



General Assembly

Substitute Bill No. 6936

January Session, 2001

AN ACT ENSURING THAT PUBLIC MONEYS ALLOCATED FOR HEALTH CARE AND HUMAN SERVICES ARE EXPENDED FOR SUCH PURPOSES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (a) For the purposes of this section, the term
2 "covered employer" includes: (1) A person providing residential or
3 educational services to children in the custody or under the
4 guardianship of the Department of Children and Families; (2) an
5 organization establishing, expanding or maintaining mental health
6 services pursuant to section 17a-453a, 17a-468, 17a-476 or 17a-676 of
7 the general statutes; (3) a nonprofit organization offering services for
8 drug-dependent or alcohol-dependent persons pursuant to section
9 17a-676 of the general statutes; (4) a psychiatric clinic or a child
10 guidance clinic, as defined in section 17a-20 of the general statutes; (5)
11 a day treatment center, as defined in section 17a-22 of the general
12 statutes; (6) a person receiving a grant for programs for the treatment
13 and prevention of child abuse and neglect or for juvenile criminal
14 diversion pursuant to section 17a-49 of the general statutes; (7) a
15 community-based program for children and adults with mental
16 retardation pursuant to section 17a-217 of the general statutes; (8) any
17 program for persons with mental retardation established pursuant to
18 section 17a-218 of the general statutes; (9) a program of employment
19 opportunities and day services for adults with mental retardation
20 pursuant to section 17a-226 of the general statutes; (10) a private

21 residential facility licensed to provide care or treatment for persons
22 with mental retardation or autistic persons pursuant to section 17a-227
23 of the general statutes; (11) a program for which rates are paid by the
24 state pursuant to sections 17b-241 to 17b-245, inclusive, or section 17b-
25 342 of the general statutes; (12) a recipient of reimbursement under
26 section 17b-340 of the general statutes; and (13) any other recipient of
27 state funds, including federal funds allocated by the state for the
28 provision of health care or human services. The term does not include
29 an acute care general hospital.

30 (b) On and after July 1, 2001, the compensation paid by contract or
31 agreement with the state or any of its agents to a covered employer
32 shall include the increased costs of staffing requirements, wages and
33 benefits negotiated under a collective bargaining agreement effective
34 on or after April 1, 2001. In order to calculate the amount of the
35 increase in Medicaid reimbursement or other payments made by the
36 state due to a covered employer, said employer shall submit a signed
37 collective bargaining agreement to the state.

38 (c) No funds from the state shall be used by any covered employer
39 for any activity intended to assist, promote, deter or discourage union
40 organizing. If any covered employer engages in any activity to assist,
41 promote, deter or discourage union organizing by an employee who
42 provides services, directly or indirectly, to Medicaid recipients or
43 recipients of other state-funded services during a time for which the
44 employee is paid by the employer, there is established an irrebuttable
45 presumption that state funds paid for that percentage of the cost of
46 such activity equal to the percentage of a covered employer's total
47 revenues paid by the state for the fiscal year during which such
48 activity occurred.

49 (d) Any person may file a complaint with the funding agency if he
50 or she believes that a covered employer is expending funds in violation
51 of the provisions of subsection (c) of this section. Upon the filing of
52 such a complaint, the agency shall, within seven days, notify the
53 covered employer that it shall, within ten days, provide records

54 sufficient to show that no state funds were used in violation of the
55 provisions of said subsection (c). If a covered employer engages in
56 meetings with employees during work time to assist, promote, deter or
57 discourage union organizing, such records shall include all
58 information relative to each such meeting, including the date, time and
59 identity of the attendees.

60 (e) A civil action for a violation of the provisions of subsection (c) of
61 this section may be brought by the Attorney General or by any tax
62 payer, for injunctive relief, damages, civil penalties and other
63 appropriate equitable relief. All damages and civil penalties collected
64 pursuant to this subsection shall be deposited in the General Fund.

65 (f) Before filing an action under subsection (e) of this section, a
66 taxpayer shall give written notice to the Attorney General of the
67 alleged violation and the intent to bring suit. Such notice may not be
68 given until twenty days after a complaint is filed with the funding
69 agency. Such notice shall include a copy of the complaint filed with the
70 funding agency and its disposition, if any. If the Attorney General
71 commences a civil action for the same alleged violation within sixty
72 days of receiving the notice, a separate action by the taxpayer shall be
73 barred. Any taxpayer may intervene as a plaintiff in any action
74 brought by the Attorney General under this section. A prevailing
75 plaintiff in any action filed under the provisions of subsection (e) of
76 this section is entitled to recover reasonable attorney's fees and costs. A
77 prevailing taxpayer intervenor who makes a substantial contribution
78 to an action filed under subsection (e) of this section is entitled to
79 recover reasonable attorney's fees and costs.

80 (g) A covered employer is liable to the state for the amount of any
81 funds expended in violation of the provisions of subsection (c) of this
82 section plus a civil penalty equal to twice the amount of such funds. If
83 a covered employer expended funds in violation of the provisions of
84 subsection (c) of this section by virtue of the irrebuttable presumption
85 set forth in said subsection, such employer shall be liable to the state
86 only for that percentage of the cost of the activities intended to assist,

87 promote, deter or discourage union organizing which represents the
88 percentage of the employer's total revenues paid by the state in the
89 fiscal year during which such activities occurred and shall not be
90 subject to a civil penalty.

91 (h) Any individual who knowingly authorizes the use of state funds
92 in violation of the provisions of subsection (c) of this section shall be
93 liable to the state for the amount of such funds. Any individual who
94 knowingly violates the provisions of subsection (c) of this section shall
95 be personally liable to the state in the amount of one thousand dollars
96 for each violation.

97 (i) For purposes of this section, any expense, including legal and
98 consulting fees and salaries of supervisors and employees, incurred for
99 research or preparation for, planning or coordination of, or carrying
100 out, an activity to assist, promote, deter or discourage union
101 organizing shall be treated as paid or incurred for such activity.

102 Sec. 2. This act shall take effect from its passage.

HS

Joint Favorable Subst. C/R

JUD