Kissel, Kneale & Tobin, Inc.

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February 23, 2009

Legislative Office Building
Hartford, CT 061106-1591

Re: Senate Bill No. 971
An Act Concerning Small Business Retirement Plans

Dear Senator:

I will not be able to attend the hearing on the bill on Tuesday, February 24, 2009 in hearing room 1-D due to physical limitations but I do have some comments which may be of some help in deciding whether to vote on the bill or not and how to vote on the bill.

There are a lot of low cost retirement options now available for people to accumulate money for retirement. There are IRAs, Roth IRAs, SEPs, Simples and Simple 401(k)s with varying levels of allowable contributions and available investments that would allow for decent levels of retirement income. Some do not require sponsorship by employers, or the State of Connecticut. Some do not require participation by other employees. The workers don't currently participate because they can't afford to do so. They must first pay the rent or mortgage, electric bill, gas bill, oil bill, gasoline bill, car payments, car insurance, home insurance, real estate taxes, car taxes, groceries, health insurance, clothing, etc. All are at records highs.

The rules with regard to eligibility, coverage, credited service, breaks-in-service, vesting, contribution limitations, top-heavy rules, required minimum distributions, etc. are very complicated and time consuming to deal with. Make a mistake and pay the penalty. Private section plans are governed by all sections of the Employee Retirement Income and Security Act of 1974 (ERISA) and subsequent laws such as TEFRA, DEFRA and REA, the Tax Reform Act of 1986, many laws lumped together and referred to as GUST, EGTRRA and most recently the Pension Protection Act of 2006. The United State Government realized the difficulty in adhering to these laws and exempted government plans from the rules.

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Smaller employers don't sponsor plans because they can't afford to do so. They can't afford **to put money into the plan** for their employees. Small employers are usually top-heavy, which require certain minimum levels of contributions such as top-heavy or safe harbor contributions if they wish to participate in the plans themselves. If they can't do more for themselves than an IRA without paying for employees who work 20 hours or more per week, they won't do so. They never get to the decision of yes or no with regard to administrative expenses since the cost of the contribution is far greater. These employers first worry about FICA-FUTA taxes, unemployment, workmen's compensation and **health insurance** before dealing with the pension issue.

To have the State sponsor a plan would not greatly increase participation by smaller employers without other changes to pension laws. It might pull some employers from their own plans that are being administered by other small employers, the numerous actuarial and consulting firms doing business in this State thereby hurting small businesses while trying to help small business.

Other organizations such as orthopedic doctors, obstetrics and gynecology doctors and fast food franchisers have tried to put together types of larger plans for smaller employers without success. The owners of the businesses couldn't agree on the investment choices, administrative cost of the plan, plan design, etc. Many owners said their employees could be in the plan but they themselves would not participate and did not want to pay **any** costs associated with their employees being in the plan. Would the State or the investment company or administrator pick up this cost? I don't think so.

On another issue, the plan being talked about would be an ERISA plan for for-profit companies subject to all aspects of the pension laws, tax code and regulations. The State of Connecticut **would be** the plan sponsor and would require bonding and possible liability insurance. It would be **responsible** for getting contributions to the plan on time. They would be responsible for all **reporting and disclosure rules**. The State would be subject to excise taxes for violations or errors that couldn't be paid for from assets of the plan. There are notices, documents, amendments, resolutions, etc. to all be dealt with. There are tax forms due, summary annual reports, benefit statements, investment disclosure, and claim packages just to name a few responsibilities. They can be transferred to third-party administrators but the liability would stay with the State of Connecticut.

The State would be responsible to try and come up with the best choice of investments and administration for the money spent and not make these decisions based on **cost** of administration alone.

There might also need to be provisions for hardships, loans, in-service distributions, etc. to allow people to tap their money in an emergency; otherwise, why not put it into an IRA where they can always get it out.

There could likely be Internal Revenue Service and/or Department of Labor audits and the need for an independent annual audit and possible discrimination testing. These are just a few of the issues why the State would be advised to avoid this issue and not pass the bill in question.

What needs to be done is to give the small employer incentives to utilize the programs that are already available to them at a reasonable cost.

Our firm, Kissel, Kneale & Tobin, Inc., has been in business in Connecticut for 27 years. We employer eight people and administer about 500 retirement plans for our clients almost all of whom employ under 100 people.

If the employer wants a more extensive retirement program, then he or she goes to the pension professional to design and take care of it. There are many qualified pension professionals who live and work in the State of Connecticut and do this type of work. They earn income in Connecticut, pay income tax in Connecticut, buy goods in Connecticut, pay sales tax in Connecticut, buy cars in Connecticut, buy gasoline in Connecticut, etc.

The State of Connecticut supposedly supports small business and they are what make Connecticut go and grow and prosper. Why go into competition with a good system that already works. Or does Connecticut not really mean what is says or say what it means.

Other states have looked at this and found the cost and liabilities initially and annually thereafter were more than they anticipated and they dropped the entire project. Now is not the time to be spending money unwisely in the State when a deficit in the billions of dollars is looking us in the face.

I strongly urge you to vote NO on this bill!

Should you have any questions, please do not hesitate to call.

Very truly yours,

Jack R. Kneale, E.A., M.S.P.A., M.A.A.A.
Enrolled Actuary

JRK/cat