maloney. Thank you Senator Johnston. My friend. Senator Maloney.

SENATOR MALONEY:

I would move approval of the Joint Committee's Favorable Report and passage of the bill in accordance with the House.

THE CHAIR:

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

SENATOR MALONEY:

WEDNESDAY
June 5, 1991

003417

61
aak

Thank you, Madam President. I think I could remark in quite considerable length on a bill of some 90 pages with notes. Suffice it to say that this is the third major Workers' Comp bill in the last 12 months. Last year we had a reformed bill of 1990. Earlier in this Session we did the recodification of the entire Workers' Comp statute and this bill represents a further reform of the Workers' Comp system, reorganizing entirely the administrative structure of the system, streamlining that structure, providing a Workers safety study and other features of interest to employees in providing certain features of interest to employers such as adjustments of benefits in a role in the oversight of Workers' Compensation system.

In addition to this legislation there is parallel legislation which we will hear later on this afternoon which will encourage the State to take a look at the insurance rate setting in regard to Workers' Comp and with that work that will be done next year we will continue to try and develop the Workers' Compensation in the State of Connecticut such that it will be as it is already recognized as one of the best in the Country will certainly come to be recognized, I believe it is the best Workers' Compensation system in the United States. Thank you.

WEDNESDAY
June 5, 1991

003418
62
aak

THE CHAIR:

Thank you, Senator Maloney. Would anyone else wish to remark on Senate Calendar 623? Any further remarks? Senator Robertson.

SENATOR ROBERTSON:

Thank you, Madam President. Madam President, I think we should all be very thankful to our colleagues in the House for taking the bill which came out of the Labor Committee and making such a fine compromise in a bill far more responsive to the economies needs. If I might, Madam President, through you I would like to ask Senator Maloney a question which is basically seeking a verification of a couple of lines in the bill.

THE CHAIR:

Please proceed.

SENATOR ROBERTSON:

Thank you, Madam President. Senator Maloney, somewhere in the neighborhood of Line 1204 we begin a conversation about repealing, changing sections 31-284b and we also go in by creating something which we now refer to as an employer welfare plan as opposed to an employee welfare fund. Can you possibly explain that to me, please?

THE CHAIR:

Thank you Senator Robertson? Senator Maloney.

WEDNESDAY
June 5, 1991

003419

63
aak

SENATOR MALONEY:

Thank you, Madam President. In certain circumstances employers are required to continue contributions to employee welfare funds where a worker usually a union worker in skilled craft has many employers and what this bill does is require that those contributions need to be made just as if it were a single employer, the employer would be required to maintain health or life insurance for the employee.

THE CHAIR:

Thank you very much, Senator Maloney. Senator Robertson.

SENATOR ROBERTSON:

Thank you. Again, Senator Maloney has added the word life insurance where the definition of an employee welfare plan does not include life insurance. So, I presume that Senator Maloney's understanding and my understanding is that it also does include life insurance. Through you.

THE CHAIR:

Senator Maloney.

SENATOR MALONEY:

No. What I, I use that by way of an analogy. What is required is a continuation of the benefits if the plan, whatever the benefits are the employer has been

WEDNESDAY
June 5, 1991

003420

64
aak

making them then the employer shall continue to provide the same level of benefit.

THE CHAIR:

Senator Robertson.

SENATOR ROBERTSON:

Again, through you, Madam President. Senator Maloney, is the intention of this act to also include contribution to annuity and pension benefits?

THE CHAIR:

Senator Maloney.

SENATOR MALONEY:

Thank you, Madam President. I would have to actually take a moment and look that up.

THE CHAIR:

Why don't we stand at ease for a minute, then.

SENATOR MALONEY:

Madam President, given the question and the ensuing conversation I would be required to ask this matter be Passed temporarily until we can get the issue resolved.

THE CHAIR:

Are you asking to have it passed temporarily?

SENATOR MALONEY:

Yes, I am.

THE CHAIR:

WEDNESDAY
June 5, 1991

003421
65
aak

Thank you. Madam Clerk, would you please note please that Senate Calendar 623 will be marked PT.

Thank you. Mr. Clerk.

THE CLERK:

Calendar 624, File 830, Substitute 7100, AN ACT CONCERNING THE ADMINISTRATION OF THE EMERGENCY SPILL RESPONSE FUND. Favorable Report of the Committee on APPROPRIATIONS.

THE CHAIR:

Thank you. The Chair recognizes Senator Spellman.

SENATOR SPELLMAN:

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

THE CHAIR:

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

SENATOR SPELLMAN:

The bill increases the expenditures from the Municipal Solid Waste Recycling trust fund from 183 to \$200,000 for its advisory council and from \$450,000 to \$600,000 for administrative costs to Department of Environmental Protection and it also makes those responsible for releasing a hazardous substance liable for additional costs.

WEDNESDAY
June 5, 1991

003435
79
aak

36 Yea
0 Nay
0 Absent

The bill passes.

Senator O'Leary.

SENATOR O'LEARY:

I move that this item be transmitted immediately to the House.

THE CHAIR:

Is there any objection to Senator O'Leary's motion to transmit immediately, Calendar 556? Any objection? Hearing none, so ordered. Senator Maloney.

SENATOR MALONEY:

Thank you, Madam President. A moment ago, Calendar 623, HB7339 on Passed Temporarily. I would ask that we now return to that and take the matter up.

THE CHAIR:

Thank you. Could you tell us the page that that is on.

SENATOR MALONEY:

Page 4.

THE CHAIR:

I think you had brought it out and I don't believe you had any amendments to it. And you were discussing it and you and Senator Robertson were in a debate.

WEDNESDAY
June 5, 1991

003436
80
aak

SENATOR MALONEY:

Thank you. In more full response to Senator Robertson's question, life insurance payments are intended to be included in the payments for the welfare benefit program in regard to pension and annuities, it is my understanding that that matter is controlled at ARISA which is federal legislation which pre-empts state statute.

THE CHAIR:

Thank you. The Chair would recognize Senator Robertson.

SENATOR ROBERTSON:

Thank you, Madam President. Madam President, I would like to thank Senator Maloney for this quick bit of research and his interpretation and clarification. Thank you.

THE CHAIR:

Would anyone else wish to remark? Senator Upson.

SENATOR UPSON:

Yes, if I may, through you, Madam President, to Senator Maloney, who hasn't repaired my sign. But he promised me after Charles Ives that he would do that. If I may, there is a portion of this bill that talks about HMO's and well, maybe you can correct me on this, and it talks about injured workers. For example, an

WEDNESDAY
June 5, 1991

003437
81
aak

injured worker who was injured under the Workers' Compensation law do they have to be treated by an employer's HMO? That is a doctor through the HMO? Through you, Madam President.

THE CHAIR:

Senator Maloney.

SENATOR MALONEY:

The answer to Senator Upson's question is in a couple of parts. Under the legislation employers are authorized to create preferred plans for their injured employees. That plan has to be approved by the Chairman of the Workers' Compensation Commission. If an employee is injured they must use the plan. However, in one of the provisions of the House Amendment makes it clear that as long as the individual's doctor is willing to abide by the rules and regulations of the plan, in effect, it is an open plan and all health care providers may participate in the plan.

THE CHAIR:

Senator Upson.

SENATOR UPSON:

Yes, through you, Madam President, is that true with every plan of any doctor would be able to participate in that plan?

WEDNESDAY
June 5, 1991

003438
82
aak

THE CHAIR:

Senator Maloney.

SENATOR MALONEY:

As long as they are willing to abide by the terms and conditions and rules of the plan the answer is yes. It is in effect an open plan. The only exception to that is that there is a procedure by which in effect a provider could be disbarred from participation but that would be for cost.

THE CHAIR:

Senator Upson.

SENATOR UPSON:

Yes, through you, Madam President, what are the rules and additions of each plan? Are there general rules? Through you, Madam President.

SENATOR MALONEY: I vote for this bill because

If the statute does not set them out it is our anticipation that what will occur is just as there are a number of packages of health insurance that the industry makes available there will be a market which will produce a number of programs and give employers alternatives. The important point in terms of protection from the employees point of view is that the plan will have to be approved by the Chairman of the Commission.

WEDNESDAY
June 5, 1991

83
aak

THE CHAIR:

Thank you. Senator Upson.

SENATOR UPSON:

Will that be the Chairman of the entire Commission or individual districts? Through you, Madam President.

THE CHAIR:

Senator Maloney.

SENATOR MALONEY:

There is now only one Workers' Compensation Chairman, Chairman of the Commission.

SENATOR UPSON:

One more question, if I may, Madam President.

THE CHAIR:

Certainly, sir.

SENATOR UPSON:

I am going to vote for this bill because I think it does something for business, which I think everybody, assuming the insurance companies pass that down to business which as they said about the skeleton, remains to be seen. One of the things that I am upset about is that it means any time there is an injured worker that person is going to have to go, depending on the plan, because it is still indefinite, you are not telling me about the regulations of each plan, are going to have to go through essentially a doctor or physician or

WEDNESDAY
June 5, 1991

003440

84
aak

health provider that has been approved by the employer and my interpretation, if you want to answer that interpretation, I will accept that answer, I see you shaking your head. Is that a fair assumption, on my part, through you, Madam President to Senator Maloney.

SENATOR MALONEY:

No, Senator it is not. The statute makes clear that the plans cannot exclude providers. It is an open plan where all providers are eligible to participate as long as they comply with the rules. As I say the only situation which is different than that is if there were a specific provider who was barred from the plan for specific reasons.

SENATOR UPSON:

Alright. I guess another hypothetical then. If a person is hurt at work. Who decides where that person is going to be treated initially and then specifically if there is a specialist involved?

THE CHAIR:

Thank you Senator Upson. Senator Maloney.

SENATOR MALONEY:

Thank you, Madam President. Through you, the answer is, the employee decides. There is one other further situation which is an employer may request that an employer physician or provider exam the injured

WEDNESDAY
June 5, 1991

003441
85
aak

worker and that would be required, but the primary care provider would be the choice of the injured employee.

SENATOR UPSON:

Through you, Madam President, that is what happens now. The employee chooses who he or she is going to be treated by and the insurance company can ask for an independent examination at any time. That is no change then, through you, Madam President.

THE CHAIR:

Senator Maloney.

SENATOR MALONEY:

The change, through you, Madam President, is that now it must be part of a plan and in regard to a plan you have two basic issues, one is the price that may be charged which can be regulated by the plan and the issue of utilization review as to for example, how many times did you go back for a recurring therapy or something of that nature. So as long as the physician or other provider is willing to abide by the terms of the plan that person could continue to provide services.

SENATOR UPSON:

Through you, Madam President, so that a physician that according to the plan has excessive treatment for the patient would that physician then be barred from

WEDNESDAY
June 5, 1991

003442
86
aak

the plan?

SENATOR MALONEY:

Initially I would say the answer is no. What these plans typically do is monitor the situation and attempt to resolve what the appropriate degree or repetition of treatment is. The bill does provide that an employer can seek to have an individual barred, but that would probably be upon circumstances of repeated non-compliance with the rules of the plan and that type of situation.

SENATOR UPSON:

Through you, Madam President, I think now I understand. Through you, Madam President, today there are these, should we call them, physical assessment groups that are voluntary. That is, an injured person on Workers Compensation is treated, but there is also on a voluntary basis individual groups out there that monitor or try to monitor and get that person back into work again. Is this a kind of physical assessment group that you are talking about? Through you, Madam President.

SENATOR MALONEY:

That would be one possible, through you, Madam President, one possible element of a plan. The bill does not attempt to say what the elements of a plan

WEDNESDAY
June 5, 1991

003443
87
aak

are, but it could be done in that way, just as for purposes of illustration, you could have a situation where a plan sets up a panel of providers as the preferred providers in the plan and there might be some encouragement that those be used for administrative convenience and the like, but the law does specifically say that any provider could continue to be of service to his or her patient.

SENATOR UPSON:

Thank you very much. I appreciate the explanation. I feel that this is a step, most of the bill is a step in the right direction. Especially in this economy. I do feel, however, in this area, if there is control by the employer or the insurance company, that the initial stages of the different health providers that are provided for the injured employee, including a specialist, that perhaps that is where there will be control on behalf of the insurance industry and other interest groups, controlling the employee more so in the choice of physician and control all the way down the line and as I said I am going to vote for the bill but I want that warning that that is a major, as far as I am concerned, intrusion and potentially it could hurt the injured worker. So I think we have to monitor this carefully. I know that we have spent a lot of time on

WEDNESDAY
June 5, 1991

003444
88
aak

it. I know I am going to vote for it, but I think this area we have to be cautious in. Thank you for your explanation.

THE CHAIR:

Thank you very much. The Chair would recognize Senator Gunther.

SENATOR GUNTHER:

Madam President, just a quick question, through you. If the HMO plan that you talked about, the coverage that they have, if they don't have the full scope of all therapeutic fields, I say that there are some HMO's which are very limited or they have a restriction on certain fields. For instance they may not have a dental plan, they may not have a physical therapy plan. It is possible, let's say the MD's, are they covered with the chiropractors, the osteopaths and the podiatrists, optometrists, the full scope of the therapeutic fields. If they are not included in the HMO plan is it possible that they be denied that in the choice of their own provider?

THE CHAIR:

Senator Maloney.

SENATOR MALONEY:

Thank you, Madam President. That is not my understanding. My understanding is as long as they are

WEDNESDAY
June 5, 1991

003445

89
aak

legally practiced to provide a health service in Connecticut they are not...the employee may seek them out as their health care practitioner.

THE CHAIR:

Senator Gunther.

SENATOR GUNTHER:

Then, as I understand it, then whatever the fee schedule, they would have to accept it, and will pay the differential if there is one, and there would be no restriction of the scope of practice?

THE CHAIR:

Senator Maloney.

SENATOR MALONEY:

The practitioner would have to accept the fee schedule and would have to agree to the utilization review component of the plan if there were one.

THE CHAIR:

Senator, thank you very much. Would anybody else wish to remark on Senate Calendar 623? Are there any further remarks? If not, Senator Maloney.

SENATOR MALONEY:

I would ask for a roll call on the matter.

THE CHAIR:

Mr. Clerk, would you make the necessary announcement for a roll call vote.

WEDNESDAY
June 5, 1991

003446

90
aak

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. The issue before the Chamber is Senate
Calendar 623, Substitute HB7339. The machine is on.
You may record your vote. Thank you very much. The
machine is closed.

The result of the vote.

36	Yea
0	Nay
0	Absent

The bill passes.

Senator Larson.

SENATOR LARSON:

Thank you, Madam President. Madam President, as
part of our custom here we like to give extra
palpitations to our viewers in the East and West
Gallery of the Senate, but I indeed would like to
compliment so many individuals who have worked hard to
bring forward the Workers Compensation package. I
especially would like to compliment Senator Maloney for
his outstanding work on a job and concerns that we

JOINT
STANDING
COMMITTEE
HEARINGS

LABOR AND
PUBLIC EMPLOYEES
PART 3
639-1018

1991

JOSEPH CRISCO: Thank you.

SEN. MALONEY: Next the fellows from the Bar Association, are they here?

ATTY. DOUGLAS DRAYTON: Mr. Chairman, members of the Committee, my name is Douglas Drayton and I represent the workers compensation section of the Connecticut Bar Association. I've appeared once before, but just so, some of you who weren't here, you may remember, our Association and our division is a completely bipartisan group of attorneys.

We evenly represent injured employees and employers. We're split almost equally down the middle. Obviously we feel that we have an extensive knowledge of the Connecticut Workers Compensation Act, it's application and administration.

I'm going to try not to repeat remarks of other speakers, but I am disappointed that Jim Parent's entourage left because he'll be pleased to know that the Connecticut Bar Association does support one of his comments, and that is that the Commissioner's offices require and deserve better staffing.

There is absolutely no question about it. The Connecticut Bar Association has gone on record before about this and I will echo Mr. Parent's comments that we agree fully with the position of he and his union.

With respect to the bill, and that is HB7339, we would like to record our support for some parts and also point out some things we feel should be addressed to this Committee. First, we support the various provisions that are contained therein which address the disfigurement and scarring. We recognize this as being an unnecessary source of dispute.

It seems that the language, I believe is a codification of the existing regulations of the Commission and perhaps making it a part of the

statute itself, will cause it to be enforced and will result in less disputes and the Bar Association supports that position.

We are disappointed that there's no bill that calls for real qualifications on the part of the appointment of commissioners. Now, we recognize that you're not in charge of appointing commissioners, but we do feel that some bills strengthening and perhaps putting in credentials, obviously we feel members of the Bar, since this is a quasi-judicial position, should be given consideration and preference in that the statute that they should be commissioners.

We think it's about time that someone stopped considering these to be pure political appointments and began to realize that it is a quasi-judicial position, and some qualifications added to the statute might be helpful.

Insofar as the new provisions, those that would, regarding the chairman are concerned, we see a certain inconsistency in appointing a chairman in this fashion, when the stated purpose, at least to the program review, and what I've heard is, accountability.

The chairman as set forth in that bill, seems to have no statutory credentials or requirements. Heretofore the chairman did have some requirements, if in the current statute, and furthermore has accountability, seems to be a good, just to the Governor, who also may not have any knowledge of the workers compensation system.

On the other hand, this is an individual with immense powers. And I know that you've heard this from other speakers, so I won't belabor the point, but he seems to have the power to direct existing commissioners who have been there and have considerable knowledge of the subject matter.

We see this as too great a power and too little accountability. The amendment which deals with the computation of the compensation rate, is supported in concept by the Bar Association, but we feel that it presents a problem legally.

Commissioner Arcudi I understand has already pointed out one of the inconsistencies. I was under the impression the original bill, well I won't belabor that point either then.

Our committee agrees with the concept of utilizing a net earnings, but we believe that the statute that is proposed will create horrible problems in terms of computations and some inequities because of the method by which withholding is determined and net earnings are determined.

We understand from other sources that there are states which use such a system, and they do it by a table system. We have not studied it, we really didn't have time, to do a study on it. But it would be our position that the bill should be changed to reflect some table and uniform system of calculating it and we actually would advocate that change and would offer the services of the members of our committee to redraft the provision, research the area and obtain some information from other jurisdictions.

Second injury fund provision. Although the second injury fund seems to be under siege, both financially and administratively, we do not support the proposed amendment which seems to require that an acknowledgment of physical defect be in place in consideration for any transfer of liability.

We see this as a practical matter just benefitting those large employers who would, who would be able to fund extensive pre-employment physicals, diagnostic workups and things that would reveal to them that there are physical conditions which should be recorded in acknowledgment of physical defect.

The smaller employers in the state just simply would not have the ability to utilize this system and would not have the ability to take advantage of the transfer of liability to the second injury fund.

Secondly, we feel that there's certain underlying conditions that are not necessarily discoverable, and they can be devastating. The history in our

case law shows this to be the case. But, for example, we have, not a lot, but we have several cases involving such things as aneurysms. An aneurysm has been recognized as a preexisting physical impairment.

An individual has it, and may never know they have it and will take a significant amount of diagnostic workup to find that a person suffers from an aneurysm. That person may have what is otherwise a trivial accident during the course of their employment with the employer and if the employer then, and may have devastating consequences as a result of the aneurysm blowing, and now the employer is stuck with a, perhaps a permanent total disability case.

The original concept of the second injury fund was to allow the employer to have some relief of liability after 104 weeks, and we feel that that should continue. An aneurysm is not something that would probably be discoverable and is subject to acknowledgment of defect.

And again, it may penalize the employee, because if the substantial factor test is used in weighing the evidence in a particular case and the employee's substantial factor is the aneurysm, the employee, without the acknowledgment of physical defect may never be able to receive workers compensation benefits.

The last portion of bill HB7339, which we think deserves some other consideration, is that which relates to the appellate procedure. The Review Board language as we see it, should contain some sort of a mandate that all commissioners will serve on this board on some rotation basis, with some equal distribution of the case load.

It would serve to give a wider range of opinions and it would solve the problem of having a commissioner who's views may differ from the person selecting the panel to be excluded from all hearing appeals. And we feel the statute should be modified to allowed for some sort of rotation.

We didn't make any specific proposals, but once again, we offer our services, if anybody is interested in preparing that type of legislation. Basically, those are the only comments that the Bar Association in total has as an association. The individual members may show up here with an axe to grind on one side or another. But the Bar Association itself has reviewed the bill, and that's our position concerning the HB7339.

SEN. MALONEY: The only concern I have with your testimony is that I wonder if you reviewed it enough, because I think you're the only people that started out your testimony by saying we support the legislation. So you may want to look again, over the weekend to just double check.

ATTY. DOUGLAS DRAYTON: We support the concept.

SEN. MALONEY: Alright, we understand that. We appreciate it. Question, Representative Radcliffe.

REP. RADCLIFFE: It seems as if the exception may have swallowed up parts of the whole in terms of the rest of the testimony. I just have a couple of questions and when Bob Sheldon was here during the initial hearing on this, he mentioned a special master program in which he indicated you had also participated in the Bridgeport area and other areas, where members of the Bar actually volunteered their time on an informal basis for, or conducted what amounted to informal hearings before a formal hearing was set down.

Do you have any thoughts on that and whether that could be standardized in terms of the statute in order to cut into the backlog.

ATTY. DOUGLAS DRAYTON: Sure, I do have some thoughts.

REP. RADCLIFFE: Good.

ATTY. DOUGLAS DRAYTON: And the Bar Association is willing to participate on a volunteer basis. As you probably know, I'm sure you know, the statute does allow the Commissioner, the Chairman of the Commission to appoint lawyers on a basis as an interim Commissioner.

Frankly, the project that Bob Sheldon spoke about was done by one Commissioner, one district, and it paired, as they do in the civil courts, a lawyer who's preponderance of cases was on the employers side and on the employees side, and it was quite successful.

Whether that needs to be added to the statute, we think that there's sufficient authority for the Chairman to do that with the flexibility of the statute, but we do have, are willing to participate in such a program.

REP. RADCLIFFE: Okay. And on the issue of the medical panels. You were here when Mr. Wilson just testified looking at a portion of the bill that talks about an employer, an employer plan being submitted to the Commissioner.

One of the things that plan would do would be a listing of persons to provide services, which presumably the Commissioner would have to approve. Do you see this as a way of, perhaps, eliminating the hired gun approach to medical practitioners and getting a panel which would be more universally respected in this area?

ATTY. DOUGLAS DRAYTON: I said at the outset that we were bipartisan and that we were evenly divided. There are some things....

REP. RADCLIFFE: Well a hired gun can be on either side.

ATTY. DOUGLAS DRAYTON: I understand that. I'm about to explain, and there's some things that by vote, we've been asked not to take a position on as a Bar Association.

If I were to get up and walk around and sit down and make some personal comments it may be different. But I really, our group has decided that they did not wish to take a position on the medical panel aspect of the statute.

REP. RADCLIFFE: Okay, can I...

ATTY. DOUGLAS DRAYTON: I don't mean to duck you.

REP. RADCLIFFE: Can I ask you then to step out of role for a minute and if you have a, if you have a personal opinion on whether that might, might help in terms of the informal backlog, in terms of the credibility of the ratings that a Commissioner would have before him.

ATTY. DOUGLAS DRAYTON: And I think I would agree with you. As a matter of fact, Mr. Wilson who testified before, I'd like his thought about eliminating certain positions because there is no question...

REP. RADCLIFFE: Almost like a pre-emptory challenge of the juror.

ATTY. DOUGLAS DRAYTON: Yes. The physicians have a strong control over, over the outcome of, of this system. I mean stronger than you would ever believe. But it's absolutely true.

REP. RADCLIFFE: We also have a bill that did not come to this Committee, although I'm sure that it will ultimately. It did go out of Judiciary, it terms of the appointment of workers compensation commissioners that would require that they be a member of the Bar, and I believe it has five experience as opposed to ten for a superior court judge. Do you have a position on that particularly?

ATTY. DOUGLAS DRAYTON: Yes, we support that bill, and we feel it would be necessary and we would appreciate if it passed, yes.

REP. RADCLIFFE: On the scarring.

ATTY. DOUGLAS DRAYTON: Yes.

REP. RADCLIFFE: You mentioned it, and Chairman Adamo's mentioned it several times, this really isn't a radical change. The proposal in bill HB7339 is the regulation. Why, if the Commissioners are not following the regulation, would they be any more prone to follow the statute presuming that they have complete knowledge of both right now?

ATTY. DOUGLAS DRAYTON: Perhaps because they'd be subject to court review a lot quicker than they would via the regulation if it's in the statute. The experience has been that the human cry over the change in the disfigurement which occurred many years ago when the word "significant" was added to the statute, would solve the problem of, and I don't know if you can even see.

I have little dots on my hand where I stuck a nail in, etc. where someone would walk into a Commissioner's office and get two or three weeks worth of compensation on today's rates at \$600, you get \$1,800 for a pin point here, a little tiny item, that to you and I wouldn't seem to be disfigurement. That was the ground then of the complaint, when the word was changed to "significant."

And regulations were adopted to assure that. As a practical matter, what's happened is, is that the regulations have not been followed, and I don't think that Chairman Arcudi would disagree with me. There are districts in which they are ignored, and by putting it in the statute, I'm assuming that the idea is that more teeth will be put into it, and we support that.

REP. RADCLIFFE: This brings me to the, and you've touched on it briefly, the compensation you mentioned \$600, for something like that. That depends upon, of course, your comp rate, or if you're at or close to maximum comp rate on something like that.

And you endorsed in concept, spendable income, as an approach. Do you endorse it in concept for temporary total disability or temporary partial disability only, or also with regard to specific awards.

ATTY. DOUGLAS DRAYTON: Our feeling is that the rate once established should be the same for all.

REP. RADCLIFFE: Should be uniform for a temporary total as well as for specific awards.

17
kg

LABOR AND PUBLIC EMPLOYEES

March 28, 1991

ATTY. DOUGLAS DRAYTON: We did not address changing the rate for different types of benefits, that's correct.

REP. RADCLIFFE: That would be something in bill HB7339, that you would seek to change in terms of this bill leaving at two-thirds, the specific award.

ATTY. DOUGLAS DRAYTON: I think I started to address, or I said...

REP. RADCLIFFE: Okay.

ATTY. DOUGLAS DRAYTON: It was in the original, and then didn't somehow come out to...

REP. RADCLIFFE: Now it was in the original program review report. It was eliminated from the final program review report, and this is consistent with the final report of program review, I think. There was some discussion on that. Your position as far as endorsing it in concept is to endorse it across the board then I take it?

ATTY. DOUGLAS DRAYTON: That's correct. It would be an administrative nightmare to start having different rates for different things, and that's the position of the Bar Association.

REP. RADCLIFFE: Okay, thank you.

ATTY. DOUGLAS DRAYTON: Now if you would indulge me for just a moment, I had asked permission because an out-of-state client had asked me just to make a simple statement for the record. And I understood that I'd be able to do that. I'd just like to make one quick statement.

I happen to be Connecticut Counsel for Stop and Shop Corporation, and I've been asked by them to just address their concerns concerning workers compensation. Stop and Shop, as you probably know, is a multi-state operation. But Connecticut is of grave concern to them because they've had a drastic increase in their Connecticut workers compensation cost.

Stop and Shop recognizes the necessity for a fair and equitable payments to injured employees. They've strived to ensure that their employees are compensated when injured. In fact, they have a program that they established with a back school, that has been 90% successful in returning Connecticut employees to full employment.

However, their costs for benefits have somewhat risen disproportionately to what they see is the actual disability that's being caused by injury. In this regard, Stop and Shop wants to let this Committee know that they support any effort to curb increasing workers compensation costs via through legislation that's enacted or through more effective administration.

And basically that's the only statement that I would like to make in their behalf. Thank you.

SEN. MALONEY: Thank you very much, oh, Representative Joyce has a question.

REP. JOYCE: I would just ask, do you have written testimony?

ATTY. DOUGLAS DRAYTON: No sir, (did we have) we submitted it.

REP. JOYCE: It is submitted?

ATTY. DOUGLAS DRAYTON: Yes.

REP. JOYCE: Okay, I don't seem to have a copy.

ATTY. DOUGLAS DRAYTON: Will be submitted, I'm sorry.

REP. JOYCE: Thank you.

SEN. MALONEY: Thank you very much. Next is Dr. Overland.

DR. KEITH OVERLAND: I'll get home just in time to pick my kids up from the bus, thank you. My name is Dr. Keith Overland. I'm President of the Connecticut Chiropractic Association. And thank you for allowing me to speak on HB7339 today.

We have a little bit of a unique approach to the questions of workmens compensation coming from the medical providers side. While chiropractic profession understands that there is skyrocketing costs in health care, and they must be contained, we don't believe allowing managed care plans in the workmens compensation system chosen by the employer or the insured is the best solution.

We believe the majority of chiropractic physicians in Connecticut truly treat their patients in the most medically appropriate and cost effective manner. There are, however, several doctors, I'm sure Mr. Wilson knows a few of them, whose abuse of the system can clearly be documented outside of the normal standards of care.

The CCA, the Chiropractic Association, has in the past developed guidelines and is presently updating them to inform the third-party payers and employees, with regards to treatment and duration.

Chiropractic care has been shown in workmens compensation studies from Utah and Florida, to be a cost effective alternative to injured workers. If an employer or an insurer is allowed to choose which doctor, or in these plans, the patient will lose his freedom of choice.

The concept in Connecticut and in America, we've worked long and hard to acquire. As a solution, though, to the high cost of medical care, we would like to suggest the following.

As Chairman Arcudi knows, there is in place in the present laws, an approved list of physicians. However, from my research that approved list of physicians, is anybody who's in the Yellow Pages.

Our suggestion is to make a viable mechanism of this approved list and remove the abusive physicians from the provider list. I'm not sure how many, if any, have been removed in the recent past.

We would also suggest that you require a treatment plan to be created and submitted to the employer or

the insurer within a reasonable period of time, so they will have a handle on the type of treatment, the costs, and when to expect return to work.

You have in your bill something about a medical advisory panel. We would suggest that this advisory committee is made up of members of all providers groups to act as a review panel, to determine usual and customary care and watch over utilization.

We would also encourage the use of alternative providers, whose professions have been shown to treat conditions and return employees to work in a more cost-effective and timely manner.

We are concerned that the health care plans that exist today could, under this bill, become the sole providers for compensation services to an employer. In many cases these plans are extremely limited in their provider pool, and therefore severely limit the employees accessibility to the provider of their choice.

Some of these plans have shown a large reluctance to opening up their panels and may cause extreme hardship to the employee. We'd also like to recommend, as many have others, a mandated workplace safety apparatus.

The PPO concept which many have spoken in favor of, we are in favor of in concept as well. However, the problem is, is they usually choose one or two, or three physicians from a town who are willing to agree to a certain guideline and standard. We believe that the standards and guidelines should be set, but also believe that the provider should be open to, open to access to these PPOs if they choose to accept those same guidelines.

Unfortunately, that is not being done and that injured employee will not have the freedom of choice. And usually the people who are accepted, are the very highly visible, and unfortunately some of the more wealthy doctors in the community.

So we do feel that there is a lot of benefit to managed care, but we do feel that under the way

it's written right now, it could severely curtail the injured employees freedom of choice. Thank you.

SEN. MALONEY: Thank you doctor. Any questions from the Committee. Next is Jim Hyland or Gary Ajamian.

JIM HYLAND: Good afternoon, my name is Jim Hyland from the EBI Company. We're writers of workers compensation insurance in the State of Connecticut. For reasons, because they've have been a lot to these things already mentioned numerous times, I'll keep my remarks short.

We at EBI recognize the work that went into program review and we generally supported a lot of their decisions. I'm here just to specifically address a few oppositions to bill HB7339, from our viewpoint.

The first being, like others have, we support the use of the net computation of total temporary. We also support that you make it uniform across the board. We do not support the 90%, obviously.

The second part we have is the advisory panel. We do not feel that an advisory panel without any authority will be of much use. We feel that you've got to have some kind of commitment there, and to give them some authority, then it would make an effective tool.

Most importantly, the third aspect, would be the second injury fund. We'd been able to cut costs for a lot of our insureds by limiting their exposures. By requiring an acknowledgment prior to anything going to the second injury fund, we're greatly reducing that, our ability to cut those exposures.

With a lot of the doubt about the upcoming American With Disabilities Act, I think we'd be better off just leaving it as it is to provide some kind of protection for our insureds.

SEN. MALONEY: Thank you, questions? I have just one, in regard to the advisory panel, as the bill is written, it leaves undetermined who would participate specifically on either side, with two exceptions.

One to make sure there's a hospital involved because of (inaudible - microphone off) medical provider. And on the labor side, a claimant who has substantial injury (inaudible - microphone off) to get grass roots level labor to employers. Do you have any thoughts whether it would be a good idea or not a good idea to further specify who would be representative on that board?

JIM HYLAND: I think it is a good idea to vary the different aspects and what side they're coming from. A medical provider would be an important aspect. I think you would have to get labor, business, as well as the insurance representation, so we can all get together with something that'll work for all of us, and not just one particular party.

SEN. MALONEY: Thank you. Next is Bonnie Stewart, CBIA, followed by Harry Harris of SACIA.

BONNIE STEWART: Good afternoon, my name is Bonnie Stewart and I'm here today representing the Connecticut Business and Industry Association. I've submitted written testimony, so I'd just like to comment on, in brief, on a few of the bills before you today.

The first is HB5917, AN ACT CONCERNING SHARED WORK UNEMPLOYMENT COMPENSATION PROGRAMS. We have no feeling one way or the other concerning the actual shared work programs. We would request, though, that if such a program were adopted that the statute reflect a dollar for dollar payback by those employers who use it, therefore you wouldn't be placing the burden on those employers who don't use it in terms of pooling of benefits.

I'd also like to comment on HB6924, and HB7134 which both concern the taxable wage base. Connecticut is presently in the middle of an economic downturn, which nobody disputes. This economic downturn has resulted in the loss of a number of jobs in our state, and in turn, a growing number of persons collecting unemployment compensation benefits.

A good example is we led the country into the recession that we're presently in, and it's believed that we will lead them, well actually we will follow them out. So we'll be at the tail end here. So in terms of a national indicator, that concerns us as well.

We feel that the current system is designed to bring itself back into balance naturally through the rising and fallings of the experience rates which are going to bring about these increased taxes that I just spoke about, and we should let it do so.

If the taxable wage base attempts to jump up and down with the state of the economy, not only will the system become more confusing, but in the end it could hurt Connecticut employers as there is no satisfactory indicator.

The last bill I'd like to address is HB7339 concerning the workers compensation reform package. We've been before this Committee a number of times and you've received a number of letters and calls from our membership saying that we truly want a meaningful reform this year.

But as a part of any meaningful reform package, there has to be at least three things. Something has to be done with benefits to bring us more in line with the other states that we compete with, both in the area as well as in the country.

There has to be meaningful medical cost containment measures adopted and that there's got to be something to insure accountability, employer input and fiscal oversight into this system. After reviewing this bill, we don't feel that this bill accomplishes meaningful reform.

There are a number of measures in here which we applaud you for, such as the cost of living adjustment, which is something that we requested because it would be a more equitable means of calculating the COLAS for the people collecting them.

And there's something in here concerning the state having to contribute to the second injury fund, which will we have all along stated that we strongly support. We would like them to contribute at 5% the same level that all private sector employers and the municipalities have to contribute.

The bill says 4.5, but obviously we'll take anything at this point, because we're picking up, you know, \$4 million of hidden taxes there.

SEN. MALONEY: Bonnie, just on that point, what's the difference in dollars 4.5 to 5, do you know?

BONNIE STEWART: It's half a million dollars, a little over. It's right around there I believe, because if they had been required to contribute, well actually that's not true, they estimated last year off of a ten percent, because it's even 5%, we were assessed twice last year, which would have been ten percent that the state would have to contribute \$4 million, so you're talking about less than half a million here.

COMM. ARCUDI: (microphone off) Two and a half.

BONNIE STEWART: Two and a half million dollars, but...

COMM. ARCUDI: (microphone off) Five hundred million is what you're computing it against.

BONNIE STEWART: Okay, so, I like his figure better. Two and a half million dollars.

SEN. MALONEY: For the record, that was Chairman Arcudi who supplied the larger number.

BONNIE STEWART: Good thing I'm not a statistician.

SEN. MALONEY: Alright, good, thank you. If we make, if we made that adjustment, obviously that would be a tremendous additional benefit to the private sector.

BONNIE STEWART: Right, because wouldn't be paying for somebody else's claims. That would leave us only paying for our own.

SEN. MALONEY: Right.

BONNIE STEWART: Again, we give you an alternative to that, and one that we actually prefer, is just to pull the state out of the second injury fund completely. But a fall back is obviously an acceptable one on our part is to have them contribute to the fund.

Some of the things that we're concerned with in the bill are, again, the assessment. Although we see through this bill that there's a addition of a number of new positions within the administration, we still believe that 4.5% is a, even though it's capped, is extreme.

We don't need that. I think that the commission and the system could operate effectively with at most a 4% increase. You're still talking about a significant increase. At present it was given 3.3%, 3.36% and it's been our experience that when anything's ever been capped, it reaches that cap. And you're talking about, literally, millions of dollars here.

In addition to that, you've got the occupational health clinics again. And we made the argument, and we'll make it again. We already pay for our medical bills, we pay for a division of worker ed that's supposed to educate people on these. We pay for statistical division.

We should not be responsible for bearing the burden of another three quarters of a million dollars to fund these clinics in addition to the financial burdens we bear already.

The spendable wages. There are four states that have adopted the spendable wage approach. All four states have adopted at 80%. That takes into consideration the federal withholdings and FICA, and we feel that ours, if we do adopt the spendable wage approach should be 80%.

The scarring language, is obviously better than what exists if you read it, but the statement that was already made that it's simply a codification of

what exists in the regulations. Those aren't particularly followed, and therefore we're concerned that this won't be as well.

We've offered some language that you'll find in my written testimony in terms of altering the language that possibly could be used in scarring awards. I understand your concern in terms of the medical plans or the PPOs that have been talked about a great deal in terms of getting employer input.

But we feel that the commission is the best place to make the decisions of whether a plan is acceptable or not through their dealings every day with the different physicians, employers, employees. They're aware of who out there is capable of treating and who out there isn't.

If you want to have employer, employee input, one of the ways I would recommend that you do it, and do it so effectively would be similar to our regulation classes in terms of approving regs, simply have the employers post a notice on the boards where we post all our other OSHA notices saying that this plan has been submitted.

Have the plan there and tell them, you know, to contact the chairman within so many days and, therefore, they have their means of providing input into the plan as well, in addition to having the chairman review such plans.

I think that's it. Any questions?

SEN. MALONEY: Let me, Bonnie, let me go back to the unemployment compensation issue. Again, we've discussed this, we've discussed the waiting period situation. Let me frame the concern this way. Particularly during a recession many people are living week-to-week on their paychecks. (NB 7134)

You got, in good times, you got overtime, that's perhaps the first thing to go. As things get tighter and tighter, and there is no overtime, people may get overextended in terms of their credit, and they get closer and closer to that situation where they're living literally week-to-week.

re-employed, and at a time when we have an economic recession, it's difficult to go without one week's pay.

It may be less difficult under the same concept that you endorsed a moment ago, for someone to go without that one week's pay at a time when economic times are good, at the same time when an employer might be able to pay the \$10,500 as an increase in taxable wage.

And I know there's nothing magic about that particular figure. That happens to be the figure in bill HB7134. If you endorse that particular concept of paying in the seven good years for the seven bad years, doesn't the same thing apply to a waiting period? And shouldn't we defer implementing a waiting period for the same reasons?

BONNIE STEWART: You want a response from me?

REP. RADCLIFFE: I don't think it was a responsible question.

BONNIE STEWART: I'm not the one objecting to the one-week waiting period at any time of the year, but...

REP. RADCLIFFE: I don't think it was a rhetorical question. I think it was consistent with what we've been saying. So does that make sense?

BONNIE STEWART: A one-week waiting period at any time of the year makes sense to me.

REP. RADCLIFFE: Okay.

BONNIE STEWART: In terms of it's, if the objection by the chair is that it's difficult in times of recession and it's the same argument that we're making in terms of increasing or decreasing the taxable wage base, you know what's good for the goose.

REP. RADCLIFFE: I'd like to talk about spendable wages on bill HB7339, for just a minute too.

BONNIE STEWART: Sure.

REP. RADCLIFFE: We went through some figures, and I know you've been kind enough to supply some figures to the Committee that indicated that in some states in which we have spendable wages, that approximately 20- \$25,000, the employee is actually receiving less under the spendable wage criteria than he or she would be under the criteria of two-thirds of gross pay. Is that a reasonable, reasonably fair statement?

BONNIE STEWART: I don't have the figures I gave you the other day. But it depends greatly on whether or not they have dependents or whether they are a single person. I know that the figures that I supplied to both ranking members and the chairs of the Labor Committee, whenever I did that, showed that for a single person claiming themselves as a dependent and no one else, that the bottom two-thirds of the person's, if you broke the claimants into thirds, the bottom two thirds actually received as much, if not more, and once you've passed the \$500 figure, if they were single claiming one person, they started to receive less. Now in that same scenario...

REP. RADCLIFFE: But by a dollar a week would be about \$25,000 a year, in round numbers.

BONNIE STEWART: Now, if you had a person with dependents, that did not kick in until after the person was, I believe receiving over \$800 a week.

REP. RADCLIFFE: With the \$500 a week, you're talking about approximately \$25,000 a year, again in very round numbers.

BONNIE STEWART: Somebody else better add it, we've seen what my math does.

REP. RADCLIFFE: Well, you know, that's I think fairly. Now if that's (\$26,000 alright) if that's the case, that's precisely the time isn't it when the injured worker is going to begin paying the income tax proposal that your organization's endorsed at some point. Doesn't this amount to a double hit on the same person?

- BONNIE STEWART: Actually no, because persons who are collecting on workers compensation, workers compensation is not taxed.
- REP. RADCLIFFE: Right, but when they go back to work, they're going to be paying the...
- BONNIE STEWART: When they go back they'll be taxed on those income, that income that they have received while not on workers compensation.
- REP. RADCLIFFE: And in every single state that's adopted a spendable wage approach, we've seen, we've seen them deduct state income taxes in addition to federal income taxes. That's not currently in the bill because we don't have such a tax. Do you think it should be?
- BONNIE STEWART: The purpose of the after tax income is to, obviously take into consideration all taxes that are withheld, whether it be federal, state, FICA, and therefore, all should be taken into consideration here if you're truly going to have a spendable income approach with after tax, you've got to make sure that it is after tax.
- REP. RADCLIFFE: So the figures that we've been dealing with in terms of only federal taxes, maybe less advantageous to the injured worker who's going to be paying the income tax if the tax plan goes through is going to be paying to put gasoline in his car to go to work.
- If he lives in my town, he's going to be paying increased property taxes if he happens to own a home. Now he's going to get less because we're going to deduct state income taxes from spendable wages too? Hows that completely equitable?
- BONNIE STEWART: Again, when you are looking at the, the workers compensation benefits, they're not taxable -- period. And if the person is totally disabled, or totally temporarily disabled so that they are unable to work, they're not paying for gas to go back and forth to work.

If they're going to a medical appointment to receive treatment for a work related injury, the employer is responsible for paying for those transportation costs.

REP. RADCLIFFE: Well, spendable income at this point, it seems to me, and whether it's for both and Mr. Drayton indicated, and I agree with him, I think basically it ought to apply across the board.

BONNIE STEWART: Yes. *uple weeks ago.*

REP. RADCLIFFE: Spendable income, an approach at a time when of "tax reform" and I use that particular phrase advisedly, seems to me to be putting another burden on the same people who can least afford it. Thank you Mr. Chairman.

SEN. MALONEY: Thank you sir. Additional questions. Bonnie I do, I would like to pursue the discussions we had in regard to these bills, so my co-chair-chair and I will be around on Monday, and hopefully we can see people, okay. Next was Mr. Harris followed by Dr. Corey Fox.

HARRY HARRIS: Thank you very much Mr. Chairman. My name is Harry Harris, I represent the Southwest Area Commerce and Industry Association SACIA, in Stamford. For the record I'm going to summarize some comments and I'll submit written for the record.

NB 7339

A couple of weeks ago I submitted testimony to this Committee on the workers compensation issue. I do not intend to repeat that testimony, but there was one thing that I left out. We did a survey of our members in the fall, and we asked them what is the problems or concerns that you have with workers compensation, and 55% of our members indicated that they had no problems. That it was no better or no worse in Connecticut than in any other state.

However, 75% of the manufacturers that responded indicated that there was a significant or very harmful problem as far as workers comp was concerned. The conclusion I would draw is that in our part of the state, which is becoming

increasingly dominated by corporate headquarters, financial and service industries, that it is not, workers comp is not a major problem.

But that if you wish to preserve the manufacturing base of Fairfield County, which is rapidly eroding, and elsewhere in the state, it is a very significant issue to them. And I'm not sure the draft bill before you HB7339, I think it is, really does the job in that matter relating to our testimony of a couple weeks ago.

Now let's shift our attention to the unemployment compensation problem. We understand the problems with the fund. We understand the deficits. We understand that Connecticut employers are now required to pay a minimum 1.2% on the first \$7,100 of employee wages, which works out to about \$85 per employee.

This amount will increase automatically to 1.5% next year as a minimum and could conceivably grow to 2.5% on a wage base of \$10,500. That would be about \$250 per employee, or about \$165 more per employee, which would be a significant hit for many of our struggling employers in the State of Connecticut.

We believe the time has come to talk reasonably and frankly about the unemployment compensation fund. In the past it has been the traditional position of business to oppose any tax increases. In point of fact, at a time when businesses are being forced to lay off employees, cut costs, and trim operations, it makes very little sense to impose an additional cost on to employers.

It's like throwing a brick to a drowning man. Traditionally, businesses including SACIA, have told this Committee to reduce benefits, and historically you have rejected that since it would be interpreted as gutting the program.

In other, we believe changes are necessary which would put Connecticut into sync with the provisions of other states, while still providing benefits equal to or better than the vast majority of states.

March 28, 1991

And I'd like to direct your attention to five areas that we think you should look at. First of all, the maximum weekly benefit. Some people claim we should cap this, or limit this. We recognize that given the financial conditions and everything, that might be something you would consider, but frankly, this is a high income state and individuals who suddenly find themselves out of work through no fault of their own, have a difficult time as it is, so I don't think capping is necessarily the best thing.

But duration of benefits, only ten states have the standard duration of benefits provision that Connecticut has. And a result of this anomaly, it is possible for an individual to earn a very significant portion of their annual income in unemployment benefits.

Many states have some form of maximum cap relative to total earnings. That is somewhere between 25 and 40% of the total earnings of the previous year. We would urge you to take a look at this and consider this possibility versus those anomalies that develop.

Also benefits in Connecticut are determined by the highest quarter. Under Connecticut law, benefits are determined by the highest of the last four quarters. This can cause a problem when one quarter is dramatically out of line with the other quarters, say in the retail industry at Christmastime, or commission salesmen who have a spectacular quarter and then basically go down the tubes the rest of the way.

One of our former members actually reported an instance to me where they had a person collecting unemployment that was earning \$20 more a week on unemployment benefits than they were when they were working.

There, this is not normal from normal industry, but there are anomalies which should be looked at. The waiting week, you've already discussed this, clearly here's a case where Connecticut is out of line with the other states. And restoring the waiting week, would not unduly harm any legitimate

recipient and would go a long way towards restoring some level of competitiveness with other states which is a key to the overall picture of Connecticut industry in its competitive position.

And finally, increased minimum earnings. Currently, a worker needs only earn, as I understand it, \$600 to establish or restore eligibility. In a high wage state like Connecticut, this can be accomplished in a very short period of time, and doesn't really establish, I believe, some tie or permanent fixture to the labor force.

I think that figure should be somewhat higher. If I'm wrong then I'm, you know, but...

REP. ADAMO: Excuse me (inaudible - microphone off) I was under the impression it was ten times your competitive rate. (inaudible - microphone off) competitive rate...

HARRY HARRIS: Forty times.

REP. ADAMO: (inaudible - microphone off) John McCarthy's from the Labor Department, what is it John?

JOHN MCCARTHY: You have to earn 40 times your rate after it's calculated in order to be eligible to collect. So if a person had a wild swing of quarters they'd be most likely to be ineligible to collect at all.

HARRY HARRIS: Well if that's the case...I've been told that it was, all you have to do in some cases was earn as little as \$600, and certainly a higher figure than that would seem reasonable to restore eligibility.

We believe that, you know, things have to be done to take a look at the things. Basically SACIA's position with regard to taxes, and especially with regard to income tax and everything we're talking about, is that taxes alone do not establish Connecticut's competitiveness with other states.

There's a lot of different things that affect the ability of business and industry to compete unemployment costs, workers compensation costs, health care costs, are all a part of the package, and we have to look at ourselves, not in a sense of being better than other states. That is, having better, lower costs or lower taxes, or lower anything, but at least we have to be competitive in most areas, otherwise no one thing is going to help pull us out. Thank you very much.

SEN. MALONEY: Thank you sir. Representative Radcliffe.

REP. RADCLIFFE: One, just one question. In the spirit and context of difficult decisions. If you have to choose between meaningful workers compensation reform, and the income tax proposal you've endorsed, what would you choose?

HARRY HARRIS: I have not endorsed the income tax proposal.

REP. RADCLIFFE: Your organization?

HARRY HARRIS: Correct. If I had a choice between the income tax and workers...

REP. RADCLIFFE: That's right.

HARRY HARRIS: I would say the two being together...

REP. RADCLIFFE: Alright, now, I'll show you why they're linked, and then they are clearly linked. Workers compensation is a means of reducing the cost of doing business in the state without impacting the revenue side of the budget, and yes if we reduce the benefit rate, certain people are going to, are going to be adversely impacted.

It compounds the problem when those same people are adversely affected by an income tax, particularly a spendable wage workers compensation act that starts to take effect at the very level that the income tax takes effect. That's how they're linked. Which would you rather have in the spirit of difficult decisions?

HARRY HARRIS: Well, in the spirit of difficult decisions, since we do not have a position on the income tax at this point in time, and since the majority of our members are not affected, do not consider workers comp to be a major issue, I'd have to take a hard look at the impact throughout our membership, and I don't have an answer for you.

REP. RADCLIFFE: I'd appreciate it if you would and perhaps ask your members to take a hard look, and maybe provide us with some of that. I think it might be revealing to the Committee and also for those organizations that have, in my judgment, precipitously endorsed an income tax under the banner of tax reform.

HARRY HARRIS: Well, we're not one of them yet, if at all.

SEN. MALONEY: ^{HB 7134} There was one further question on the taxable wage base. If I followed your testimony correctly, you acknowledged a need to increase it but didn't provide a number. Do you have a, do you think, is there something you think is fair or appropriate under the circumstances, where are you guys on that?

HARRY HARRIS: What I said in my comment, and I somewhat reflect what Bonnie said, but there's a catch on part of what you said too. Right now, Connecticut employers, particularly, you know, are struggling. We're looking at layoffs, we're looking at people being closed, we're looking at a built in tax increase. We're looking at changes in the experience rating.

I think it would be inappropriate at this time, however, when times do come back, when they are good, you cannot expect us to be back here saying -- now is not the time to do it, which is what you raised before.

I think once we look at the benefit side of the equation, and if I'm wrong about some of the things that I've been talking about, then good. We're already started down the...

seventy seven accredited programs for the rehabilitation of persons with disabilities, either temporary or permanent. Among these are the services for the mentally ill, the developmentally disabled, chemically dependent, elderly and a variety of other populations.

However, one is hard pressed to find accredited programs whose predominant focus is the injured worker. One might ask a question of why this population should receive any less in terms of the quality of care than the above groups. We need to move in the direction that our Occupational Health Facilities, Rehabilitation Centers, or cordoning programs and many other types of programs are providing effective, state of the art care for the injured worker.

These are but a few of the areas which can be explored by the proposed Board Medically Advisory Panels and other similar groups to improve the standards of care here in Connecticut. Make one comment on the concept of closed panels or medical care plans whether it be a hundred plans or twelve plans, if you look at what's happened in the Group Health Area, you have a variety of standards of care and utilization criteria.

So you may continue to have some workers in one part of the State who are covered by one plan, having different criteria for the same illness, than other workers. So that fairness in the system is something that should be considered for employers sponsored plans. You know, I'll stop there.

REP. ADAMO: Thank you Doctor. Ray, any questions? Thank you once again. Mike Reilly, a.k.a. Joyce Wojtas.

JOYCE WOJTAS: Mr. Chairman, Representative Joyce, my name is Joyce Wojtas and I am Director of Government Affairs for the Connecticut Construction Industries Association and I would like to make a few comments on your House Bill HB7339 regarding comprehensive workers comp. reform. Our Association over the past, last year, and over the past few months have been asking for reduction in

the maximum benefit, a change in the weekly benefit from a percentage of gross wage to a percentage of net.

We also have asked for a consideration regarding seasonal employment because in the Construction Industry, most individuals do not work fifty two weeks a year, yet are able to collect fifty two weeks a year. We also ask that the Committee possibly look at overtime inclusion when overtime is not a regular activity of any corporation or company, and happens to be included when it comes to calculating a weekly benefit.

We also ask for changes that treat employees equitably regarding the continuous of life, health and accident insurance, because now, certain industries must also contribute to the employee welfare fund which includes pension and annuity benefits. I guess we've asked for a laundry list of things. But two key things to our industry, are a reduction in the MAX benefit and a reasonable way to replacement schedule.

Now I've heard many people object totally to the change in the weekly benefit, from sixty six and two thirds of gross to a percentage of take home pay and I don't know what those people earn but I have a chart here, if someone is currently earning fifteen thousand six hundred dollars annually, with an average weekly gross pay of three hundred dollars, they're taking home right now two hundred and forty one dollars and five cents.

At sixty six and two thirds of their gross, they would get a benefit of one ninety nine ninety eight. Now, an individual that is earning twenty thousand eight hundred dollars would take home three hundred and eighteen dollars and forty cents a week with a benefit of two hundred and sixty six dollars a sixty four cents, or forty one dollars and seven cents less than they take home when they're working.

Of course, remember, that two hundred and sixty six, sixty four has no tax liability. No I find it strange that people in those income brackets, from the bottom all the way up to I'd say, thirty one, thirty two, thirty three thousand dollars, object

to a change when a person who is making forty six thousand eight hundred dollars a year, who would take home six hundred and forty four dollars and fifteen cents, only gets minus forty four dollars and twenty one cents and takes home a benefit of five hundred and ninety nine.

See, it's, it's not proportional, because as you go up in income, your taxes, your federal tax liability gets higher and so doesn't your social security payment into the system, so you end up the higher the income the better the benefit. Now, if you make fifty two thousand dollars a year, you actually, you have one dependent, you end up with a benefit higher than what your take home pay would be, because with a single person claiming one dependent would take home six hundred and fifty eight dollars and four cents, on the workers comp. system, they take home six hundred and sixty six dollars and sixty cents with no tax liability.

And of course, if you go up to fifty seven thousand dollars, you take home seven hundred and nineteen and eighty eight cents a week, and you get the maximum benefit of seven hundred and nineteen. I can't for the life of me figure out why the people at the lower end of the income scale don't want to see some change made to this benefit system. It's not fair, it's totally inequitable. Now if we want to talk about equity, somehow we have to straighten this thing out, because there are people that are taking home, is as much if not more, than what they make when they're working.

And that is not fair. It's not fair to the individual who's collecting legitimately, it's not fair to anyone at the lower end of the income scale. I don't know what the formula is, but I can certainly see that changing it to a percentage of take home pay, makes much more sense and the reduction and the max benefit should take place, since we're one of seven states in the nation that have a max benefit of over one hundred percent of the weekly wage. If you have any questions, I'd be happy to answer them.

REP. ADAMO: You raised a question, Joyce, as to why it works the way it works. I look at the Statute, the Workers Comp. Statute, and all that comes to mind

is that one of the preambles in one of the major benefit sections of the law, and it basically says, in order to maintain as nearly as possible, the income of the employees who suffer employment remainder injuries. I think that's what it does.

JOYCE WOJTAS: Well the guys making the lower amount of money is certainly isn't maintaining it, it's maintaining the people that make more income.

REP. ADAMO: No, but it maintains that persons income. (inaudible) used to.

JOYCE WOJTAS: No, sixty, sixty six, the problem is, in all due respect Mr. Chairman, the problem is that sixty six and two thirds is a bigger check out of a lower income persons gross, because the lower income person doesn't pay sixty six and two thirds in taxes and social security.

REP. ADAMO: No one does that I know of in the world.

JOYCE WOJTAS: In the combined the higher income, the higher income you get up there.

REP. ADAMO: (inaudible)

(cass 4) (cassettes 3 and 4 don't connect, small gap)

-- and he gives them a story and he's not (inaudible).

JOYCE WOJTAS: I don't mean, I mean thirty three and a third, excuse me. It's late.

REP. ADAMO: (inaudible) three hundred dollars a week to have a (inaudible) to five hundred dollars a week. The system is made poor anchor. The law says, in order to maintain appropriate possible earning ability to that person injured. They mean (inaudible). That's what he's used to, no more no less. It's not a matter of (inaudible), and I don't want to leave (inaudible), but that's what (inaudible) concept (inaudible). I think we accomplish that.

53
kg

LABOR AND PUBLIC EMPLOYEES

March 28, 1991

JOYCE WOJTAS: Yeah, but you're hitting, you're hitting all the people at the lower income levels, it's really tough with a sixty six and two thirds.

REP. ADAMO: No, (inaudible) getting exactly what everyone gets in relation to what they earn. Okay. (inaudible) John Filchak. (inaudible)

JOHN FILCHAK: Yes sir. Good afternoon Representative Adamo, members of the committee, my name is John Filchak, I represent the Connecticut Farm Bureau, the Connecticut Farm Bureau's states largest farm organization. We represent over thirty four hundred member families covering a spectrum of the farm businesses in the State in terms of the commodities produced in sizes, all sizes and shapes of small businesses.

Today I want to briefly comment on House Bill HB7339, an act concerning comprehensive workers compensation reform. We are opposed to this bill, and for brevity sake, I just associate my remarks with those that have been already stated by the Insurance Association of Connecticut, CBIA, Motor Transport Association, Federation of Independent Businesses and CCIA. Basically, we share their concern, their view that, our businesses in the State, from my vantage point to farm businesses, we need to be competitive in order to survive.

And a reduction in the cost of workers compensation is urgently needed so that we can attain that goal. And I thank you for this opportunity to comment. If there are any questions I'd be happy to

REP. ADAMO: Thank you sir, no questions, thank you very much. Mr. Ferguson, Jim Ferguson here? Okay. Bill Bevacqua, Bridgeport Business Council, Bill.

BILL BEVACQUA: Good afternoon Chairman Adamo, members of the Committee. My name is Bill Bevacqua and I'm Vice President of the Bridgeport Regional Business Council which is the largest business association in Southern Connecticut with approximately fifteen hundred employers within our membership. Earlier in this Legislative Session, the Bridgeport Areas Business Community was heartened by what appeared to be long time coming worker compensation reform.

The report that was prepared and issued by the Program Review and Investigations Committee, that resulted in Bill SB704 and SB805 were an impressive study of findings which confirm the onerous effects of workers compensation on the competitiveness of Connecticut business and the recommendations of that report were definitely a major set of positive changes. Unfortunately, Bill HB7339, does not appear to entirely support those findings and recommendations and the long badly needed worker compensation form is not totally evident in the Bill.

My reasons for saying this have been largely covered by the previous speakers, I certainly can echo George Wilson's comments and the comments that have been made earlier by CBIA and SASHE and some of the other Business Organizations that are here. By and large, it's the bottom line that we don't feel as if this particular bill is going to affect, and by that bottom line, I mean the reduction in premiums to employers, do not appear to be evident in this particular Bill.

Why am I concerned about that? I'll tell you. I come from Bridgeport, and in Bridgeport, in the last few years, we have seen a devastating exodus of major employers. Commissioner Art Cooney, who's a fellow Bridgeport resident, I think can attest to some of the companies that we both remember as household words in the Bridgeport area that are no longer there. Now the dramatic part of that exodus, is the fact that not a single one of those companies is out of business.

Every single one of them is operating presently today, but in another state in the United States. It is largely because, in making their comparisons in terms of competitive operation, they found that Connecticut is less competitive than the states to which they moved. Now, that is an indication that what needs to happen with regard to the General Assembly, and particularly this committee, is to have as an overriding consideration, a point that has been stressed here often.

I've heard Representative Radcliffe say it at least a half a dozen times today and that is, we need to make comparisons with other states. And to do that, in such a way, so that the, the practices that are that are in existence in the competitive states that are that are enticing away Connecticut businesses are reflected in whatever Legislation is developed in terms of whether it be worker compensation, unemployment compensation, or any other impacted piece of Legislation that affects business and ultimately jobs.

Because this is no longer, in fact it never should have been, but it is no longer a Labor Management Issue in terms of one versus another. It's a question of the preservation of jobs and employment and the continuation of successful visits. So I would say to you, all the things that you've heard here this afternoon, pro and con, whether it's eighty percent or ninety percent, or increasing basic unemployment basis for taxation.

They all have to be looked at in terms of how do that affect the competitiveness of Connecticut businesses, and I would simply say to you, please, please, examine that very carefully, to make certain that what you're doing is not going to put Connecticut companies at a competitive disadvantage so that it even more of the companies that we presently enjoy in this State, do not find it to their advantage to leave the State. Thank you.

REP. ADAMO: Thank you sir. We're (inaudible) you could have tried to reach that goal. I know that, everybody's not going to be happy with Bill, that I guarantee you, but we're gonna try to reach that goal to keep us into the competitive market without hurting either person. I only wish that I could guarantee you that reduction of benefits, or premiums. I'm not sure if I can no matter what we do.

BILL BEVACQUA: Well I think the issue obviously, I'm pleased to hear you say that Representative Adamo, and I think we can take heart in that, however, the bottom line has to be that companies just are making their decision based upon you know what, the bottom line.

REP. ADAMO: Clearly understand that, thank you sir.

BILL BEVACQUA: Thank you.

REP. ADAMO: Oops, sorry, Representative Radcliffe had a comment.

REP. RADCLIFFE: Some questions I've asked others. Good afternoon.

BILL BEVACQUA: Yes.

REP. RADCLIFFE: We've had testimony today from the Connecticut Business Industry Association, Insurance Industry and SASHE and I don't know if the Hartford Chamber of Commerce was here, but they've endorsed the same tax package which seems to fall most heavily on those workers who are involved in manufacturing jobs, particularly the type that remain in the Greater Bridgeport area to a much lesser degree than they were a few years ago when we can recite names like Carpenter Steel and Bryant Electric and Remington Arms, perhaps Moore Tools, if it isn't sold by the Japanese.

: There are a couple of other ones that we know of right now.

REP. RADCLIFFE: and various others. But those are exactly the people that are gonna pay and continue to pay with higher property taxes, if some of the property tax relief isn't forthcoming with an income tax and now we have a proposal here for workers compensation reformed at the same time. Does your organization have, and I won't ask you to speak individually, of course cause that's not fair, does your organization have a position as far as that's concerned? Do you

BILL BEVACQUA: We have a philosophy, Representative Radcliffe, and that is the preservation of jobs.

REP. RADCLIFFE: Alright.

BILL BEVACQUA: Our, our issue would be if it comes down to making a choice, the issue of worker compensation, which has the ultimate long term effect of jeopardizing employment, would tend to be

more important to us than the ability to pay the tax presumes that you are earning and that you can pay. If the jobs leave, than we not only, we don't have anybody to pay the state income tax, because they're not employed.

And that's fundamentally what we're, what we're saying. We're saying that if anything that jeopardizes the ability of Connecticut's employers to stay here and continue employment has to be the overriding consideration with regard to this Assembly. This Assembly, I think, needs to examine the issue of whether or not it's more important to keep employers here and keep wages being paid or do they do what ultimately will make companies leave the State.

So therefore, the issue of whether the income tax would be paid becomes (inaudible) because there's nobody here.

REP. RADCLIFFE: In that case I'll ask the follow up, I'll ask I'll ask a follow up question because you've opened the door to it. Assuming that the Tax Reform Package is been endorsed at least in concept by several business organizations and I just named the several organizations that have endorsed that were approved, do you think it would have an adverse effect on our ability to keep jobs, particularly manufacturing jobs in the Greater Bridgeport area?

BILL BEVACQUA: Well I think the endorsements that I, that I've seen, have not been unequivocal

REP. RADCLIFFE: No I said in concept to qualify

BILL BEVACQUA: (inaudible) qualify endorsements that have really tried to defending side, it's the business statements that I've heard in organizations that have endorsed the Income Tax of the Governors Package, or what have you.

They come down very strongly on the side of spending controls being the only way in which that element of the acceptance would take place. That it has to be a companion activity in the part of the operation of Government.

REP. RADCLIFFE: Just so I understand your position as far as your organization's position as far as the endorsement in concept is concerned, you happen to (inaudible), is that correct?

BILL BEVACQUA: No, we have not.

REP. RADCLIFFE: I'd like to ask than just one final question, on Bill HB7134 which is unemployment compensation. You didn't address it, but we were talking about it in some length earlier, I know you were here for the discussion. Obviously, businesses can least afford to pay increases in unemployment compensation premiums or anything else during that bad times, and perhaps most afford to pay for them in good times.

What, I see Bill HB7134 as proposing almost the idea that during the good years you store up something and during the bad years it's you, as in hopefully it wouldn't be misused the same way as a budget reserved fund that was established in this State a few years ago was misused for various other things. But assuming that that could be avoided. In concept, could you comment on that?

BILL BEVACQUA: In concept, I would agree with that. It makes more sense when you have the ability to pay to be able to to store it away at the time that you can do it. Obviously, in difficult, it's not, you can't do it in difficult times, it's impossible because it may be the additional burden that does in fact close an operation.

So, the time to do it obviously is when you have the greatest ability to do it. I mean, that's true with anything and I would say that you're doing it in the seven good years in preparation for the seven bad years philosophically would be an effective approach.

REP. RADCLIFFE: A year ago, the General Assembly passed a Bill which exempted Workers Safety Committees in a plant, that they would join Management Labor Committees from lawsuits, from causes of action, basically on a public policy notion that we were to encourage safety in the workplace and should encourage these sorts of

people think we're loaded. You know, how about if we do this Representatives. How about if we make the people that get injured real bad, go back to sue, put it in the hands of a jury. Just the slight injuries, stay on Workmen's Comp.

That's all I got to say.

REP. ADAMO: Your point is well taken, I understand exactly where you're coming from. Ken Carroll.

KEN CARROLL: Gentlemen, who's left, 1 - 2 - 3 - 4 of you, long day. Here we are again. This is going to be my fifth time up here for the benefit of the people that are left in the public defendants. Testifying on behalf of claimants, claimants abuse, and the affects of the overall system's not working. I'd like to start out by saying that Chairman Arcudi quoted 96% of the cases go through the system with generally no problems, if I'm not mistaken. But, 96 out of 100, that's 4% of the people that aren't going through the system without a problem, so that creates a problem. Those 4% of the people are stuck in the system, they're not going anywhere.

Here's the 4%, right here. 1 - 2 - 3 - 4, or 5 of us. So, what's going to happen in our cases. Every time we come up here, you guys tell us, we're working on it, working on it. I appreciate that, you know for the future. We're talking about the present, we're talking about the past, because we've been the past, and we are going to be the future. We're still stuck in the system. So, my first question is, what's going to be done to take care of these people to get them through this system, right now, that are stuck here.

We went through every avenue that we could, we sent to the Chief State's Attorney's office, they're investigating. The extend of their investigation now is they want to investigate a case of a person that was abusing the system, but here we are, screaming about a system that's been abused by the commission, and everybody else, the insurance companies and the business and industry that's in it, and we're not getting anywhere. How come they can investigate that one case, but they can't investigate ours?

So, where's the justice here? What's going to happen to us? Anybody got any answers to that, I'm sure nobody will.

REP. ADAMO: Very quickly, they haven't indicated they're not going to investigate your case, have they? The only thing is you happened to read a story in the paper that they were after this particular person who was found to be accusing the law, okay? That's all you read. I don't there was anything in there that said they're not going to do Ken Carroll's case.

KEN CARROLL: Joe, I heard from somebody, a very reliable source, that they're investigating one person's case right now, and the evidence is so overwhelming, a matter of fact, the program revealed an investigations recommended they do the investigation, and then now, chief state's attorney's office is saying, they don't find anything. Come on, is that a cover up, or is that a cover up?

We're not going to tolerate this, we're not going to put up with it, and we're going to get to the bottom of this. Now, either with your help, or without your help.

REP. ADAMO: Ken, let me just add.

KEN CARROLL: This has got to stop.

REP. ADAMO: What this bill does that you have in front of you is, it allows the chairman to martial whatever resources are available in the entire workers' compensation system, to tackle any problems that come up. He no longer is going to be restricted by geographic boundaries, he's no longer going to be restricted by, you know, who's appointed by where, any of those problems, availability of commissioners at large, etc. The chairman under this bill is going to be able to do what he needs to do to solve the problems in the system. That's what this bill does. That's how it responds to your concerns.

KEN CARROLL: The only way I'll go along with that recommendation of that bill, is that if there's a board put in place, like program of your own investigations,

REP. ADAMO: There is a board

KEN CARROLL: recommended, that's comprised of either four employees and four employers, no chairman, nobody from workers' comp to oversee her ways of deciding factors in the vote.

Workers' Comp commission should not be involved in that process.

REP. ADAMO: We've taken testimony on that point today.

KEN CARROLL: If it goes any other way, you can be sure that we're going to be here screaming about it, because it's something that this has got to be in the hands of the people, it can't be run by a system that was run by a system all these years, and the way it's hitting now, it's getting out of hand. So, they can't control it.

The accountability is more important, Joe, the accountability here, everybody's talking about benefit structure all day long. The accountability of the whole system relies on somebody answering somebody else. Now, if the commission is set up to answer back to the people, you can have the accountability, and if you have the accountability in place, you're going to have good structure, good functioning system, because everybody's going to act accordingly, according to law, the way the law states. Remember I raised that thing the last time I was here? It's the law, it doesn't mean anything. You guys can rewrite these bills and rewrite these bills, it doesn't mean nothing, until somebody implements the laws, and if you can't get anybody to implement the laws that are on the books, then the system is doing nobody any good.

Now, here I am testifying before an empty house, there's hardly nobody left here, all business and industry, everybody's gone. Those are the people that you want to have here. But, my main concern is, if you get safety implemented in the workplace,

I think that's one of the number one priorities as far as straighten out the problems of the Workers' Comp claims being put in.

There's a couple of things I wanted to mention, I didn't have a chance to last time. Attorneys, I didn't mention this fact that people being removed from the approved list are, doctors were mentioned, people of that nature being removed for cause, or misconduct on their part. Nobody ever mentioned one about attorneys, attorneys are a big part of this problem. You get attorneys that don't even show up, and they think it's a big game.

But, they're dealing with people's lives here. That's what everybody seems to want to forget about.

REP. ADAMO: We're going to deal with that too.

KEN CARROLL: Well, then how come that wasn't included in one of the bills, Joe? They should be included because they're a big part of it. So, they should

SEN. MALONEY: Ken, the bill will not go out of this committee without addressing that issue. I promise you that.

KEN CARROLL: Alright, okay, as long I wanted to bring it up. Now, the other thing is, after a case has lingered in the system for at least for 2 years, and everybody sees that it's not getting anywhere, I did mention to you in your office Joe, one day we all came in, that's the other thing I wanted to mention was that if you can't resolve it, kick it out of the workers' comp commission. Let it go to a civil court. Let it go to superior court. You said it's going to linger on, but it may linger on, but in the long run, I'm sure justice is going to prevail.

That's right, what about the people that have been there for 15 years. Well, there's got to be a relief valve here because when you get to that point where it doesn't work anymore, you got to send them somewhere. You can't just keep sending them, go around and around and around in the system, you know?

I support the board of directors, I don't support any cuts in all the benefits, second injury fund is another problem. You even mentioned yourself Jim, that it seems to be, take forever. It's like pulling teeth to get them to pay money out of the second injury fund. Why should they be exempt, why should they be any different from me and you, or the insurance companies on their obligation to pay?

Somebody going to look into that? Why they prolong in the, you know, paying into these individual cases? Let's see, what else. This will be my last chance to testify for this year until next year, because I know we'll be back. I don't know, maybe we can get a lot resolved this year. I hope so. I really hope so. I guess that's about it. I just strongly that board, and no cuts in the benefits.

REP. ADAMO: Ken, let me, just that I support my co-chairman's comments, to that question of the no shows, people not showing up will be addressed in the bill. Two, as far as the advisory board, as far as the board goes, if you look closely at HB7339, we also made sure that one of the persons on that board was someone who has had a substantial injury, a real claimant. That was a specific recommendation, in effect, you fellows made, and we have incorporated.

KEN CARROLL: Okay, but what about the, if you have a, if your board is comprised of 4 and 4, or 3 and 3, whatever the case might be, who's going to break the tie goal here? How are you going to weigh that out?

SEN. MALONEY: We don't know yet. That's one of the unresolved issues if we hold the chairman out, as no longer chairing the advisory boards, we're going to have to deal with the issue of the swing vote. We don't have an answer for you yet. We're going to work on that at the beginning of the week.

KEN CARROLL: But that advisory board as you call it Jim do they have the powers and duties to bring the accountability to the commissioners? I mean as an advisor they can just advise. You need somebody that's going to put teeth into the law here. Force compliance on everybody's part.

SEN. MALONEY: We believe that the bill as drafted handles that well. We have heard the testimony today that more needs even to be done and we're going to look at that issue also. We're going to take another final look at that particular issue. Can I, I just want to say that I've been involved with government boards for better than 20 years. I know what happens. Boards you know, maybe they work, I'm sure they do work differently in the private sector where people are you know they've got their own money riding on it and things like that. But in government boards are of limited usefulness in my opinion.

The person you have to hold accountable is the chairman of the commission. And that has also been extensively addressed in this piece of legislation. Let me make sure I'm clear on that. You also have to give the commissioner the power, the chairman, the power to run the program. You can't hold a person responsible for a program that they don't have the legal authority to manage. Which in effect has been the case for a long time.

What this bill does is make sure that that's no longer the case. Under this legislation the chairman for the first time really has the authority to run the agency.

KEN CARROLL: Alright, but then let's put the what if scenario. The problems start arising again Jim, who does the chairman answer to?

SEN. MALONEY: Under the bill as it's currently drafted the chairman serves at the pleasure of the governor.

KEN CARROLL: I still think it should be the other way around. The chairman of the workers comp should be an advisory to a panel that's going to oversee the commission. Let the chairman and the workers comp commissioner do their job, adjudicating cases. That's their job, their job is not administrator like Mr. Arcudi testified. But there should be another avenue that people can revert to.

SEN. MALONEY: I understand.

- KEN CARROLL: And the last thing that I wanted to mention was that I heard from someone yesterday that the workers comp offices have computers in them. I don't know if that's correct is it Mr. Arcudi? But apparently they don't have people there to man the computers.
- SEN. MALONEY: We understand that.
- KEN CARROLL: So that tells you that there's a staff shortage.
- SEN. MALONEY: No question.
- KEN CARROLL: I think there's a more critical problem. I think there should be more concentration on hire more staff and administrative over to staff than to hire another commissioner.
- SEN. MALONEY: We've don both though Ken.
- KEN CARROLL: You'll greatly reduce that backlog.
- SEN. MALONEY: In the bill we've hired another commissioner in effect to free up the one commissioner who is going to serve as chair so that that person is entirely free to run the program. And in addition we've made sure that there were resources there to provide the staff in place as well. That's what that whole discussion was with CBIA and the business community that is saying that we've provided too much money by leaving the cap at 4.5%, the program we used was 5.
- They're talking about millions of dollars. What they're talking about is the millions of dollars for the administration of the program. We have addressed that issue.
- KEN CARROLL: Alright, but I think that all that plus in conjunction with the job safety aspect you're going to drastically reduce the amount of cases that are coming into the commissioner in the first place.
- SEN. MALONEY: Fine, fine.

69
kg

LABOR AND PUBLIC EMPLOYEES

March 28, 1991

KEN CARROLL: That will appease employers overwhelmingly.

SEN. MALONEY: Then lawyers will have to find something else to do.

KEN CARROLL: No, no we have plenty to do. But my final outgoing statement here is that you know that I just want to let you know for the record that I do not approve any kind of the advisory board unless it's comprised of commissioners and chairmen to advise a board of directors that's going to oversee the commission that's my position.

SEN. MALONEY: I appreciate that.

KEN CARROLL: Like I said, anybody have any question I'm welcome, ask away. Nobody, nothing, all the answers are taken care of.

SEN. MALONEY: Tony Madden.

ANTHONY MADDEN: Couple things came out pretty good here. I like some of the stuff that's going on between you and program review, I hope it works. First of all the tax, tax it. Because then maybe you'll get a check because the government is going to want their part of it. If that's what were talking about the taxes. Tax that too please. But there's so many things really. You've met with us so many times, we've come up so many times, we've been to the governor's office. We met with Mr. Arcudi, like Ken said we're the past we're the present we're the future, which ever way you want to put it.

I have hearings, I'm in 308 benefits which is the second entry funds. I receive a check maybe every two months, three months, whichever time they feel like paying. Where's the weekly pay? Honest to God the papers are here I can show the checks. They stopped paying me in November. December, January February, March 22nd I got a check. So where's their fair judgement? Number two I've been trying to tell Commissioner Verelli down in Bridgeport for the past few years they had me at the wrong pay rate.

I was making \$10.88 an hour when I was in Moore Special Tool in Bridgeport. I tried to go back to work after I injured myself, I was in Mt. Sinai Hospital, Dr. Fox was one of the doctors who treated me. I took a pay cut to try to take my job back. They made me a sweeper. I couldn't take lifting metal chips, it didn't work out. I wound up coming back out because I herniated the disk and now today the nerve is giving me problems so the doctor's playing with me again. But I'm still in the same place every three months I'm having hearings.

I mean they're talking about a backlog, if you keep coming every three months you're going to have a big backlog. The papers are here, I told you about the voluntary agreement. Well, the voluntary agreement I don't know what ever happened to it because it's not even discussed in the formal decision. Remember I had explained to Mr. O'Donnel at the time. It's not even mentioned about me seeing the doctor or anything else. I still have no idea today where that went.

I seen Dr. Stanzu August 22nd and I'm still waiting. I mean the commissioner, I'm really kind of frustrated as to which way I'm going here. As to who do you go to for an answer if the commissioner that you're dealing with won't answer you. I have these formal decisions, I mean the paper are here, I'm not going to tell you this and not have something to back it up. It's there and as far as getting the commission to move on and getting them help, if they need more staff, give em more staff I don't know what the problem is but the system's not going to work mostly until we get somebody in there to make sure the job's being done.

The transfer to light duty, I got transferred to light duty in my company and they gave me a layoff slip. And they have light duty. I took them in on a discrimination, and I tried and wound up with a transfer to light duty and I lost the case with the commissioner. Now I have no way to do anything about it because my attorney waited too long to contest it. There's just so many gimmicks and ways for them to twist these laws around I don't know

how we're gonna, not how we're gonna, how you are going to straighten it out because there's nobody really wants to look into it.

There's the accountability of the commissioners and make sure there enforcing the laws that are on the books. If you go in front of them and you don't have your papers done properly they could terminate you like that. But if they're messing up you have no place to go. That's where I'm stuck right now, I have no place to go. I believe in my opinion the commissioner is messing off. What do I do? Thank you.

SEN. MALONEY: Tony, I want to let you go because we want to conclude this hearing but I want you to understand the way the new bill works. If that were the case under the new bill you would go to the chairman. The chairman would have the power to actually change commissioners, change locations, do what he needs to do and if that didn't work you could go to the governor and the governor instead of saying oh, go see program review would have the ability to deal with the chairman. Because now the chairman can make the decisions. That's difference between the current situation which is all over the place and this bill.

ANTHONY MADDEN: I understand, it sounds great. But what do I do now? I'm stuck.

SEN. MALONEY: Right now, you are. Let us get the bill through the General Assembly. Mary Hicks.

MARY HICKS: Needless to say I'm very frustrated by all that went on here today. I still will say to what I said to you a few weeks ago. That the major thrust the program investigation was to get accountability, I think that two thirds of their report were concerned with that. And I see over and over when you come up here the big hot issue is cost. I only saw the bill this morning, I looked through it quickly. I was pleased to see some of the things in there that we have begged for, begged for. The one thing that upset me was that the board is going to be an advisory board with a commissioner on it.

I think, well, I don't know that was my understanding by reading it. It's going to be a board with a commissioner seated on the board. I just want to say one thing. Recently I was on a committee with Chairman Arcudi to um, to set up uniform procedures. And as a lay person I'm going to tell you something. That when you have attorney's and you have people in the system and they're sitting in a room with a commissioner, that commissioner has one heck of an impact on what's said in that room.

I watched attorneys being very careful in the slightest criticism of the commission. I'm sure they were very mindful that this is the commission that they're going to have to go before to win cases. If you're going to put a commissioner on this board you're going to have the same situation. The power is just unlimited, these men have. And people are intimidated by it. And it doesn't serve. Senator Maloney you said today the commissioner now can do a million things. He could have done a lot of things under the old law, but he wasn't inclined to.

I want to know what makes you think the new one is going to be any more inclined than the old one if there isn't somebody there saying you have to do it.

SEN. MALONEY: Well Mary I'll tell you, there's probably five or six things but just very quickly. Under this law the chairman has the right to establish uniform procedures for all the offices. No longer can commissioners individually in effect do what they choose to do. They've got to follow procedures. Secondly you say they won't follow procedures anyway. That's no longer the case, they now in effect, they report in a way they never did before. They report to the chairman.

Alright, so they have a boss, which they really have not had before. It's a very different situation. Mary, it might not work, we think it will, if it doesn't God help us but we'll be back at it again.

MARY HICKS: I think there has been so much effort put into it this time I'd just hate to see it all be for nothing. And the last thing I'm going to say. Once again I'm gonna request that somebody in this legislature, I don't know if it'll be you probably, but I'm begging somebody in this legislature to come forward on behalf of the people that have been victimized by this system already. Unfortunately none of this legislation is going to help these people. Because it was not the law in effect at the time of their injuries. Do something for these people.

Any one who was grieved by omissions, by the commission, or suffered detrimentally because of the commission's actions. They should have a recourse and you people should see that they do. They shouldn't be just thrown out with the old laws.

SEN. MALONEY: Thank you for that comment Mary. We're going to try to address that issue specifically. Richard Parent was next. Richard.

RICHARD PARENT: Good afternoon. I met with Senator Maloney once, I've never been before one of these things so excuse me for my ignorance. I've been with the same employer for 12 years. I drive a bus. I've had four accidents none of which were my fault. I've had nine major operations. Prior to the last one I was 65% disabled permanently. Now I'm on 100% disability and the doctors are claiming that I'm a back cripple and I'll never be able to do my job again.

August, November 6th of 1989 I requested a formal hearing through Commissioner Spain, to this day I haven't gotten a response. Just before Christmas of last year after several attempts, several, many many attempts I got in touch with Commissioner Arcudi. I begged him, I said Commissioner Arcudi, I'm out of work on compensation I have no money I have kids they need presents under the tree. Can you get me in to see Commissioner Spain. I got no response.

I got Senator Somma, Representative Migliaro to go down there, the next thing I know I get a letter from Commissioner Spain, I have an informal hearing on the 26th of December, the day after Christmas. He was so peeved off that I went over his head I wasn't even allowed in my own hearing, I don't know what went on. Now, this started in 1980 and now it's 1991. Like I said I'm permanently 65% disabled now they've got me on 100% disability and I haven't received and I don't get paid.

The day after Christmas we had that hearing the insurance companies guaranteed the commissioner they'd pay me, they'd pay all the bills and to this day because it was an informal hearing they could say what they want and they walk out and the commissioner has not authority. Unless it's a formal hearing then he could order them to pay. Now I think waiting for almost two years for a formal hearing is long enough and being involved in this system for eleven years I think that's long enough too.

I think I deserve my formal hearing and I think somebody ought to look into Commissioner Spain's activities. Because I don't think he's qualified to be a commissioner. Thank you for your time.

SEN. MALONEY: Thank you sir. Jack Braddock.

JACK BRADDOCK: Good afternoon Mr. Chairman and members of the labor committee. My name is Jack Braddock and I'm manage of Loss Prevention Activities and Programs for United Technologies Corporation. United Technologies is the largest private employer in the state of Connecticut. We have a major concern regarding workers compensation reform and workers compensation issues here within Connecticut. We appreciate this opportunity to share with you our thoughts regarding HB7339.

While the stated purpose of the bill is to implement comprehensive reform of the administration and award a workers compensation in Connecticut, we do not believe that the bill meets those objectives. Comparing HB7339 to SB704 and SB805..(tape ends break in testimony)
Senate bills for they provide the basis for

effective reform of the workers compensation system. It is obvious that a conscientious effort was made to address some of the short comings in the operation and administration of the workers compensation system in HB7339.

However, we do not believe that the bill will effectively reduce the benefit and administrative cost as was stated in the purpose. An area concerned within the system which is not fully addressed in HB7339 is administration. While the bill does change the role of chairman to one of oversight and does define the role of chairman. The issue of district managers and consistency within the system is not fully resolved. We believe that there is a need for the district managers a position to relieve the commissioners of having to handle routine office tasks.

We believe the action is necessary to implement and maintain administrative consistency throughout the system. Likewise, there needs to be a method to assure consistency in interpreting and applying the statutes. Unless there is better management and consistency within the system the system will continue to bogg itself down. We believe that there should be a means of oversight of the operations system by the employees and employers.

While HB7339 does address this through an advisory board we favor the board of director concept detailed in SB805 with the changes we recommended in our previous testimony. HB7339 does not address important case processing issue. The informal approach is an integral part of our system and needs to be maintained. Change can be made that continues the informal approach and approves the necessary case processing. We believe that any workers compensation reform should address the case processing issue as was recommended by the legislative program review investigation's committee.

We're surprised the bill was drafted by the labor committee does not address the issue of case processing as both employees and employers have consistently raised this issue. We do not favor the requirement that the commissioner review recommendations to writing in every case. We

believe at the first conference there is no need to start formalizing recommendations. At later conferences perhaps there would be a need to formalize the recommendations. We are also concerned regarding a medical plan as detailed in the bill.

While we recognize that this approach is similar to the one detailed in SB805 in the concept of having employee involvement has much merit. We are concerned regarding the practicality of implementing the concept. We're concerned as to how cost containment efforts can be achieved if agreement between the parties is not obtainable. Likewise, we're concerned that the state may be mandating that workers compensation issues become a bargaining table issue. We believe that neither the need to provide such coverage nor how the cost of this coverage can be managed should be a bargaining table issue.

We are also concerned regarding what medical cost containment controls can be implemented for those who cannot or do not participate in the PPO approach. We see references to a fee schedule but we have much reservations regarding fee schedules. And indeed if there is no effort to have mandatory utilization reviews the fee schedule essentially will be worthless. We are also concerned regarding the change being proposed in the indemnity benefit levels. Changing the indemnity benefit levels to 90% of the average weekly wage could increase our indemnity costs by between 5% and 10% while the employees are on total temporary disability.

The actual amount will vary obviously depending on what tax status of the individual, marital status, and the number of dependents. At the present time no other state uses a 90% as proposed and this rate could continue to increase the cost of workers compensation coverage within Connecticut. Which would put Connecticut manufacturers at an economic disadvantage when competing in national and more importantly global markets. We were glad to see a cap on the maximum weekly benefit level.

This shows that the committee is concerned about controlling the rising workers compensation costs. The cap will not have a major impact on us. Few of our employees qualify for the statutory maximum rate. We still have a concern, however, in the indemnity costs. When we compare ourselves to the majority of other states where the maximum indemnity benefit level is based on 100% of the average weekly wage we find that we are often at an economic disadvantage.

The issue is not so much as how many employees qualify for the maximum level as it is how many qualify for income levels that are higher than benefit levels in other manufacturing states. Over time the cap may be effective in controlling workers compensation costs as other states maximum benefit levels reach the level of the cap. But in the foreseeable future we do not see the cap as providing any measurable benefit. We have already testified on funding the occupational health clinics using assessment.

The enabling legislation that created the clinics did not address any type of accountability or performance management within the clinics and because of this we cannot really agree to have the workers compensation system pay for it. We also believe that the division of workers education should be required to adopt regulations as required of the division of workers rehabilitation. We believe that the formal regulations regarding the operation division of workers education is necessary to address some of the issues identified in the legislative program investigations review committee preliminary report.

We believe that the chart, changes in scaring as detailed in the bill address an area of concern and we were glad to see that the labor committee is indeed trying to address this issue. As we have previously stated we believe the change in the use of the second injury fund will have a major impact on the cost of Connecticut employers especially as the Americans with disabilities act comes on line. As the operational fund does not impact a benefit

paid to employees the transfer to second injury fund should be tabled until a detailed evaluation can be made of the American with Disabilities Act.

Industry is faced with a dilemma. One law is encouraging and requiring the hiring of those with disabilities while the proposed changes in the workers compensation system is essentially making it more expensive. In summary this bill does not address many areas of concern, or excuse me the bill does address many areas of concern but does not address them as effectively as the Senate Bills. Thank you Mr. Chairman for allowing me this opportunity to present the views and concerns of United Technologies and I welcome your concerns or questions.

REP ADAMO: Thanks Jack and you're going to make that written testimony available to us?

JACK BRADDOCK: Yeah, I will.

REP. ADAMO: We'd like to have thank you.

JACK BRADDOCK: O.K.

REP. ADAMO: Your next and hopefully last.

ANTHONY SKIFF: Thank you very much Mr. Chairman. In my view there is no reason for the legislature to apologize for the benefit structure its established let alone to repudiate its commitments.

In the overwhelmingly negative climate now existing in the area of workers compensation reform, one very fundamental principle has been lost. No where is it mentioned by those who have sought the kinds of changes considered here today.

That principle described by Arthur Larson, the dean of compensation legal scholars, is that the workers compensation system should function to provide an incentive for the employer to operate a safe workplace.

Let me say that again. The workers compensation system should operate to provide an incentive for the employer to operate a safe workplace. Workers compensation system should not be a pay and forget

item, which can be blandly disposed of by mailing off an annual check of predictable proportions to an insurer, who in return will assume the burden of processing the unfortunate consequences of industrial accidents.

Workers compensation costs are supposed to be painful to the employer. They're supposed to force employers to enhance safety procedures by giving a competitive advantage to those employers who experience fewer accidents.

The legislature itself recognized the application of this principle to public agencies when it passed legislation transferring responsibility for workers compensation costs from a single office covering all state employees to the specific agency in which they were incurred.

Clearly, you understood the fact that without suffering the consequences of accidents, those administering the system would have no incentive to eliminate them. The theory then, is when workers compensation costs become painful or threatening, employers will be encouraged to respond with increasing emphasis on safety.

Unfortunately, in practice there's another alternative. They can come to the legislature and seek to force costs back to tolerable levels by reducing the benefits paid to the victims of the accidents which are now taking place.

Within the International Safety Committee, which I chair, we coined the right aphorism playing on the fact that the principle, while in principle the theory is safety first, in practice it often becomes one -- it's either safety or the state house. Clearly they've come to the state house.

Make no mistake about it then, although it is not conceived in these terms, what you are being asked to do is make accidents affordable once again. Presumably following the laws of supply and demand, there could then be more of them, or at least more tolerance of those which do take place.

Moreover, the whole assumption of this process is one predicated upon the apparent view that accident experience should be removed from the sphere of economic competition between firms and industries. That it should be neutralized as a competitive factor.

Ironically this all comes at the expense of the most compassionate, the simplest and the best solution to the problems afflicting the workers compensation system, namely safety. If the nature of the economic incentive provided by the workers compensation system sounds callous, consider this, we are not setting employers an impossible task.

The study by the Michigan Workers Compensation Agency of all workers compensation claims for an entire year done with the Upjohn Institute and the Michigan State University found that within the same SIC codes, some work sites had ten times the accident rate of others.

That means 90% of accidents which take place need not take place. The reason I speak to you here at the end of the day, is because earlier, when your Committee convened I was presenting a safety award to a firm which had reduced its accident rate over a one year period 66% by the very simple method, a method which the originator explained to me derived from his mother's practice of assigning them ten tasks at a time which they could work on at leisure.

This developed into the ten most wanted hit list. They established a safety committee of employees, who serve for a fixed term. They set ten specific goals they want to attack, and when those are finished, they set ten more goals. That was the nature and the simplicity of the system, which caused them today to receive an award from us for their achievement.

Yesterday I presented an award to another Connecticut employer, that employed more than a thousand people, who had reduced their back injuries by more than 85% and their eye injuries from more to sixty to one, in a comparable period of time.

Basic safety is easily learned. It's easily applied provided the commitment is there. Any insurance loss control expert will tell you this. Nor is safety adversarial in nature. By contrast, this process is. Many of these bills seek to reduce the cost of one group by boldly taking away benefits paid to another.

Quite naturally, this highlights the potential antagonism between the players. The whole process becomes one which is almost entirely negative and arguments ensue simply over how much is enough to take away.

One looks in vain for a positive initiative in the nature of safety to balance the diminution of safety incentives which follows from the diminution of benefits. A more constructive approach would be to highlight the most effective system of cost containment.

If the Committee wishes to contain costs, I recommend it makes safety the cornerstone of the process. It has the greatest potential for reducing costs. It has the greatest potential for reducing impact on the system. It has the greatest potential for reducing the problems involved in hearings.

It is not antagonistic, but by nature cooperative since both business and labor have an equal interest in promoting occupational safety and health. I recommend a process whereby the two are brought together for a joint proposal which consequently would have the support of both and hence, stand a great chance of solving the problems which have caused you all this difficulty, not to mention preventing the sorts of injuries which have brought so many unfortunate claimants before you today. Thank you.

REP. ADAMO: Thank you very much. Representative Radcliffe, I knew you would.

REP. RADCLIFFE: The workers compensation system is supposed to be painful, yet under the, it was something you started out with and yet after 104 weeks under the present system the responsible

employer, if you're assuming fault, and you can't necessarily assume that because it's a no fault system, as the cost's spread over the entire, the entire workforce.

Do you think that's a disincentive for safety, that for 104 weeks, particularly the State of Connecticut, which under the present system can have someone else pay for, pay for its potentially aggregious conduct. And I'm not going to assume that, because it's a no fault system. What do you think about that portion of the system?

ANTHONY SKIFF: Well, clearly anything which reduces the bite on the person responsible. The person, when I say responsible, I mean the person who controls the work site. As the insurance company always says, we have to recognize that many employees do make mistakes which lead to accidents, but at the same time, we must recognize that management controls the work site.

REP. RADCLIFFE: Right, how about if we scrap the entire system, give them a right to sue and allow them to set it off by comparative negligence on the part of the employee.

ANTHONY SKIFF: Once again...

REP. RADCLIFFE: That puts, that establishes a pure fault-base system, is that what you're looking for?

ANTHONY SKIFF: In point of fact, I'm looking for something which is simpler and more cost effective. And again, rooted in the scholarship of Arthur Larson and the principles which established this whole process around the turn of the century.

This is not a new or unusual idea. It's something which has always supposed to be a function of it. It's not suggesting a radical return to pre-workers compensation systems, as I say, it's something inherently bound up in that historic compromise.

It was never supposed that workers compensation would relieve the employer of the incentive to operate a safe workplace. I put it to you this way, that this kind of incentive is much cheaper

than the regulatory one. We can't do without the regulatory one. But it costs much less to administer this, as long as it works.

REP. RADCLIFFE: As I recall the history, in 1913 workers compensation was adopted in Connecticut and this is dangerous with Commissioner Arcudi sitting here, cause I think he understands the history of it.

In 1913 when it was adopted we had something known as the fellow servant rule, which basically prevented, prevented lawsuits for anything arising out of the workplace. We no longer have that.

Injecting fault into the procedure, there seems to be a desire to return to the House in days of yesteryear when the fault of the employee was relevant to the amount of compensation he received. I don't think you're advocating that, but it seems to me when you put fault into the equation to such a degree that that's a natural consequence of your philosophy.

ANTHONY SKIFF: Again, I'm not injecting fault, once more. I'm glad you asked me that question so I could clarify it.

REP. RADCLIFFE: Sure.

ANTHONY SKIFF: When, there were three. There were actually three basic elements to the employers compromise. One was contributory negligence. The employer previously could plead contributory negligence. That is, that the employee had in some measure contributed to the accident, in that case the employee got nothing.

A second defense was that it was not the employers fault that the accident took place, but that of a fellow servant, goes to the foreman. That was no effective remedy.

There was a third claim the employer could make, and that was that of assumption of risk, that you knew this was a dangerous area in which to work, and therefore you accepted the possibility you might be injured when you signed on, consequently you still get nothing.

The employer gave up those three elements, and the employee gave up the right to sue. But when the employer gave those up, it was still assumed within the system that the increasing costs of additional accidents to some employers would place them at an economic disadvantage.

And quite frankly the example Arthur Larson gives is that of the stone cutting industry which fell by the wayside to the bricklaying industry, simply because of the very high cost of silicosis claims. More recently we see problems associated with other kinds of products.

Consequently, I'm not suggesting anything new. I'm suggesting that you have done a good job in the past and the system operates as it perhaps should. There is one final note I'd like to make, and this kind of surprises me. Employers for some reason don't realize the effectiveness of the safety option. That continually amazes me. And that's why we try to highlight through these awards and by televising them, and by publicizing them, just what can be done.

They seem honestly to believe that they're at the mercy of accidents which fall from the sky, and in fact they're not. They do control the accident rate, and they can do a lot about it.

REP. ADAMO: I want to thank you both for the history lesson. It's 4:51 go ahead, might as well, what the (laughter).

REP. JOYCE: Let me just ask one question. In your view then, I guess, it would be fine if we did nothing this year, and we just kept everything the same, is that correct?

ANTHONY SKIFF: I think in point of fact, that as long as the system, as long as the shoe pinches, there's a reason to see the cobbler. If you can simply add to what's happening now, the availability, the knowledge that safety works. If these people will act on their incentive, they could reduce accidents very, very substantially. They could do it. They could reduce them 60%. They could reduce back injuries 90%.

Yes, if you did nothing, except convince they that they have power over these problems themselves without coming to you, it still could work. I'm not saying the workers compensation system itself doesn't need help. But as far as safety goes, this is an incentive and it works as an incentive.

REP. ADAMO: Thank you very much. John McCarthy I understand you wanted to speak. It's 4:53 John, you're on.

JOHN MCCARTHY: Joe and I are on overtime, you know.

REP. ADAMO: I want you to know that, ditto. Twenty-two hours of, or twelve or fourteen hours of hearings on workers comp is sufficient under any circumstance.

JOHN MCCARTHY: I'm here through no fault of my own. John McCarthy from the State Labor Department. I'll be very brief. I was requested to remind the Committee respectfully, that on HB7176, there was substitute language presented to the Committee today. If they would, you know, take note of it, and they'll be further discussion.

Lynn Knox, the acting director of the Board of Review was, fell short of the hour time limit, and I'm therefore going to very briefly speak to the two bills she was going to speak to.

Raised Bill HB7201, AN ACT CONCERNING THE REGISTRATION AND RULES OF CONDUCT FOR AUTHORIZED AGENTS PROVIDING REPRESENTATION FOR A FEE TO UNEMPLOYMENT COMPENSATION CLAIMANTS.

The board has had some experience with clients not being properly served by the agent. There is no real remedy for the client. The system has been frustrated and I'm sure there will be further discussion about the detail, but that's the purpose of the bill to register them and have some control over the representing firms.

Raised Bill HB7213, AN ACT AUTHORIZING THE EMPLOYMENT SECURITY BOARD OF REVIEW TO INTERVENE IN CERTAIN UNEMPLOYMENT COMPENSATION APPEAL HEARINGS. I was advised by acting director Knox that there

We support the proposal to have the annual cost of living adjustment more equitably reflect changes in economic conditions by being calculated on the change in the state's average-weekly wage from year to year as a percentage rather than the current flat dollar basis.

In Bill 7339, the Committee has proposed the establishment of an advisory board to counsel the Chairman of the Commission on policy and operational matters. The proposal fails to provide measures to insure accountability. Provisions to this effect were in the original Program Review Committee's recommendations. We can not support proposals for improvements in administrative oversight but provide no effective balance with regard to accountability for actions taken toward this end.

Further, in this bill, there is a provision concerning the assessment for meeting the expenses of the Workers' Compensation Commission. This assessment is set at an amount not to exceed four and five-tenths percent of such total compensation and payments made by an insurance carrier or self-insured. Pitney Bowes feels that this increased assessment can not be justified. This year the assessment was 3.36%. An assessment of 4.5% without a tie into a program of clearly defined fiscal restraint or accountability structure is unacceptable. We believe this to offer an additional opportunity for administrative abuse for which no effective monitoring procedure now exists.

Pitney Bowes shares the concern of other corporations in this state which find themselves in a situation where medical costs now provide the largest single component of a workers' compensation program and it increases at an alarmingly

high rate. We can not keep pace with the increase. While we recognize that the opportunity to establish a preferred medical provider list under a workers' compensation program can be useful, the outline of such a plan contained in Bill 7339 is totally unacceptable. This is not an effective method of containing costs that will have any significant impact to the majority of employers in this state. We would endorse the application of a stricter method to insure that the application of reasonable and customary charges for treatment is enforced. This, we believe, to be the first step to effective medical cost containment. We would encourage that the implementation of a medical provider rate schedule be adopted.

We have had an opportunity to review a current proposal which would create an independent cause of action against an employer where an employee's injury is sustained in connection with an OSHA violation. This is of tremendous concern to Pitney Bowes. The objective stated for this provision was to encourage compliance with OSHA regulations. Pitney Bowes prides itself on its aggressive monitoring of work-place safety. Such a provision, if adopted, would have an undermining effect as to the workers' compensation system as it was originally envisioned and has a potentially devastating financial impact on employer in the state which should be encouraged to observe safety regulations without threat of legal action.

On the issue of Connecticut's Unemployment Compensation program, Pitney Bowes opposes proposals to expand the taxable wage base whether immediate or phased-in over a period of time, we must oppose any proposal to infuse more funds into the unemployment compensation program in advance of -or in the absence of-

administrative actions which are necessary to improve accountability for the existing program's budget.

It is our belief that Connecticut is experiencing a temporary economic downturn. Enactment of prospective annual increases in the taxable wage base would guarantee the proposed increased tax on employers whether or not the economy warrants the boost in revenues.

We discourage any indexing of U/C taxes to the gross state product. To do so would not significantly reduce taxes paid by employers and would create confusion.

I have kept my comments brief in the interest of time. We at Pitney Bowes would welcome an opportunity to further discuss these proposals with you or answer any questions you might have.

Again, I appreciate the opportunity to appear before you today.

Tape 2 A
page 8
000988
000988

Legislative Members of the
Labor Committee
Public Hearing
March 28, 1991
submitted by William A. Ridolfi

In opposition to House Bill 7339 - Act Concerning Workers' Compensation Reform:

My name is William Ridolfi. I am employed at Dresser Industries, Instrument Division as Manager of Industrial Relations for the Stratford & Milford plants. We have three manufacturing facilities in Connecticut; Stratford, Milford and Newtown, employing 900 Connecticut residents. We manufacture pressure gauges and temperature instruments for commercial and industrial use. We sell our product throughout the world. Our business was founded in 1852 and we have been operating in Connecticut since 1885, at that time known as Manning, Maxwell and Moore. Dresser acquired the assets of Manning, Maxwell and Moore in 1962. We have been the Instrument Division since that time.

On behalf of my Company, and as Vice President of the Stratford Chamber of Commerce - 280 businesses in the Stratford community, we are very concerned with the increasing costs of workers' compensation on our respective businesses. We do support those cost containment and administrative measures recommended by the Program Review and Investigation Committee. The cost of workers' compensation has been on the rise, far outpassing our increases in other categories whether it be labor, material or benefits.

A. Wage Replacement

We support the recommendation that the wage replacement calculation be 80% of an employee's net weekly wage (gross income less FICA and Federal Withholding Taxes), not 90% as proposed in HB 7339. In addition, we support the removal of the current allowance for dependents in workers' compensation statutes. Dependents are already recognized in the federal income tax deduction. In fact, the federal income tax deduction recognizes the spouse as a dependent, whereas in the workers' compensation statutes the spouse is not recognized as a dependent for the allowance, only children are recognized. The following highlights the three major reasons why we support this formula.

1. It provides an adequate benefit level to an employee who is unable to work as a result of a work related injury. Weekly indemnity that is 80% of an employee's net income is an adequate benefit level to sustain an employee and/or family when such employee is unable to work due to an injury.
2. The 20% differential between the weekly wage replacement benefit level and the employee's actual net income provides an adequate incentive for that employee to return to work as soon as possible as determined by the treating physician. The employee/patient's rehabilitation is further accelerated, where an employer offers meaningful modified job assignments in compliance with a treating physician's medical limitations.

The current 66 2/3% formula in many cases provides a disincentive for an injured employee to return to work quickly. The 66 2/3% calculation oftentimes provides a wage replacement that is near, equal to or greater than an employee's take home pay. With this formula, in many instances, there is no

meaningful differential between an employees net take home pay and the workers' compensation benefit. HB 7339 proposed 90% formula does not provide any meaningful significant differential to encourage employees to return to the workforce.

3. The present formula of calculating wage replacement under workers' compensation is unfair or establishes a perceived inequity. Dependent upon the earning capacity of an employee, some employees will benefit from a minimal to no differential between actual net take home pay and the workers' compensation benefit. Whereas, other employees within the same organization will have a greater differential because it is based on their earning level. This is perceived by the employee as both unfair and inequitable. The inequity to which I speak is purely relative to their earning capacity.

B. Disfigurement Awards

With respect to disfigurement awards, we support the Program Review's recommendation that disfigurement awards should be limited to the areas of face and the head. Disfigurement awards in our system are judgmental as to the amount of the award determined by the respective commissioners. Each commissioner has a different standard by which they would determine the amount of the same exact scar. Although HB 7339 provides for a two-year waiting period, it does not substantially change disfigurement awards. It allows the commissioners' judgement under the same guidelines that they now use and the resulting awards under these guidelines differ from commissioner to commissioner.

Again, we support some type of uniformity with respect to these awards. Currently, many disfigurement awards are granted for surgical scars. An illustration is where an employee requires surgery for carpal tunnel syndrome. Many times skilled hand surgeons are able to perform the surgery by entering through the palm of the hand and thereby the surgical scar will be in the crease of the employee's palm. After a years time it is hardly significant, yet disfigurement awards are made.

C. Permanent Partial Disability Awards

HB 7339 provides no cost containment measures for permanent partial disability awards. Again, we support the Program Review's cost containment recommendation of the calculation of permanent partial disability awards, provided that the calculation awards be on a sliding scale, i.e. 25% of average weekly production wage where partial incapacity is determined to warrant 13 weeks or less; 50% of average weekly production wage where partial incapacity is determined to warrant more than 13 weeks but not more than 104 weeks, but only for the portion that is more than 13 weeks but not more than 104 weeks (14 weeks through 104 weeks); 100% of average weekly production wage where partial incapacity is determined to warrant more than 104 weeks, but only for that portion that is more than 104 weeks.

That there be uniformity established by an impartial qualified medical panel as to the determination of an injured employee's permanent partial disability, upon reaching maximum medical improvement. Currently, the system relies heavily on the treating physician to establish permanent partial disability, although the employer is allowed an independent medical evaluation. The commissioner then is left with the option of choosing the treating physicians' evaluation, the IME's evaluation, or splitting the difference. This method is a major reason for the dramatic increase in workers' compensation costs to employers.

The following is an illustration of an actual case: An employee was injured not once, but twice, on

a job. Both injuries were to the back. After the second injury the employee underwent surgery for removal of a disc and was out of work for sixteen months. During that sixteen month period we were following up with the treating physician as to the employee's recovery, always offering meaningful modification job assignments. After sixteen months, the treating physician released the employee to a modified job assignment. The treating physician determined that the employee reached maximum medical improvement with 25% permanent partial disability of the back - a substantial limitation to that employees use of the back. One month later that same treating physician informed us that the employee was recovered and would be able to return to his original job, a physically strenuous job which the treating physician was well aware of. The employee was allowed to return to the job which caused his injury.

I offer this as an illustration to share with you the frustration, not of allowing the employee to return to his job, but to have that same treating physician render a medical evaluation that is in question and suspect as to the validity. We are left with IME's, informal and/or formal hearings within the system. But, wouldn't it be better if we had an impartial uniformed medical evaluation as determined by AMA guidelines.

D. Medical Costs

Although we support HB 7339's provision of medical care plans provided by employers, we do not concur with the proposed requirement that each plan must be approved by a labor organization representing company's employees or 2/3 vote of such employees where no labor organization is present. This approval measure, in effect, would negate the medical care plan provisions as recommended by the Program Review and Investigation Committee. In fact, such medical care plans would have very little success of getting off the ground. We support any measures that would contain the rise in medical costs. In essence, we do support the Program Review's recommendations.

E. Administration

We do not support the requirement of additional occupational health clinics. Such a measure would increase costs to employers at a time when we are seeking reduced costs. We do not support an increase of up to 4.5% assessment to employers to finance HB 7339 administrative recommendations. Again, this further exacerbates the overburdening cost to employers of the current workers' compensation system in Connecticut.

We support the Program Review's recommendation with respect to administrative changes in workers' compensation, but it must establish accountability and responsibility. We do not support an increase in cost to employers to finance these administrative changes. As an employer we are not looking for new ways to spend our money and we sincerely believe that meaningful administrative changes can be made to the system without additional costs to the employer.

Labor Committee - March 28, 1991

National Federation of Independent Business

Don R. Kiley

I am Don Kiley, State Director for the National Federation of Independent Business in Connecticut. We are 5,548 small firms, and from all walks of commercial life.

Briefly, we wish to address three bills on today's agenda. For the most part, I try to restrict testimony to factual data, but the facts just aren't doing the job. Please excuse the feelings I express on behalf of my small business members.

HB 6924 & HB 7134 would increase the taxes on our small employers during one of the most severe recessions in recent history. Each day more employees are let go because of the economic doldrums. Each day there appears more FOR SALE signs on commercial doors. Each day our members struggle under the highest business taxes in the nation. To add to the tax base now will only aggravate these problems.

Increasing taxes at this time is a disservice to the very workers this committee champions. Aside from safety, the prime responsibility an employer has to its people is to manage the enterprise to protect their jobs. The ever increasing benefit levels in our state has brought us to the point that the recession quickly expended the Unemployment fund. Let us adopt the policy in UC matters that seems to be taking hold in the state's fiscal matters - and that is, if you want more taxes, first show us where you are going to cut spending.

Before small business could even consider changing the wage base rate, we would need some form of benefit level reduction. Commit to a waiting period on the beginning of benefits and we can then consider the level of the tax base.

Regarding HB 7339, the comprehensive workers' compensation bill, we can only express our anger at ourselves. We have failed to communicate the depth of the need to bring meaningful reform to this bloated system. We tried so hard to bring the simple message of "If it does not reduce rates next year, it isn't doing the job!" HB 7339 adds cost to the system! We have failed to convince this Committee of the simple message, and we feel badly.

For the most part, we will stay in business, less employees probably. We will survive, because that's the nature of the entrepreneur. But tell us how to do the communication job better, because we obviously have failed in expressing our deep concern for the need for tax relief, not tax increases, and the need for meaningful worker compensation reform, not increase in premiums. Again, please excuse our emotion, but it is we who have to face our valued worker, and say "Sorry, I just can't keep you".



Connecticut Chiropractic Association

370 Asylum Street, Suite 150
Hartford, Connecticut 06103
(203) 522-0196

March 27, 1991

Board of Directors

Chairman of the Board

Dr. Ronald G. Manoni
8 Locust Avenue
Danbury, CT 06810
792-9582

President

Dr. Keith Overland
83 East Avenue, Suite 313
Norwalk, CT 06851
838-9795

First Vice-President

Dr. Richard Coopersmith
54 South Main Street
Newtown, CT 06470
426-2490

Second Vice-President

Dr. David Dziura
650 Main Street
Branford, CT 06405
481-6150

Secretary-Treasurer

Dr. Peter Lawler
28 Main Street
East Hartford, CT 06118
569-1108

Directors - District 1

Dr. Brendan Mannan
700 Burnside Avenue
East Hartford, CT 06108
262-0697

District 2

Dr. Candido C. Carroccia
909 Newfield Street
Middletown, CT 06457
632-2796

District 3

Dr. Paul Carpenter
3738 Park Avenue
Bridgeport, CT 06604
374-4393

District 4

Dr. Steven Levy
264 Main Street
Woodbury, CT 06798
263-0400

At-Large

Dr. Michael LaMonica
500 Newfield Avenue
Stamford, CT 06905
327-1170

Dr. Barbara Kleernan
251 Williams St.
New London, CT 06320
442-8860

Executive Director

Stephen V. Fainer
522-0196

Dear Senator Maloney & Representative Adamo
and members of the Labor committee:

Thank you for allowing me to testify before you today on behalf of Bill 7339, on workers compensation reform. My name is Keith Overland and I am president of the CT Chiropractic Association.

While the chiropractic profession understands the sky rocketing cost of health care must be contained, we don't believe allowing managed care plans chosen by the employer or insured is the best solution.

I believe the majority of chiropractic physicians in CT truly treat patients in the most medically appropriate and cost effective manner. There are however, several doctors whose abuse of the "system" can be clearly documented as to be outside of the normal standards of care.

The CCA has in the past developed guidelines and is presently updating them, to inform third party payers on what to expect in normal circumstances from a provider with regards to treatment type and duration.

Chiropractic has been shown in workers compensation studies from Florida to Utah to be a cost effective alternative for injured workers. If an employer or an insurer is allowed to chose which doctors are in these plans the patient will lose his freedom of choice. A concept in America we all have worked long and hard to acquire.

As a solution to the high cost of medical care we would like to suggest the following:

- 1) Develop a viable mechanism for removing "abusive" physicians from the approved provider list.
- 2) Require a treatment plan to be created and submitted to the employer or insurer within a reasonable period of time.
- 3) Create an advisory committee consisting of members of all medical provider groups to act as a review panel to determine usual and customary care.
- 4) Encourage use of alternative providers whose profession have been shown to treat conditions and return employees to work in a more cost effective and timely manner.

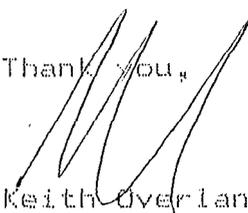
We are concerned that certain health care plans

that exist today could, under this reform, become the sole provider of compensation services to an injured employee. In many cases these plans are extremely limited in their provider pool and therefore severely limit the employees accessibility to appropriate health care providers. Some of these plans have shown reluctance to opening up their panels and may cause extreme hardship to the injured employee.

We would not like to see the CT Workmen's Compensation change from one of the best in the nation.

Our association would be happy to provide you with any assistance necessary to help you make the most appropriate decisions.

Thank you,



Keith Overland, DC
President

Tape 1 B
page 5
Speaker 2

STATEMENT

INSURANCE ASSOCIATION OF CONNECTICUT

LABOR AND PUBLIC EMPLOYEES COMMITTEE

HB 7339THURSDAY, MARCH 28, 1991

The Insurance Association of Connecticut is pleased to appear before the Labor Committee and provide comment regarding HB 7339, An Act Concerning Comprehensive Workers' Compensation Reform.

On March 14, 1991, the IAC appeared and testified before a joint hearing held by this Committee and the Program Review and Investigations Committee regarding SB 704 and SB 805. Those bills reflected the work product of a bipartisan legislative committee with a nonpartisan staff who examined our current workers' compensation system and offered several forward looking recommendations concerning the administrative structure of the system as well as benefit levels. The IAC has discussed and worked closely with various sectors of the business community in evaluating the Program Review Committee's legislative proposals as well as HB 7339. As the IAC testified on March 14, 1991, we continue to support strongly the recommendations of Program Review and, with a few exceptions, we support SB 704 and SB 805 which were favorably reported from the Program Review Committee to this committee last week.

Because of our support for SB 704 and SB 805, the IAC does not support HB 7339. In working closely with the business community over the past year, it has been made clear to us that the business community firmly believes that workers' compensation reform must include measures which reduce the costs underlying the workers' compensation system. The IAC does not believe that HB 7339 includes measures which accomplish this important aspect of workers' compensation reform. Indeed, given the potential for increases in funding for the administrative structure as well as the addition of the occupational health clinics as a workers' compensation funded program, it appears that this bill may serve to increase costs to employers.

We continue to believe that the basic concepts embodied in the Program Review Committee legislative proposals include measures which will reduce and stabilize the underlying costs of the workers' compensation system.

The IAC stands ready to work with this Committee, the legislature, and all other interested parties to find reasonable and practical solutions to what many believe is a crisis in workers' compensation.

HB-7339 An Act Concerning Comprehensive Workers' Compensation Reform

As has been stated by CBIA as well as numerous businesses over the past few years, Connecticut's workers' compensation system is in desperate need of reform.

In order for there to be meaningful reform of the workers' compensation system, a reform package must include the following three elements:

1. reduce benefits to bring them more in line with other states and restructure the method of calculating weekly benefits;
2. implement meaningful medical cost containment measures; and
3. ensure accountability, employer input and fiscal oversight of the administration.

HB-7339 contains the Program Review and Investigations committee's recommended restructuring of the method for calculating cost-of-living-adjustments. CBIA supports this as it is a far more equitable approach. We also support the extension of the mandatory Second Injury Fund assessment to the state of Connecticut, however, we believe it should be uniform with the assessment on private-sector employers and therefore be at 5 percent as recommended by Program Review.

Despite our support for these two elements of the bill we believe the reviewing HB-7339 that not only does the measure not contain all three necessary elements of a reform package but that it contains three measures which substantially increase the cost of workers' compensation for Connecticut employers.

First, the bill calls for capping the assessment that private-sector employers pay at 4.5 percent. The present year's assessment totaled 3.36 percent. The difference between 3.36 percent and 4.5 percent is literally millions of dollars as is the difference between 3.36 and 4 percent. CBIA believes allowing a 4.5 percent assessment is excessive to say the least and is a license to spend.

Second, the measure places an additional financial burden on private-sector employers in the amount of 3/4 of a million dollars by mandating they pay that amount of money to fund a clinic program. As has been stated numerous times employers already pay 100 percent of all work-related medical bills, they also pay over \$1 million for educating employees about and gathering data on occupational injuries and diseases. Therefore, private-sector employers should not be mandated to provide an additional \$750,000 to these clinics.

Furthermore, placing this financial burden on private-sector employers via their workers' compensation assessments further increases the cost of this already very expensive system.

The third measure contained in the bill which significantly increases the cost of the system concerns the method for calculating weekly benefits.

The bill calls for employees to receive 90 percent of their spendable wages which in most cases is more than is received now. Four other states have adopted the spendable wage method of calculating weekly benefits and all four have done so at 80 percent. Furthermore, the after-tax income taxes into consideration both federal and state withholdings as well as FICA.

The fourth measure I would like to address is that of disfigurement. While HB-7339 codifies the regulations concerning disfigurement awards the business community is concerned that this will not bring about a change in practice concerning disfigurement awards as the regulation has existed for sometime now. Therefore alternate language along with the two year waiting period may better serve the purpose. We offer the following language taken from a federal act:

"Proper and equitable compensation shall be awarded for serious disfigurement of the face, head or neck or other normally exposed areas likely to handicap the employee in securing or maintaining employment."

The fifth element of the bill which needs to be addressed concerns the medical plans.

I understand the committee's desire to include employees in the process however the method contained in this bill is ineffective not to mention unworkable. We recommend a process similar to that during the promulgation of regulations. Instead of having a vote on a plan, employers could post notices along with the proposed medical plans stating that the medical plans have been submitted to the chairman for approval and informing the employees that they have until a specified date to notify the chairman with any concerns they might have.

My sixth comment concerns the Second Injury Fund certification proposal.

At the hearing on March 14, CBIA, the IAC and various employers requested that this recommendation not be moved forward at the present time. We stated that due to concerns with the Americans With Disabilities Act and the lack of sophistication with the system on the part of small employers that we preferred this proposal be held for the time being so we could work something out that would meet the needs of all parties concerned. I am making that request again.

Thank you for your time.