



CONNECTICUT BUSINESS & INDUSTRY ASSOCIATION

TESTIMONY OF
BONNIE STEWART
VICE PRESIDENT OF GOVERNMENT AFFAIRS
CONNECTICUT BUSINESS & INDUSTRY ASSOCIATION
BEFORE THE
FINANCE, REVENUE AND BONDING COMMITTEE
MARCH 22, 2010
LEGISLATIVE OFFICE BUILDING
HARTFORD, CONNECTICUT

My name is Bonnie Stewart. I am vice president of government affairs for the Connecticut Business and Industry Association (CBIA). CBIA represents approximately 10,000 member companies in virtually every industry. They range from large, global corporations to small, family owned businesses. The vast majority of our member companies have fewer than 50 employees.

I am here to speak about several measures before you today. Some of these bills are positive, while others would further deteriorate are business climate and reduce job opportunities. The measures include:

- **SB 27** An Act Limiting State Bond Authorizations (Support with modifications)
- **SB 432** An Act Concerning A Review Of Tax Credits (Support if modified)
- **SB 443** An Act Concerning The Cancellation Of Unissued Bond Fund Authorizations (Support)
- **SB 478** An Act Concerning Intra-Corporation Payments To Related Entities (Oppose)
- **SB 484** An Act Concerning The Governor's Revenue Plan (Oppose in part)
- **SB 485** An Act Concerning Tax Fairness (Oppose)
- **HB 5087** An Act Concerning Fiscal Notes (Support with Modifications)
- **HB 5534** An Act Establishing A Revenue Accountability Commission (Support if modified)

SB 27 An Act Limiting State Bond Authorizations

CBIA supports SB 27, An Act Limiting State Bond Authorizations. This bill, in part, adds a new section to the state bonding statutes that, if adopted, would result in the cancellation of certain old bond obligations where the State Bond Commission has not allocated monies after five years of authorization.

Connecticut's fiscal condition continues to deteriorate even as the economy shows some signs of recovery. The state has significant unfunded liabilities, a projected budget deficit for this fiscal year and the next two, and considerable bond obligations. CBIA supports the Governor's proposal to cancel certain old bond obligations because we believe it is a step toward getting the state's fiscal house in order.

The Treasurer's office has informed CBIA that it has offered substitute language to address some concerns with SB 27. CBIA has reviewed the alternative language that the Treasurer's Office has provided you, and we support their recommended changes.

We urge you to support SB 27, An Act Limiting State Bond Authorizations, and the modifications suggested by the Office of the State Treasurer.

SB 432 An Act Concerning A Review Of Tax Credits

CBIA urges modifications to SB 432. This measure adds new tax credit review and reporting sections to the Department of Economic and Community Development and the department of Revenue statutes. CBIA supports the review of tax credits but believes that the review set forth in SB 432 should be modified, as suggested below, to make the review and analysis more effective. This will afford Connecticut the opportunity to become more competitive from a business and jobs perspective.

First, we recommend that the review and analysis of all tax credits be conducted by the Department of Economic and Community Development. Next, the review and analysis shall include: (1) the creation of a competitive matrix comparing Connecticut's financial assistance and tax credit programs with those of all other states, and (2) an assessment of the impact of Connecticut's financial assistance and tax credit programs on Connecticut's residents and prominent industries. The impact assessment should include input from an advisory commission made up of Connecticut's industry sectors, something that New York State has done. The advisory commission should be chaired by the Commissioner of the Department of Economic and Community Development and it should review the tax credits based upon the following considerations:

1. The increased relative competitiveness of Connecticut compared to other states,
2. The relative job retention, job growth and overall resident employability in Connecticut,
3. The overall impact of capital investment in Connecticut, and
4. The overall multiplier effect in Connecticut.

Finally, we believe the commission should report to the Business Tax Credit and Tax Policy Review Committee once every five years regarding the efficacy of Connecticut's financial assistance and tax credit programs based upon the four criteria set forth above.

Below you will find substitute language to accomplish the review and analysis recommendations discussed above.

Amendment to SB 432

Strike section 1 in its entirety and insert the following in lieu thereof:

“Subsection (a) of section 32-1m of the 2010 supplement to the general statutes is amended by adding subdivisions (21), (22) and (23) as follows: (*Effective July 1, 2010*):

(NEW) (21) With regard to any new or existing financial assistance program administered by the department, or any tax credit program administered by the Department of Revenue Services, the department shall conduct a review and analysis of such financial assistance and tax credit programs. The review and analysis shall include (a) the creation of a competitive matrix comparing Connecticut’s financial assistance and tax credit programs to those of all other states, and (b) an assessment of the impact of Connecticut’s financial assistance and tax credit programs on Connecticut’s residents and prominent industries, which must include input from Connecticut’s industry sectors that have representatives serving on the Department of Economic and Community Development Tax Credit Advisory Commission created in subdivision (22) hereof.

(NEW) (22) There is hereby created a Department of Economic and Community Development Tax Credit Advisory Commission to conduct the review and analysis of Connecticut’s financial assistance and tax credit programs pursuant to subdivision (21) hereof. The membership of such commission shall include the Commissioner of the Department of Economic and Community Development as well as a representative from each of Connecticut’s industry sectors who is an owner or executive of a business involved with such industry. The commissioner of the Department of Economic and Community Development shall serve as the chairperson of the commission.

(NEW) (23) The commission shall report to the Business Tax Credit and Tax Policy Review Committee, established pursuant to section 12-217z of the general statutes, once every five years regarding the efficacy of Connecticut’s financial assistance and tax credit programs based upon the following considerations:

- (a) The increased relative competitiveness of Connecticut compared to other states; and
- (b) The relative job retention, job growth and overall resident employability in Connecticut; and
- (c) The overall impact of capital investment in Connecticut; and
- (d) The overall multiplier effect in Connecticut.

SB 443 An Act Concerning The Cancellation Of Unissued Bond Fund Authorizations

CBIA supports SB 443, An Act Concerning The Cancellation Of Unissued Bond Fund Authorizations. This measure would result in the cancellation of certain unissued authorizations in inactive bond funds.

Connecticut's fiscal condition continues to deteriorate even as the economy shows some signs of recovery. The state has significant unfunded liabilities, a projected budget deficit for this fiscal year and the next two, and considerable bond indebtedness. One step the state can take to begin to address some of its fiscal problems would be to adopt this measure.

We urge you to support SB 443, An Act Concerning The Cancellation Of Unissued Bond Fund Authorizations.

SB 478 An Act Concerning Intra-Corporation Payments To Related Entities

CBIA opposes SB 478, An Act Concerning Intra-Corporation Payments To Related Entities. This amends CGS 12-218c (c)(1) by removing language that allows a corporation to show by clear and convincing evidence that interest on royalty payments should not be added into the calculation of a corporation's net income. Under current law, interest on royalty payments that would otherwise be deductible must be added back into a corporation's calculation of its net income. Section (c)(1) provides an exception to the add-back if a corporation can show by clear and convincing evidence that adding back the interest would be unreasonable. The Commissioner of Revenue Services would have to agree to the exception in writing.

CBIA urges you to reject SB 478 as is no legitimate purpose for this change. The exception language is necessary to protect the state. Without this language, a taxpayer would have no recourse other than litigation to guard against double taxation or some other unreasonable outcome. In this case the entire statute would likely be ruled unconstitutional, putting a significant line item for the state at risk. Every state that we are aware of that has a royalty add-back statute has similar language, or a treaty exception, providing an exception under certain circumstances. In fact, our language is based on the language in the Massachusetts statute.

It is important to remember that the standard that must be met is "clear and convincing evidence." This is the highest standard in civil cases (equivalent to the "beyond a reasonable doubt" standard in criminal cases) and the state is therefore well-protected. Furthermore, the exception can only be granted if it is agreed to in writing by the Commissioner of Revenue Services, thereby further protecting the state's interest.

The statutory exception is needed in cases of double taxation, or if the related entity is also in Connecticut, or if the inclusion of royalty interest in the net income calculation would be unconstitutional. The current statute is working well to avoid the improper use

of royalty payments to avoid Connecticut tax and should not be changed. CBIA urges you to reject SB 478.

SB 484 An Act Concerning The Governor's Revenue Plan

CBIA opposes two components of SB 484, An Act Concerning The Governor's Revenue Plan. These sections include the securitization of certain energy funds and the imposition of a hospital tax.

CBIA opposes the provisions in this bill that remove limitations in current law regarding additional securitization of charges on electric bills. Those funds, collected through rates of electric distribution companies, are used to fund energy efficiency and other programs which are extremely important to the business community. We urge you to reject efforts to securitize the fund.

CBIA also opposes Section 10 of this measure which imposes a 3.25% tax on hospital gross revenues. The intention behind this new tax presumably is for the state to receive more federal matching dollars. However, the only way this would not raise health care costs is if the tax were truly revenue neutral to hospitals on a dollar for dollar basis.

Unfortunately, there are no assurances that the federal money will be used to reimburse the hospitals and thus no assurances that hospitals will indeed be made whole after the tax is imposed on them. Therefore, we oppose the imposition of this tax because it will raise health care costs for all consumers – individuals and businesses alike. This will occur because the cost of the new hospital tax will be shifted directly to health care payers. And since the business community represents one of the largest segments of all health care payers, it will be companies that are forced to shoulder a disproportionate amount of this burden. And it is Connecticut's small businesses that will be hardest hit by this cost increase, making it even more difficult for them to afford health insurance for their employees. As businesses struggle to regain their financial footing and provide their employees with quality health care, imposing a hospital tax is the wrong direction to go and we urge you to reject section ten of the measure.

SB 485 An Act Concerning Tax Fairness

CBIA opposes SB 485, An Act Concerning Tax Fairness, as it would change Connecticut's current corporate income tax structure by requiring combined reporting. Requiring combined reporting is a bad idea for Connecticut for several reasons. First, combined reporting discourages investment. Second, it creates a great deal of revenue uncertainty. Lastly, it is complex and costly. For all of these reasons, SB 485 should be rejected.

Business investment drives job growth and has a significant positive impact on municipal and state revenues. Mandatory combined reporting discourages investment because it illogically distorts a company's net earnings taxed by the state.

Mandatory combined reporting is not a good idea at anytime, but it's especially problematic in the current economic downturn. Connecticut needs certainty where revenues are concerned yet, estimates of the state revenue impact of implementing combined reporting are highly uncertain. When Minnesota adopted combined reporting, the state projected increased revenues of \$63 million (with a range of \$23-103 million). Two years after combined reporting was implemented, the Department of Revenue estimated that there was no change in revenue as a result of mandatory combined reporting.

The impact of mandatory combined reporting on employers' taxes also isn't clear. What is clear is that some employers' taxes will increase and others will decrease. There will be winners and losers.

Proponents of mandatory combined reporting say that the change is needed to close loopholes. This is clearly not the case in Connecticut. In 2003, Connecticut passed a number of modifications to the state corporate income tax, closing any of the supposed "loopholes." Two of the changes made were capping the use of tax credits and adding an interest add-back provision to the state's tax code. So, if the real intent of proposing mandatory combined reporting is—as many proponents claim—to address intercompany payments, Connecticut has already adopted targeted legislation to address that issue.

Mandatory combined reporting is complex and costly. It would require more company personnel to prepare and more state personnel to audit. It also results in lengthy appeals and costly litigation. In combined reporting states, an employer may not receive a final determination of taxes for a given year until 20 or more years after the fact. That is simply unacceptable.

Finally, California is the state most associated with combined reporting, and their budget problems are astronomical and their business climate is less than friendly. Combined reporting is not the panacea its proponents profess it to be.

CBIA urges you to reject SB 485.

HB 5807 An Act Concerning Fiscal Notes

CBIA supports HB 5807, An Act Concerning Fiscal Notes. This bill modifies the current requirements where fiscal notes are concerned by requiring fiscal notes include information on the number of public sector jobs created by a bill, as well as when a fiscal note must be prepared.

CBIA urges you modify HB 5807 by deleting the provisions as to when a fiscal note may be dispensed with, which appears in lines 18 through 21. We request this change because the availability of a fiscal note is extremely important and something that should be required for every new program or service.

CBIA urges you to amend HB 5807 as suggested above and support this measure.

HB 5534 An Act Establishing A Revenue Accountability Commission.

CBIA urges modifications to HB5534. This measure calls for the establishment of a new tax credit review commission. CBIA supports review of tax credits, but believes that the review set forth in HB 5534 should be modified, as suggested below, to make the review and analysis more effective thereby and giving Connecticut the opportunity to become more competitive from a business and jobs perspective.

First we recommend that the review and analysis of all tax credits be done by the Department of Economic and Community Development. Next, the review and analysis shall include (1) the creation of a competitive matrix comparing Connecticut's financial assistance and tax credit programs to those of all other states, and (2) an assessment of the impact of Connecticut's financial assistance and tax credit programs on Connecticut's residents and prominent industries. The impact assessment should include input from an advisory commission made up of Connecticut's industry sectors, something that New York state has done. The advisory commission should be chaired by the Commissioner of the Department of Economic and Community Development and it should review the tax credits based upon the following considerations:

5. The increased relative competitiveness of Connecticut compared to other states,
6. The relative job retention, job growth and overall resident employability in Connecticut,
7. The overall impact of capital investment in Connecticut, and
8. The overall multiplier effect in Connecticut.

Lastly, we believe the commission should report to the Business Tax Credit and Tax Policy Review Committee once every five years regarding the efficacy of Connecticut's financial assistance and tax credit programs based upon the four criteria set forth above.

Below you will find substitute language to accomplish the review and analysis recommendations discussed above. CBIA urges you to amend HB 5534 by adopting the substitute language provided below.

Amendment to HB 5534

Strike HB 5534 in its entirety and insert the following in lieu thereof:

"Subsection (a) of section 32-1m of the 2010 supplement to the general statutes is amended by adding subdivisions (21), (22) and (23) as follows: (*Effective July 1, 2010*):

(NEW) (21) With regard to any new or existing financial assistance program administered by the department, or any tax credit program administered by the Department of Revenue Services, the department shall conduct a review and analysis of such financial assistance and tax credit programs. The review and analysis shall include (a) the creation of a competitive matrix comparing Connecticut's financial assistance and tax credit programs to those of all other states, and (b) an assessment of the impact of Connecticut's financial assistance and tax credit programs on Connecticut's residents and prominent industries, which must include input from Connecticut's industry sectors that have representatives serving on the Department of Economic and Community Development Tax Credit Advisory Commission created in subdivision (22) hereof.

(NEW) (22) There is hereby created a Department of Economic and Community Development Tax Credit Advisory Commission to conduct the review and analysis of Connecticut's financial assistance and tax credit programs pursuant to subdivision (21) hereof. The membership of such commission shall include the Commissioner of the Department of Economic and Community Development as well as a representative from each of Connecticut's industry sectors who is an owner or executive of a business involved with such industry. The commissioner of the Department of Economic and Community Development shall serve as the chairperson of the commission.

(NEW) (23) The commission shall report to the Business Tax Credit and Tax Policy Review Committee, established pursuant to section 12-217z of the general statutes, once every five years regarding the efficacy of Connecticut's financial assistance and tax credit programs based upon the following considerations:

- (e) The increased relative competitiveness of Connecticut compared to other states; and
- (f) The relative job retention, job growth and overall resident employability in Connecticut; and
- (g) The overall impact of capital investment in Connecticut; and
- (h) The overall multiplier effect in Connecticut.