

Legislative History for Connecticut Act

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Bill Number: 25
Senate Pages: Senate: 2616-2640 **25**
House Pages: House: 5137-5143 **7**
Committee: Labor: 69, 71, 104-107, 108-112, 248, 249, 269, 270, 273-278, 798-799 **23**

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GEN. ASSEMBLY
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PROCEEDINGS

2006

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PART 9

2616-2934

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transit. That amendment has now arrived, and if we might return to Calendar Page 12, Calendar 70, Senate Bill 25, and mark that item Go.

THE CHAIR:

Mr. Clerk.

THE CLERK:

Calendar Page 12, Calendar 70, File 25, Substitute for Senate Bill 25, An Act Concerning Social Security Offsets Under the Workers' Compensation Act, Favorable Report of the Committee on Labor and Appropriations. Clerk is in possession of an amendment.

THE CHAIR:

Senator Prague.

SEN. PRAGUE:

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

THE CHAIR:

On acceptance and passage, will you remark?
Senator Prague.

SEN. PRAGUE:

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Thank you, Mr. President. Currently, in our workers' comp system, there is a very unfair situation that no other New England state has. And as a matter of fact, there are only ten states in the whole country, and one by one they're dropping this provision, Louisiana being the most recent.

And that provision is that when somebody is either eligible for Social Security or collecting Social Security, if they are working and get injured, and have a total disability, collecting workers' comp, 100% of their Social Security is deducted off of their workers' comp payment.

If somebody is just eligible for workers' comp and not for Social Security and not collecting it, whatever they're eligible for is deducted off of their workers' comp.

Ladies and Gentlemen, we must do something to right this wrong. I'm asking this Circle to consider what this does to older people who are continuing to work. This is heavily endorsed by AARP, and let's talk about something else.

If somebody has a 401K, and they're working, and they get injured, and have a total disability, and are

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collecting workers' comp, the 401K isn't deducted off of the workers' comp. Why should Social Security, which is a completely different system that somebody has paid into all of their working life, be deducted off of workers' comp?

So I'm asking this Chamber to help me in making this terrible situation right. Thank you.

THE CHAIR:

Will you remark further? Senator Guglielmo.

SEN. GUGLIELMO:

Thank you, Mr. President. I just wanted to also support this bill. It makes common sense. If a person, who is on Social Security, were going to work, they're probably going to work to supplement their income.

If they got injured at that job, it would be, obviously, as detrimental to them as somebody not on Social Security. So I think it's just correction oversight, and I urge the Chamber to support the bill.

THE CHAIR:

Senator Handley.

SEN. HANDLEY:

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Thank you, Mr. President. I want to join Senator Guglielmo and Senator Prague in supporting this bill. It's common sense and it's justice, and I think we should do it.

THE CHAIR:

Will you remark further? Senator Gomes.

SEN. GOMES:

I rise to support this bill for the simple reason that anybody that's on Social Security and is working is obviously supplementing their income. For somebody to have 100% of their social Security to be discounted because they're injured on the job is completely ridiculous.

And I say that anytime that, they even have a provision in here if you're entitled to the Social Security at the age of 62, and you're not collecting it, it still will be discounted from your workers' compensation. That is, that is way off the mark.

Anybody that is out there trying to make a living and has but so much to enhance their quality of life, and has something that they have no control over discounted from their total ability to pay their

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bills, this is something that shouldn't be. We shouldn't have it.

People work all their lives, and after they've worked, they have assurance that they will have their pension and their Social Security to live on, and then something comes along to discount or diminish whatever they're making is totally uncalled for. Therefore, I rise to support this bill. Thank you.

THE CHAIR:

Will you remark further? Senator Roraback, who has been trying for a while.

SEN. RORABACK:

Thank you, Mr. President, for recognizing my efforts. Perhaps I might have seen an omen in my attempts, but I do have a couple of questions, through you, if I may, to my friend, Senator Prague.

THE CHAIR:

Please proceed, Senator.

SEN. RORABACK:

Thank you.

THE CHAIR:

Senator Prague. Please proceed, Senator Roraback.

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SEN. RORABACK:

Thank you, Mr. President. Through you to Senator Prague, I'm looking at the fiscal note. Let me ask, the first question, through you, Mr. President, to Senator Prague, does Senator Prague know when this bill is intended to become effective?

THE CHAIR:

Senator Prague.

SEN. PRAGUE:

Through you, Mr. President, to Senator Roraback, on July 1st of this year.

THE CHAIR:

Senator Roraback.

SEN. RORABACK:

Thank you, Mr. President. And directing Senator Prague's attention to the fiscal note on this bill, Mr. President, would she know why the fiscal note projects an increase in workers' compensation costs for the state of \$290,000 in Fiscal Year '07 and \$409,000 Fiscal Year '08? Would she know why there's a difference in the projected costs in each of the next two fiscal years, through you, Mr. President?

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Senator Prague.

SEN. PRAGUE:

Through you, Mr. President, to Senator Roraback, I don't know. I do know that sometimes in the Department of Corrections their workers' comp claims go up, but I don't know for sure. I do know that the \$290,000 is in our budget.

THE CHAIR:

Senator Roraback.

SEN. RORABACK:

Thank you, Mr. President. I certainly am of like mind with Senator Prague that if an individual who is eligible to collect Social Security goes back to work. Mr. President, sadly, Social Security is not a rich enough benefit for many people to be able to rely on it alone.

Mr. President, in my experience, many people find it necessary to go back to work even though they're collecting Social Security. And I agree with Senator Prague that if an individual who goes back to work and then gets injured on the job, that that individual should have the benefit of collecting workers' compensation on top of their Social Security.

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But, Mr. President, I think this amendment goes further than that, and I wanted to ask Senator Prague if she could help me. If somebody becomes injured at a younger age, say in their 50's, I can see why it is that we should allow them to collect workers' comp until they're eligible to collect their Social Security retirement benefits.

But, Mr. President, through you to Senator Prague, when they reach retirement age, isn't the purpose of Social Security to pay them the retirement for working, through you, Mr. President, to Senator Prague?

THE CHAIR:

Senator Prague.

SEN. PRAGUE:

Through you, Mr. President, to Senator Roraback, I hope I'm understanding your question correctly, but if somebody is in their 50's, and they're injured and have a total disability, they can collect Social Security disability, which has nothing to do with Social Security old age benefits.

When you're younger, and you're collecting Social Security disability, the Social Security system takes

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part of that workers' comp and deducts it off of the Social Security. That's Social Security disability. It takes a long time to get that, sometimes two years. It has nothing to do with the bill that's before us.

SEN. RORABACK:

Through you, Mr. President.

THE CHAIR:

Senator Roraback.

SEN. RORABACK:

Thank you, Mr. President.

SEN. PRAGUE:

Does that answer your question, Senator Roraback.

THE CHAIR:

You're about to find out, Senator Prague.

Senator Roraback.

SEN. RORABACK:

Thank you, Mr. President. And I certainly defer to Senator Prague's expertise on a pretty complicated area. I understand the difference between Social Security disability and Social Security retirement, and I think this bill intends to deal with a third factor, which is workers' compensation payments.

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And through you, Mr. President, to Senator Prague, under current law, if I'm eligible both for a workers' comp payment and for Social Security disability, is it not the case that my workers' comp payment is reduced by whatever amount I get through Social Security disability? Through you, does Senator Prague understand my question, Mr. President, through you?

THE CHAIR:

Senator Prague.

SEN. PRAGUE:

Through you, Mr. President, the answer to your question, Senator Roraback, is no. It's the Social Security that's reduced by the workers' comp payment so that the recipient only receives 80% of their wages.

THE CHAIR:

Senator Roraback. Thank you, Mr. President. And if it's the Social Security that's reduced, why is there a cost to the state if we end that practice? My understanding is that Social Security is paid for by the federal government.

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So I'm confused how that would implicate the state if we would not allow the Social Security to be reduced. I thought it was the workers' comp that was reduced, through you, Mr. President.

THE CHAIR:

Senator Prague.

SEN. PRAGUE:

Through you, Mr. President, to Senator Roraback, Senator Roraback, you're mixing up apples and oranges. The person who is in their 50's, as you said, who is disabled because of an injury on a job, who starts to collect Social Security disability is not in any way at all dealt with in the legislation that's before us.

This legislation before us deals with those people who are injured, say they're 61, and they're collecting, they're disabled, they're collecting, they have a disability from an injury on the job, they're collecting workers' comp.

And then they become 62, and they're still out because they have this total disability from their injury. As soon as they turn 62, what they're eligible for is deducted off of their workers' comp. Even though they're not collecting it.

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And mind you, Senator Roraback, most people at age 62 don't collect Social Security because it's a reduced rate. They don't get full Social Security until they're about 65 and 8 months.

But simply because they're eligible, they could be 63 years old and injured on the job, and whatever they're eligible for under Social Security is deducted off of their workers' comp.

You know, Senator Roraback, there's no other New England state that does this. There's only ten states in the whole country, and one by one they're dropping this provision, with the State of Louisiana being the most recent to drop this position in their workers' comp system.

It is very unfair. It's almost unconscionable, and I hope that I have answered your questions, and I'd be happy to try and answer any others that you have.

THE CHAIR:

Senator Roraback.

SEN. RORABACK:

Thank you, Mr. President. Senator Prague has done a great job, not surprisingly, in better

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educating me about the consequences of this amendment. And now, as I'm understanding it, if somebody is 61 and gets hurt, and is collecting workers' comp, but not collecting Social Security, let's say they're collecting \$500 a week by way of example, and then when they turn 62, they're eligible to collect Social Security.

Under current law, they will only collect \$500 a week on an ongoing basis.

SEN. PRAGUE:

No.

SEN. RORABACK:

Their benefit won't be, well, if the Social Security is \$500 a week or greater. And I'm sorry, Mr. President--

SEN. PRAGUE:

Through you, Mr. President.

THE CHAIR:

Senator Prague.

SEN. PRAGUE:

If somebody is 61, as you said, and is injured, and is collecting \$500 a week from workers' comp, is that correct so far?

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SEN. RORABACK:

Yes.

SEN. PRAGUE:

And then all of a sudden, as the days go on, they turn 62. Whatever is determined by the Social Security Administration that they're eligible for, whatever that amount is, it would be deducted off of the \$500 that they're getting under the workers' comp system.

THE CHAIR:

Senator Roraback.

SEN. RORABACK:

Thank you, Mr. President. And through you, and so they will just end up with \$500 when they're 62, the same way that they had \$500 when they were 61, even if the sum of the workers' comp payments and the Social Security payments might be \$600?

SEN. PRAGUE:

No.

THE CHAIR:

Senator Prague.

SEN. PRAGUE:

Mr. President.

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THE CHAIR:

Shall we fetch the blackboard?

SEN. PRAGUE:

Yes.

THE CHAIR:

Senator Prague.

SEN. PRAGUE:

Senator Roraback, so let's do this slowly. If somebody is injured, and they're on, it's very complicated, but if somebody gets injured, say they're 61 years old, and they're on workers' compensation, and their compensation from workers' comp is, as you say, \$500.

When they turn 62, if they were eligible for Social Security, which is always a reduced Social Security at 62, and say that Social Security eligibility was for \$450, they would take \$450 off of the \$500 that they're getting in workers' comp and they would wind up with \$50 a week.

THE CHAIR:

Senator Roraback.

SEN. PRAGUE:

--the \$400. Excuse me.

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THE CHAIR:

Senator Prague, did you wish to continue your answer?

SEN. PRAGUE:

No, but I'm hearing comments from other people around me, and I'm, there's somebody not figuring this correctly.

THE CHAIR:

We're beginning to gather that, but we're not sure who, Senator. Senator Roraback.

SEN. PRAGUE:

Well, let me say it again. The way our system is set up, it's very clear that the way the system is set up that if somebody who is collecting, we'll use Senator Roraback's number of \$500 from the workers' compensation system, and that \$500 payment is 75% of what their salary was when they were working.

They have this total disability. They're out of work. They're collecting workers' comp, which is the \$500. The Social Security that they're not collecting, because they have chosen not to, because what you collect at 62 is what you're stuck with for

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the rest of your life, but you are eligible, and say it's \$400.

That \$400 is deducted off of the \$500, and you wind up with \$50. When I was teaching school and you subtracted one number from another, you get the balance, and that's what we have here.

THE CHAIR:

Senator Roraback.

SEN. RORABACK:

Thank you, Mr. President. And I want to assure Senator Prague that when I was going to school, we did it the same way.

SEN. PRAGUE:

Okay. And I'm sure you were the brightest kid in the class, to tell you the truth.

THE CHAIR:

Senator Roraback.

SEN. RORABACK:

Thank you very much, and I appreciate the indulgence of the Chamber, and I appreciate Senator Prague's very clear explanation of a complicated question.

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nee: I always look to find common ground with Senator Prague, and in that vein, Mr. President, I have an amendment, which is LCO 5062. And if the Clerk would please call the amendment and if I might be permitted to summarize.

THE CHAIR:

I thought you were going to ask Senator Prague who's on first. Mr. Clerk.

THE CLERK:

LCO 5062, which will be designated Senate Amendment Schedule "A". It is offered by Senator Roraback of the 30th District et al.

THE CHAIR:

Senator Roraback.

SEN. RORABACK:

Thank you, Mr. President. What this amendment does is begin to address the serious inequities that Senator Prague has outlined. The virtue of this amendment, Mr. President, over the amendment offered by Senator Prague, is that it doesn't have a fiscal impact.

Mr. President, this amendment says that anyone who is collecting Social Security and finds it

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necessary to go out into the workforce and becomes injured, will be able to collect both their full Social Security and any workers' compensation benefit that would flow from the injury that they incurred.

I urge my colleagues to adopt it, and I ask that when a vote be taken, it be taken by roll.

THE CHAIR:

A roll call vote will be taken when the vote on the amendment is ordered. Will you remark further?
Senator Prague.

SEN. PRAGUE:

Thank you, Mr. President. Mr. President, the amendment that Senator Roraback has offered, for the group of people who between the ages of, between the years of 62 and 65 and 8 months, you are cheating that whole group of people out of their Social Security benefit.

You are saying to all of those workers--

THE CHAIR:

Senator, I just, a word crept in there which I just want to caution about repeating or characterizing in that way.

SEN. PRAGUE:

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No, I don't. Okay. Let me rephrase that because I no way do I want to disparage Senator Roraback.

The amendment as drafted, Senator Roraback, does not allow a whole group of people between the years of 62 and 65 and 8 months, from collecting their Social Security or collecting their full workers' comp benefit because they are eligible for Social Security, but are not collecting it because it's a reduced rate.

They want to save the Social Security benefit until they get older, until they get to be 65 and 8 months. But they're eligible for it. So that group of people, under your amendment, Senator Roraback, would not get their full workers' comp benefit because whatever they were eligible for, but not collecting, is deducted off of that workers' comp.

It is unfair to all the older workers who are between the, who are 62 to 65 and 8 months, and there are thousands and thousands of those folks out there. This would not allow them to get what's entitled, what they're entitled to, and that's unfair.

That's why no other New England state does it. That's why that each state in the country that has it is dropping it, and we in Connecticut should not

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continue this unfair policy. So I urge rejection of this amendment.

THE CHAIR:

On the amendment, will you remark further?

Senator Cook.

SEN. COOK:

Thank you very much, Mr. President. I rise in support of the amendment because I do believe that if you are supplementing your Social Security retirement income with wages from another job, and you get hurt on that job, you should be able to continue to supplement your income with your Social Security retirement benefit.

But this amendment also addresses the issue that if you are a younger worker, and you are out on workers' compensation because, as has been described by the proponent of the underlying bill, you are totally disabled with an injury, you should be then going to the different part of the Social Security system to compensate you for that total injury. That's the Social Security disability system.

Though it may take a period of time to be eligible, to get your way through the application for

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Social Security disability, the payment that is made to you is retroactive to the moment of your disability so that there is full compensation from the moment you're injured under the Social Security disability system.

And I do think that that is the mechanism that we would use to compensate workers who are younger than the retirement age and already collecting Social Security retirement income. And it is for that reason that I will support the amendment before us. Thank you.

THE CHAIR:

Thank you, Senator Cook. Will you remark further on the amendment? On the amendment, will you remark further? If not, the Clerk will announce a roll, I'm sorry. Senator Prague--

SEN. PRAGUE:

Yes, I'd like a roll call.

THE CHAIR:

Did you wish recognition:

SEN. PRAGUE:

Yes, I'd like a roll call, please.

THE CHAIR:

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Yes, there will be a roll call, Senator. The Clerk will announce the pendency of a roll call vote on the amendment. The machine is open.

THE CLERK:

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

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

THE CHAIR:

Have all Members voted? If all Members have voted, the machine is closed. The Clerk will announce the result.

THE CLERK:

Motion is on adoption of Senate Amendment Schedule "A".

Total number voting, 35; necessary for adoption, 18. Those voting "yea", 10; those voting "nay", 25. Those absent and not voting, 1.

THE CHAIR:

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The amendment is defeated. Will you remark further on the bill? Will you remark further? Senator Prague.

SEN. PRAGUE:

Thank you, Mr. President. Mr. President, I think the bill has been explained. I think Members of the Circle understand it. I thank the Circle for their support for the older worker, and I'd ask for a roll call vote on the bill.

THE CHAIR:

Just to observe that when we get to final votes on bills, there will always be roll calls unless you move items to Consent. Similarly, when we're doing amendments, there will always be voice votes, unless someone asks for a roll call vote.

At this time, a roll call will be announced on the bill.

THE CLERK:

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

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

THE CHAIR:

If all Members have voted, the machine is closed. The Clerk will announce the result of the vote.

THE CLERK:

Motion is on passage of Senate Bill 25.

Total number voting, 35; necessary for passage, 18. Those voting "yea", 33; those voting "nay", 2. Those absent and not voting, 1

THE CHAIR:

The bill is passed. Mr. Majority Leader.

SEN. LOONEY:

Yes, Mr. President, if the Clerk might please call the items on the Consent Calendar for the first Consent Calendar.

THE CHAIR:

Mr. Clerk, would you announce the pendency of a roll call vote on the Consent Calendar and read the items.

THE CLERK:

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House of Representatives

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of immigrants, an issue of justice, and an issue that should be considered by all of us.

Mr. Speaker, I thank you, and I thank my colleagues for the time that I've taken. Thank you very much.

SPEAKER AMANN:

Thank you, Sir. Thank you, Sir.

(APPLAUSE)

Thank you very much, Sir. Thank you. Any other announcements or introductions?

DEPUTY SPEAKER ALTOBELLO:

Would the Clerk please call Calendar Number 481?

CLERK:

On Page 14, Calendar Number 481, Substitute for Senate Bill Number 25, AN ACT CONCERNING SOCIAL SECURITY OFFSETS UNDER THE WORKERS' COMPENSATION ACT, Favorable Report of the Committee on Appropriations.

DEPUTY SPEAKER ALTOBELLO:

Representative Ryan of the 139th. You have the floor, Sir.

REP. RYAN: (139th)

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

DEPUTY SPEAKER ALTOBELLO:

Representative Ryan, one moment, please.

Representative Adinolfi of the 103rd, for what purpose do you rise, Sir?

REP. ADINOLFI: (103rd)

Thank you, Mr. Speaker. I would like to recuse myself from the room for this discussion and vote.

DEPUTY SPEAKER ALTOBELLO:

Thank you, Sir.

REP. ADINOLFI: (103rd)

Thank you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

So ordered. And with that little piece of housekeeping out of the way, Representative Ryan of the 139th, you have the floor again, Sir.

REP. RYAN: (139th)

Thank you, Mr. Speaker. Workers' compensation is a state wage replacement mechanism for citizens who get injured at work.

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Under current workers' comp law, if a senior is injured at work and becomes totally disabled, the law allows the workers' comp insurance company to completely offset the amount of the injured senior's federal social security retirement benefits against the state workers' comp benefits.

That could result in a senior facing a financial crisis. They can't supplement their social security because they can't work, and then loses all or part of their state comp benefits because of the offset of a federal retirement benefit.

This Bill, Senate Bill Number 25, simply eliminates the provision for folks with total disability to allow state workers' compensation benefits to be reduced by federal social security retirement benefits.

We have to keep in mind that our workers' comp benefits and our federal social security retirement benefits are two systems that have nothing to do with each other. Federal social security retirement is a benefit to which seniors have contributed during their entire life.

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State workers' compensation payments for injuries and lost wages should not be offset by the separate federal retirement benefit.

We don't see any kind of civil offset for private pensions, profit sharing, IRAs, or 401Ks. We feel this Bill penalizes people who have worked long and hard and contributed to the social security system.

The workers who suffer an occupational injury and illness should be eligible for unreduced workers' compensation, regardless of their age or eligibility for retired worker benefits under social security.

The majority of people who remain in the workforce after age 65 do so because their social security benefits are not enough to live off of.

The vast majority of those who will benefit from this legislation earn a low to moderate living. Many seniors must work because Social Security retirement benefits are not enough to meet their needs.

And the Senior Citizens Freedom to Work Act of 2000, which was passed by Congress unanimously, recognized these realities when it eliminated the offset of earnings against normal retirement benefits.

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To further penalize workers by offsetting social security benefits is just wrong. It causes injured workers more difficult, makes it harder to return, and I'm going to ask my colleagues to support me in this Bill. Thank you, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Thank you, Representative Ryan. Further on the Bill? Further on the Bill? Representative Hetherington of the 125th, you have the floor, Sir.

REP. HETHERINGTON: (125th)

Thank you, Mr. Speaker. This Bill was considered fully in the Labor Committee, and I believe the case, as Representative Ryan has presented it, is fairly stated and compelling.

I believe that there is no logical connection between workers' compensation and otherwise earned social security benefits, and therefore I would urge adoption of the Bill. Thank you.

DEPUTY SPEAKER ALTOBELLO:

Thank you, Representative Hetherington. Further on the Bill? If not, staff and guests please retire to the Well of the House. Members take their seats. The machine will be opened.

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CLERK:

The House of Representative is voting by Roll Call. Members to the Chamber. The House is voting by Roll Call. Members to the Chamber, please.

DEPUTY SPEAKER ALTOBELLO:

Have all Members voted? Have all Members voted? Have all Members voted? Please check the board to see if your vote has been properly cast. If all Members have voted, the machine will be locked. We'll start this again.

Have all Members voted? Have all Members voted? If all Members have voted, the machine will be locked. The Clerk please take a tally. Would the Clerk please announce the tally.

CLERK:

Senate Bill Number 25, in concurrence with the Senate.

Total Number Voting	141
Necessary for Passage	71
Those voting Yea	128
Those voting Nay	13
Those absent and not voting	10

DEPUTY SPEAKER ALTOBELLO:

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The Bill passes in concurrence with the Senate.

It's off to the Governor. Are there any announcements or points of personal privilege? Any announcements or points of personal privilege? Representative Bacchiochi of the 52nd District. You have the floor, Madam.

REP. BACCHIOCHI: (52nd)

For an announcement, Mr. Speaker.

DEPUTY SPEAKER ALTOBELLO:

Please proceed, Madam.

REP. BACCHIOCHI: (52nd)

I would just like to remind everyone that I still need about half of the intern evaluation forms. They are due today. I have blank copies here at my desk if you need them. Thank you.

DEPUTY SPEAKER ALTOBELLO:

Thank you, Representative. Announcements or points of personal privilege? If not, the House will stand at ease.

(CHAMBER AT EASE)

Representative Ryan of the 139th, you have the floor, Sir. For what purpose do you rise?

REP. RYAN: (139th)

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STANDING
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I just want to make sure that, when it is done, it's done very carefully so that there's no question that could be raised by the federal authorities or that we have any, that we can clearly indicate to the employers and the workers in the state what it means.

So if, with your indulgence, if we could work with you on that, we would be happy to do so. Thank you very much.

REP. RYAN: Thank you, Mr. McCarthy. Any questions? Thank you. And this brings us to the public portion of the testimony. And, as I said earlier, we do go bill by bill according to our published agenda.

So the first bill we'll be looking at will be Senate Bill 17, AN ACT CONCERNING PORTAL-TO-PORTAL WORKERS' COMPENSATION COVERAGE FOR PUBLIC SAFETY DISPATCHERS. And the first person to speak would be Brian Anderson.

BRIAN ANDERSON: Good afternoon, Chairman Ryan, Members of the Labor and Public Employees Committee. My name is Brian Anderson. I am a lobbyist for Council for AFSCME, a union of 35,000 Connecticut public and nonprofit employees.

There are several bills before this Committee that will improve the lives of Connecticut's middleclass working families. I'll speak briefly on them because there are quite a number of good bills up today.

HB 5030

HB 5032

SB 21

HB 5035

HB 5037

HB 5033

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diseases that are likely to have been contracted in the course of their work duties.

House Bill 5033. AN ACT CONCERNING PAID LEAVE FOR STATE EMPLOYEES RETURNING FROM OVERSEAS MILITARY DUTY, provides two weeks vacation to military personnel returning to state employment after having been on active duty for a duration of 18 months or longer.

House Bill 5036. CONCERNING VACATION DAYS, Representative Fontana spoke quite well on that.

House Bill 5031. AN ACT CONCERNING THE STANDARD WAGE CONTRACT THRESHOLD, Senate Bill 18, AN ACT CONCERNING SOCIAL SECURITY OFFSETS FOR STATE PENSIONS and Senate Bill 25, AN ACT CONCERNING SOCIAL SECURITY OFFSETS UNDER THE WORKERS' COMPENSATION ACT are all worthy bills that we think the General Assembly should act favorably upon. I would be happy to answer any questions about any of these bills.

REP. RYAN: Thank you, Mr. Anderson. You added one at the end which is not at your written testimony, but that was a good bill to add.

BRIAN ANDERSON: Thank you, Mr. Chairman.

REP. RYAN: And I'm just going to ask you, are you really pushing your position on the other bills, since you've seemed to have testified on all of them here now?

BRIAN ANDERSON: Yes, yes, I do believe.

A close friend of my family recently lost a job as a teacher in one of the dioceses in Connecticut and didn't know he was ineligible for unemployment comp. until he showed up at the Department of Labor.

Notice would have helped prevent that situation. He had previously been laid off from another diocese that did pay into the system and received compensation.

So he basically was somewhat surprised to realize that he didn't know he was ineligible. Thank you.

REP. RYAN: Thank you. Do we have any questions for Mr. Melita? Okay, thank you. Thank you for coming back. Did we ever find Mr. Schiller? No? Then we're on Senate Bill 24, AN ACT CONCERNING LIABILITY OF EMPLOYERS WHO ENGAGE IN RECKLESS, WILLFUL OR WANTON MISCONDUCT.

Kyra Nesteriak from CBIA is the first person to speak. Kyra, sorry.

KRYA NESTERIAK: After as much time as I'm in here?

REP. RYAN: Good afternoon, Ms. Nesteriak.

KRYA NESTERIAK: Good afternoon, Representative Ryan and Members of the Committee. My name is Kyra Nesteriak and I'm the Government Affairs Manager for the Connecticut Business and Industry Association.

CBIA represents approximately 10,000 members across the State of Connecticut, ranging from

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large corporations to small businesses that have one or two employees.

The vast majority of our members do have fewer than 50 employees. I'm here today to register our opposition to two workers' comp. measures on your agenda today, Senate Bill 24 and Senate Bill 25.

In the late 1980s, workers' comp. profs were skyrocketing and many Connecticut employers were crippled by the workers' compensation costs.

You, the Legislature, spent many months studying the workers' compensation system identifying problems and coming up with solutions to those problems.

And you adopted reforms in the early- and mid-'90s to address these problems. These reforms brought Connecticut more in line with our competitor states. However, many states followed Connecticut's leads and have passed reforms in recent years.

We're now hearing from our members again that workers' comp. costs are becoming an issue. Connecticut still continues to be a state that provides exceptional benefits for injured employees.

And Connecticut employers care about their employees and want to see them back to work and work to ensure a speedy recovery and a quick return to work. Bottom line is the reforms are

working and there's no need to repeal them or add measures that would increase costs.

We're, opposition to Senate Bill 24 is that this measure attempts to violate the workers' comp. exclusive remedy rule by allowing the estate of a deceased worker to sue provided that they didn't provide the workers' comp. death benefits.

This measure disregards the no-fault concept behinds the workers' comp. system and it requires that the workers or that the employer pay workers' comp. and then also allow the estate take a tort action.

So we urge you to maintain the integrity of the reforms by rejecting Senate Bill 24. We also oppose Senate Bill 25, AN ACT CONCERNING SOCIAL SECURITY OFFSETS UNDER THE WORKERS' COMPENSATION ACT AS WRITTEN.

This proposal does repeal the workers' comp. reform measure that eliminates the Social Security offset for compensation benefits for those individuals that are eligible to receive the Social Security retirement benefits.

Offset provisions are common, most often for workers' comp. and currently there are 25 other states that allow this offset. The offsets are a tool in maintaining the integrity of the workers' comp. system, which is a wage replacement system.

Therefore, we would ask that you do not accept this measure as well. And I thank you for the opportunity to comment today on these measures.

REP. RYAN: Thank you. You have quite a bit of testimony.

KRYA NESTERIAK: Yeah, I had some other measures that I'll be returning to speak on. Three minutes didn't seem long enough.

REP. RYAN: Do we have any questions for Ms. Nesteriak? Okay, I guess I have a question on the, on this bill that we're on right now. You comment about this as departing from the no-fault concept of workers' comp. SB24

But in this particular case we are kind of saying that there is somebody at fault because of the reckless, willful or wanton misconduct that an employer might under, well, perform that puts a worker in a dangerous position.

Wouldn't that kind of, don't you feel that kind of takes from the no-fault concept, that someone's shown to be at fault?

KRYA NESTERIAK: But that's the whole concept of the exclusive remedy that there is no blame that will be laid, that the employer agrees to pay the workers' comp. in return that they cannot be sued.

REP. RYAN: But in this case we're talking about somebody who purposefully, I would say, did something they know they shouldn't have done

that probably took care of a public safety issue. They put the worker in jeopardy.

KRYA NESTERIAK: Once again--

REP. RYAN: You don't see that being a special case where somebody should be more accountable than they would be in a normal worker's accident?

KRYA NESTERIAK: --no, because once again it goes back to what was laid out when the workers' comp reforms were enacted. And that was the tradeoff that was given for the exclusive remedy.

REP. RYAN: And then under the Senate Bill 25, Social Security offsets of the workers' comp., I thought there was some discussion on this and this bill that is before us now is something that was amenable to your folks. You said there was a problem with the way it was written.

KRYA NESTERIAK: The language--

REP. RYAN: Can you be a little more specific on the way it's written?

KRYA NESTERIAK: --yep. The language that's before you in Senate Bill 25 is slightly broader than the language that was discussed in meetings that were held with Senator Prague.

And what this language does is it allows as long as you are eligible to receive the Social Security retirement benefits for their to be no offset as opposed to, when the discussions took

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place with Senator Prague and yourself and others, it was supposed to be that you were already collecting the Social Security retirement benefits and then were injured.

This opens the door up wider, so as long someone is eligible, they don't have to actually be receiving the benefits.

REP. RYAN: Okay. I think--

KRYA NESTERIAK: We, we'd be more than happy to continue to working with the Chairs and the staff on the language.

REP. RYAN: --all right. Thank you. Any other questions?

KRYA NESTERIAK: Thank you.

REP. RYAN: Thank you very much for your time. Okay, Mr. Schiller has still not shown up.

HOWARD SCHILLER: I'm here.

REP. RYAN: Oh, you're late.

HOWARD SCHILLER: I apologize.

REP. RYAN: Okay. You can sit down and testify. You know, I was excited on coffee, I'm sorry. No, I'm glad you finally made it. We've been looking for you.

HOWARD SCHILLER: Thank you, Representative Ryan. I'm sorry that I was delayed. I believe that I already have submitted some written comments

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that pertain to Senate Bill 25 regarding the Social Security offset with workers' compensation.

I believe those remarks fairly flesh out some of the primary issues that are associated with the offset in Section 307E. And I do believe that Senate Bill 25 is an effort toward eradicating some of the disparities which that offset creates.

But I'm here, frankly, to urge you not only to move forward with Senate Bill 25 but to consider moving forward even further with a repeal of Section 307E.

What the Senate Bill does is it would carve out for those aged 62 and older an exception from the operation of Section 307E so there would not be any offset.

And, as I believe the previous speaker was just noting, it eliminates a problem with regard to mere technical eligibility rather than actual receipt of benefits.

But it does not move forward in any way in terms of attempting to address the circumstances of workers who are totally disabled who, perhaps injured before age 62, find themselves at the point of retirement when they should normally be expecting to have, if you will, the benefit of years of work and savings contributing to Social Security and elsewhere.

Who, because of total disability, find themselves not only limited in what they can do for themselves and their ability to meet their own expenses on a day-to-day basis, but suddenly when they attain the age when retirement would otherwise be tabled for them, that retirement is taken from them so that it can supplement the bottom line of the employers in the state.

And I think that when you weigh the relative burden of the loss of a Social Security retirement for a totally disabled worker against the fairly de minimis impact that this particular provision was opined to have with regard to workers' compensation costs, the disparity is just too great to justify the burden which is being placed upon the injured worker.

When we deal with workers' compensation, we take away the worker's right to sue. They cannot collect pain and suffering for the injury that they've sustained.

And they have no way to change their circumstances at all to adapt to what is now a very restricted economic circumstance.

And merely because they're injured now, under Senate Bill 25, before the age of 62, we're going to say to them that no matter how many years they themselves contributed to Social Security, we're going to totally eliminate that benefit from their income stream.

That is, I believe, grossly unfair. On top of everything else, that worker has paid for that Social Security retirement by contributing to the Social Security system in some cases for many years.

As my prepared remarks note, the eligibility for workers' compensation is only based upon the contributions or the earnings of the worker in the 12 months prior to injury. The Social Security eligibility may be based upon 30 or 40 years worth of earnings.

And it is an unwarranted windfall to say that an employer who happens to employ a worker in his 50s or early 60s before he actually attains retirement age should reap the benefit of years of prior contributions and get a full offset of that complete Social Security benefit against the workers' compensation of somebody who is just totally disabled and unable to work at all or do anything to change their circumstance.

REP. RYAN: You did the bill, you were testifying on Senate Bill 25 but also [inaudible - microphone not on] on Senate Bill [inaudible - microphone not on]. Were there any comments you want to make back there?

HOWARD SCHILLER: Very briefly what I would like to note is that we would support a bill which would make employers responsible for willful or wanton misconduct.

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The present statute provides an exception strictly when you can show actual intent. And that is so difficult to prove that it has

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SB 26

SB 27

HB 5030

HB 5031

HB 5032

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HB 5034

HB 5035



CONNECTICUT AFL-CIO

HB 5037

56 Town Line Road, Rocky Hill, CT 06067
860-571-6191 fax: 860-571-6190

Testimony before the Labor and Public Employees Committee

Tuesday, February 14, 2006

Good afternoon Senator Prague, Representative Ryan and members of the Labor and Public employees committee. My name is Lori Pelletier and I am the Secretary-Treasurer of the Connecticut AFL-CIO. I am here on behalf of the 211,000 union men and women from all across this great state to testify on the following raised bills:

S.B. No. 17 (RAISED) AN ACT CONCERNING PORTAL-TO-PORTAL WORKERS' COMPENSATION COVERAGE FOR PUBLIC SAFETY DISPATCHERS. We support this legislation. We also believe that any employee called in to work on an emergency situation should have this protection.

S.B. No. 18 (RAISED) AN ACT CONCERNING SOCIAL SECURITY OFFSETS FOR STATE PENSIONS. We support this proposal. Simply this would bring our State statutes into line with any changes made at the federal level regarding the retirement age for Social Security benefits.

S.B. No. 19 (RAISED) AN ACT CONCERNING NOTIFICATION TO PROSPECTIVE EMPLOYEES OF RELIGIOUS SCHOOLS NOT PARTICIPATING IN THE UNEMPLOYMENT COMPENSATION SYSTEM. We support this raised bill. This would provide pertinent information to employees regarding the safety net of unemployment insurance.

S.B. No. 21 (RAISED) AN ACT CONCERNING CARD CHECKS. We support this bill. This proposal should be extended to include those occupations not covered by the National Labor Relations Act as they did in New Jersey. The rights of employees wanting union representation in their workplace have eroded over the past twenty years. Card check authority embodies what the NRLA was really intended to do.

S.B. No. 24 (RAISED) AN ACT CONCERNING LIABILITY OF EMPLOYERS WHO ENGAGE IN RECKLESS, WILFUL OR WANTON MISCONDUCT. We support this legislation. Under this proposal families of workers killed on the job due to reckless, willful or wanton misconduct would have legal recourse back to the responsible employer.

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S.B. No. 25 (RAISED) AN ACT CONCERNING SOCIAL SECURITY OFFSETS UNDER THE WORKERS' COMPENSATION ACT. Workers Compensation benefits provide for 75% wage replacement to workers injured on the job. To further penalize workers by offsetting Social Security payments is just wrong. Why are we looking to make life more difficult for an injured worker who finds it necessary to return to the workforce after retiring on Social Security? Its' just wrong!

S.B. No. 26 (RAISED) AN ACT CONCERNING RETIREMENT BENEFITS FOR PUBLIC OFFICIALS OR EMPLOYEES COMMITTING FELONIES ASSOCIATED WITH STATE EMPLOYMENT. We oppose this legislation. Retirement benefits are as much for the family as the employee. Punishing innocent bystanders for something they did not do is wrong.

S.B. No. 27 (RAISED) AN ACT CONCERNING WORKERS' COMPENSATION BENEFITS FOR HYPERTENSION AND HEART DISEASE FOR FIREFIGHTERS. This legislation would provide for full time professional fire fighters the same level of benefit that presently exists for volunteer fire fighters. Section 7-314a (d) of the Connecticut General Statutes currently provides heart and hypertension protection to volunteer fire fighters. It makes no sense that people who perform fire fighting duties as a career and with large city or town departments where the workload is heavy, should not be afforded the same protections as volunteer fire fighters serving traditionally small, less active departments.

H.B. No. 5030 (RAISED) AN ACT CONCERNING CAPTIVE AUDIENCE MEETINGS. We **SUPPORT** this legislation. Almost without limits, employers can force workers to attend captive-audience meetings on work time. Most often, these meetings include exhortations by top managers that are carefully scripted to fall within the wide latitude afforded employers under U.S. law—allowing "predictions" but not "threats" of workplace closings, for example—to deter workers from choosing union representation. Employers can fire workers for not attending the meetings. They can impose a "no questions or comments" rule at a captive-audience meeting, and discipline any worker who speaks up. These meetings are unfair and present lies and misrepresentations as the truth without the employee being afforded an alternative opinion.

This legislation also covers the issue around employers forcing their political and/or religious views on employees. An employer is welcome to hold meetings about contacting your representative on an issue pertaining to the business, not which representative to vote for. Finally an employee who chooses not to attend these meeting would return to their job not have the time off.

H.B. No. 5031 (RAISED) AN ACT ELIMINATING THE STANDARD WAGE CONTRACT THRESHOLD. We support this legislation. Thresholds are artificial barriers and in this case it should never have existed.

Statement***Insurance Association of Connecticut***

Labor and Public Employees Committee

February 14, 2006

~~SB 24, SB 25, SB 27, HB 5037~~

SB 24, An Act Concerning Liability of Employees Who Engage In Reckless, Willful or Wanton Misconduct.

The Insurance Association of Connecticut opposes SB 24, which would subject employers to liability actions for deaths arising out of employment. The Workers' Compensation Act was established decades ago as the exclusive remedy for employees injured on the job. The employer pays indemnity benefits and first-dollar medical benefits (no deductible or co-pays) for all work-related injuries and diseases, even in the absence of fault of the employer, in an expeditious manner. Death benefits are specifically provided in the Act (C.G.S. 31-306). In return, employers are not subject to civil actions for damages resulting from the work-related injury or death.

In 1996, the General Assembly clarified the exclusivity of the Act by limiting its protections against injured employees' civil actions to those employers who properly insure or self-insure their Workers' Compensation liability.

Not only would SB 24 eliminate the exclusive remedy provisions, but it would create a civil liability for employers in addition to other benefits previously paid under the Act, plus expose employers to the costs of defending against these actions.

SB 24 is directly contrary to the longstanding tradition of the Workers' Compensation Act as the exclusive remedy for workplace accidents, is unfair to employers and unnecessary. IAC urges rejection of SB 24.

SB 25, An Act Concerning Social Security Offsets Under The Workers' Compensation Act.

SB 25 would reverse a component of the 1993 Reform Act, which had established an offset in the Workers' Compensation Act for Social Security retirement benefits. Many other states have such offsets, in order to maintain the legitimate concept that Workers' Compensation benefits are for wage replacement. SB 25 would add additional unnecessary costs to the system.

Legislation similar to SB 25 has been defeated repeatedly over the past several years, and for good reason. IAC urges rejection of SB 25.

SB 27, An Act Concerning Workers' Compensation Benefits For Hypertension And Heart Disease For Firefighters.

CBIA

Connecticut Business & Industry Association

Testimony Of
Kyra P. Nesteriak
Government Affairs Manager
Before The
Labor & Public Employees Committee
Legislative Office Building
Hartford, Connecticut
February 14, 2006

Good afternoon, my name is Kyra Nesteriak and I am government affairs manager for the Connecticut Business and Industry Association (CBIA). CBIA represents approximately 10,000 companies across the state of Connecticut, ranging from large corporations to small businesses with one or two employees. The vast majority of our members have fewer than 50 employees.

CBIA opposes SB 25 - AAC Social Security Offsets Under the Worker's Compensation Act.

This proposal repeals a workers' compensation reform measure by eliminating the Social Security offset for workers' compensation benefits for those individuals that are eligible to receive social security retirement benefits.

Offset provisions are common in workers' compensation, most often for Social Security. Currently 25 states, including Connecticut, Massachusetts and New York, offset workers' compensation benefits.

Offsets are an important tool in maintaining the integrity of the workers' compensation system, which is a wage-replacement system. Allowing individuals to collect more than their weekly wage replacement levels creates a significant disincentive for people to return to work. Instead it creates an incentive to stay on workers' compensation as that an individual's income would be greater than if the person was working.

We urge you to maintain the state offset by rejecting SB 25.



Support of Senate Bill 25

An Act Concerning Social Security Benefits Under the Workers' Compensation Act

AARP Connecticut urges favorable action on Senate Bill 25. We feel any offset on worker benefits penalizes people who have worked long and hard and contributed to the Social Security system.

AARP is a nonprofit, nonpartisan membership organization representing the interests of those age 50 and above. Connecticut's almost 6000,000 AARP members comprise about 40 percent of all those who vote in the state.

We feel that workers who suffer an occupational injury or illness should be eligible for unreduced workers' compensation regardless of age or eligibility for retired worker benefits under Social Security. The majority of people who remain in the workforce after age 65 do so because they have to – because their Social Security benefits are inadequate to live on. If they are injured they will need full worker compensation benefits to replace their lost income.

In addition, we know that the vast majority of those who will benefit from this legislation earn a low to moderate income. If left with only Social Security benefits, many will qualify for the ConnPACE or Medicaid programs.

Those who have had a long attachment to the labor force have clearly earned their Social Security and workers compensation benefits. They do not deserve to be penalized by losing all or some of their benefits.

We feel that Senate Bill 25 is a positive step towards removing many of the discriminatory laws that penalize workers over the age of 65 who find it necessary to remain in the workforce in order to survive.

**CONNECTCUT TRIAL LAWYERS ASSOCIATION
WORKERS' COMPENSATION SECTION**

SUPPORT SENATE BILL 25
LABOR AND PUBLIC EMPLOYEES COMMITTEE
TUESDAY, FEBRUARY 14, 2006

HOWARD B. SCHILLER

ISSUES REGARDING C.G.S. §31-307(e)
REDUCING WORKERS' COMPENSATION BENEFITS
BY SOCIAL SECURITY RETIREMENT BENEFITS

C.G.S. §31-307(e) reduces total disability benefits dollar-for-dollar by any social security retirement benefit which the worker is eligible to receive. This provision undercuts public policy encouraging seniors to work. Many seniors want to work past normal retirement age. Many more seniors must work past normal retirement age because social security retirement benefits are not enough to meet their needs. The Senior Citizens Freedom to Work Act of 2000, which passed Congress unanimously, recognized these realities when it eliminated the offset of earnings against normal retirement benefits.

As to lower income workers, C.G.S. §31-307(e) virtually eliminates total disability benefits in the event of injury. It places seniors in a compromised economic position if they are injured at work. Seniors who choose to work part-time after concluding a career, in low-wage positions such as school crossing guards, security guards, retail sales, etc., find it virtually impossible to receive any total disability benefit if they are injured.

Among the inequities associated with C.G.S. §31-307(e) are the following:

- The provision only applies to the most seriously injured/neediest workers – the totally disabled.
- The provision only affects social security recipients; it does not affect the recipients of any other public or private pension, profit-sharing plan, IRA, 401K, annuity, or other benefit.

- The provision does not affect workers who are partially disabled; they may continue to work, receive partial workers' compensation benefits, and unreduced social security benefits.
- The provision applies when a worker is eligible for benefits (which can be at age 62). When a worker continues to work without electing social security benefits (which can be deferred until age 70), if there is a period of total disability before a return to work, benefits are totally offset even though the worker has never actually retired and no money has been paid by social security.
- The statute arbitrarily cuts off benefits when the conditions change for the worse, i.e. from partial disability to total disability, and therefore discourages workers from seeking treatment which could result in their being classified as totally disabled by their physicians.

The offset of social security retirement benefits unfairly benefits employers with a windfall. The benefits payable under social security have been accumulated by workers through their working years, which are classically 40 to 50 years of employment or more. If a worker is already retired at the time that s/he becomes eligible for temporary total disability benefits, it is highly unlikely that the employer made any economic contribution to the worker's retirement benefit. Workers' compensation benefits are based upon the wages earned in the last 52 weeks. They are not based upon a worker's lifetime earnings. Employers are obligated to pay benefits based upon a worker's current earnings rather than historically higher levels of earnings. It is inconsistent to accord the employer a dollar-for-dollar reduction in the workers' compensation for a social security benefit which reflects the employee's contribution over the employee's working career.

When introduced, the only purpose asserted for Connecticut General Statutes was to save employer's money, but the effect of the provision was estimated to be less than .005% of workers' compensation costs. This is an unfair allocation of the cost burden, as the reduction is extreme when measured as a percentage of the benefit to which the totally disabled worker is entitled. If a totally disabled worker is eligible to receive \$1,000 in total disability benefits but receives \$1,000 in social security benefits, that injured worker receives

only \$1,000 in monthly income. If the same injured worker is capable of working two hours a day, generating \$75 per week in part-time earnings, that injured worker will be permitted to retain \$1,000 in social security and receive a workers' compensation benefit of \$1,000 per week reduced partially by the worker's earnings. If the partially disabled worker is unable to find work and has zero earnings, he will continue to receive his full worker's compensation benefit because of his technical ability to work even if not actually able to find work. The totally disabled worker effectively receives 50% or less of what the partially disabled worker receives.

A totally disabled worker needs funds even more than the partially disabled worker, because the totally disabled worker is more likely to require help for homemaking, yard work, etc. whereas the partially disabled worker, if unable to perform that work, is at least able to continue to work and to supplement reduced income by additional earnings. The payment of workers' compensation benefits represents a replacement of that lost income stream which the worker either needed or enjoyed generating.

Workers' compensation has never been a "means" based benefit. A worker who is eligible for workers' compensation benefits waives his rights for any tort relief for pain, suffering, etc. in exchange for what has been classically described as a "quick and certain compensation." When benefits are reduced as provided under C.G.S. §31-307(e), disabled workers do not receive quick and certain compensation yet are denied their ability to pursue alternate forms of relief.



TESTIMONY
OF THE
CONNECTICUT CONFERENCE OF MUNICIPALITIES
TO THE
LABOR AND PUBLIC EMPLOYEES COMMITTEE

February 14, 2006

The Connecticut Conference of Municipalities appreciates the opportunity to testify on the following bill of interest to towns and cities:

Landmark workers' compensation reform enacted over the past several years should be allowed to continue to work. The reforms were enacted to restore balance to the system and they have been instrumental in attracting and retaining businesses. This has allowed Connecticut to be a more competitive state in terms of its overall business climate. The existing system retains fairness and equity in servicing injured workers and it should be allowed to continue working towards that end.

S.B. 25, "An Act Concerning Social Security Offsets Under the Workers' Compensation Act"

This bill would allow persons to receive full workers' compensation benefits after such members have begun receiving social security benefits.

Without a full fiscal analysis, it is difficult to determine the total fiscal impact on municipalities.

The workers' compensation system was designed to compensate employees, but this bill would allow new benefits for retired municipal workers.



If you have any questions, please call Bob Labanara or Ron Thomas of CCM, at (203) 498-3000.

JOINT
STANDING
COMMITTEE
HEARINGS

LABOR
AND
PUBLIC
EMPLOYEES

PART 3
648-980

2006

SB217

000798

LABOR & PUBLIC EMPLOYEES COMMITTEE
PUBLIC HEARING
2/28/06

MY NAME IS JOHN DEL VECCHIO. I AM THE WORKERS' COMPENSATION ORGANIZER FOR DISTRICT 1199, NEW ENGLAND HEALTH CARE EMPLOYEES UNION, WHICH REPRESENTS ABOUT 20,000 CONNECTICUT HEALTH CARE EMPLOYEES IN BOTH THE PUBLIC AND PRIVATE SECTORS, IN THE FIELDS OF HOSPITALS, NURSING HOMES, PATIENT TRANSPORTATION, MENTAL HEALTH, MENTAL RETARDATION, CORRECTIONAL HEALTH, AND VARIOUS SOCIAL SERVICES.

I HAVE BEEN INVOLVED WITH CONNECTICUT'S WORKERS' COMPENSATION SYSTEM FOR OVER THIRTY YEARS, AS AN INJURED FOUNDRY WORKER, AS A RANK & FILE STEELWORKER ASSISTING MEMBERS WITH COMPENSATION CLAIMS, AS A TEN YEAR PROFESSIONAL EMPLOYEE OF THE WORKERS' COMPENSATION COMMISSION, AND FOR THE PAST 11 YEARS WITH 1199, REPRESENT HUNDREDS OF MEMBERS AT INFORMAL, PREFORMAL AND FORMAL HEARINGS BEFORE THE COMMISSION.

WITH ALL THIS EXPERIENCE IN THIS FIELD I HAVE A GOOD UNDERSTANDING OF THE PURPOSE AND PRINCIPLES OF WORKERS' COMPENSATION.

ONE OF THE BASIC COMPONENTS OF THE LAW SINCE IT WENT INTO EFFECT IN 1914 IS THE PARTIAL REPLACEMENT OF LOST WAGES DUE TO A WORK INJURY.

CHANGES IN OUR LAW ENACTED IN THE EARLY 1990'S STRUCK A CRUSHING BLOW AT THIS CONCEPT.

PUBLIC ACT 93-228 REQUIRED THAT BENEFITS FOR TOTAL INCAPACITY BE REDUCED DOLLAR-FOR-DOLLAR BY ELIGIBILITY FOR SOCIAL SECURITY RETIREMENT BENEFITS. AS A RESULT, PEOPLE ELIGIBLE FOR SOCIAL SECURITY RETIREMENT WHO ARE INJURED ON THE JOB RECEIVE SIGNIFICANTLY LESS WORKERS' COMP DISABILITY BENEFITS, OR IN MANY CASES, NO BENEFITS AT ALL. THIS PROVISION FLIES IN THE FACE OF ONE OF THE BASIC PURPOSES OF THE WORKERS' COMPENSATION ACT---TO PROVIDE PARTIAL WAGE REPLACEMENT FOR EARNINGS LOST DUE TO A WORK INJURY. SENATE BILL 25 WOULD RECTIFY THIS MISCARRIAGE OF JUSTICE AND RESTORE REASONABLE PARTIAL WAGE REPLACEMENT TO SENIOR CITIZENS INJURED ON THEIR JOBS.

PUBLIC ACT 93-228 ALSO SEVERELY LIMITED THE ELIGIBILITY FOR WAGE LOSS BENEFITS AFTER AN INJURED WORKER'S PERMANENT PARTIAL BENEFITS WERE EXHAUSTED. INSTEAD OF ALLOWING THE COMMISSIONERS THE DISCRETIONARY AUTHORITY TO AWARD ADDITIONAL BENEFITS BASED ON REASONABLY PROVABLE WAGE LOSS DUE TO AN INJURY, THE NEW LAW ARBITRARILY LIMITED ADDITIONAL BENEFITS TO A DURATION NO LONGER THAN THE CLAIMANT'S AWARD FOR

PERMANENT PARTIAL DISABILITY, IRRESPECTIVE OF THE ACTUAL FINANCIAL LOSSES SUSTAINED BY THE INJURED WORKER AS A DIRECT RESULT OF HIS OR HER INJURY.

AS AN EXAMPLE, A UNION IRONWORKER WITH A HIGH SCHOOL EDUCATION OR GED USUALLY CAN EARN OVER \$50,000 IN A PRODUCTIVE YEAR. BUT IF THAT IRONWORKER FALLS OFF A BEAM AND RUPTURES A LUMBAR DISC, HE WILL PROBABLY END UP WITH PERMANENT RESTRICTIONS THAT WOULD PREVENT HIM FROM EVER AGAIN PERFORMING IRONWORK OR FOR THAT MATTER, ANY HEAVY PHYSICAL LABOR. EVEN WITH HELP FROM REHABILITATION SERVICES, HE WOULD PROBABLY END UP IN A JOB PAYING HALF OR LESS OF WHAT HE WOULD MAKE AS AN IRONWORKER. YET WITH A 10% IMPAIRMENT OF HIS LUMBAR SPINE, UNDER THE CURRENT LAW, THE COMMISSIONER COULD AWARD HIM NO MORE THAN 37.4 WEEKS OF ADDITIONAL WAGE LOSS BENEFITS, EVEN THOUGH HIS WAGE LOSS WILL CONTINUE FOR THE REST OF HIS LIFE.

SENATE BILL 217 ADDRESSES THIS UNFAIRNESS BY GIVING THE COMMISSIONERS MORE DISCRETIONARY POWER TO AWARD ADDITIONAL WAGE LOSS BENEFITS TO PERMANENTLY INJURED WORKERS, A POWER I AM CONFIDENT NONE OF OUR DISTINGUISHED AND RESPECTED COMMISSIONERS WOULD ABUSE.

I ASK YOU TO RESTORE MORE FAIRNESS TO OUR WORKERS' COMPENSATION ACT BY YOUR SUPPORT OF SENATE BILLS 25 AND 217.