



CONNECTICUT BUSINESS & INDUSTRY ASSOCIATION

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Before the Judiciary Committee
March 24, 2010

S.B. 334 AAC The Resolution of Claims Involving Workers Compensation Claims

My name is Kia Murrell and I am Assistant Counsel for Labor & Employment matters at the Connecticut Business and Industry Association (CBIA). CBIA represents more than 10,000 companies throughout the state of Connecticut, ranging from large corporations to small businesses, but the vast majority of our members are small businesses of fifty or fewer employees. As a general principle, CBIA opposes legislation that increases the costs of doing business in the state; creates new administrative burdens for employers; or restricts employers' flexibility when managing their workforces and handling workplace claims.

We oppose S.B. 334 because it unfairly increases the costs of doing business for Connecticut employers. The proposal requires employers participating in third-party workers' compensation cases, and that have already paid workers' compensation benefits to an employee, to pay again, for their employee's legal fees.

Specifically, when an employee is awarded damages in third-party tortfeasor cases, S.B. 334 reduces the reimbursement rightfully due to the employer (lien recovery) by a percentage of the employee's legal fees.

We believe S.B. 334 places an unfair financial burden on employers because:

- **It essentially forces employers to pay for the same work-related injury three times:** in the workers' compensation benefits paid to the employee, for the employer's attorney fees, and for the legal fees incurred by the employee. (This will be especially damaging to self-insured companies that must draw on their own resources.)
- **Employers incur significant legal costs in protecting and exercising their right to recover workers' compensation benefits paid.** State law allows an employer to bring its own lawsuit against a third-party tortfeasor or to intervene in a lawsuit filed by an employee. Moreover, employers and their attorneys routinely participate in alternative dispute-resolution hearings. Both understandably require a significant investment in legal representation.
- **In most cases, employers usually do not receive their full reimbursement even now.** Employers are entitled by law to receive full lien recovery, but often

agree to negotiate down or accept less than the full amount of their recovery in order to speed case settlement. If employers' recovery is reduced even further than they stand to receive much less.

- **Connecticut state law prohibits employees from receiving "double payment."** Courts and the legislature have long held that employees should not be paid twice for the same injury, but S.B. 334 will contradict this tenet. It will unfairly increase the employee's payback to include an additional payment for its legal fees by the employer.
- **Employers will have to pay for two attorneys representing conflicting financial interests.** In addition to the adverse concept of double billing, requiring a percentage of the employee's attorney fee be paid by the employer could create a disincentive for the employee's attorney to quickly resolve the claims case.

What's more, by mandating a reduction in employers' lien recovery, **S.B. 334 will likely take away any employer's incentive to compromise on its reimbursement in order to settle a claim. This will mean a slower, more difficult and more costly path to the resolution of cases, as well as a backlogged court system.**

For all of these reasons, we oppose this legislation and urge the committee to **reject S.B. 334.**