



Testimony of Denise L. Nappier

Treasurer of the State of Connecticut

SUBMITTED TO THE LABOR & PUBLIC EMPLOYEES COMMITTEE

FEBRUARY 23, 2010

Senator Prague, Representative Ryan, and members of the Labor and Public Employees Committee, thank you for the opportunity to offer testimony in support of *Raised Bill No. 5201, An Act Concerning Interest Penalties on Late Payment of Assessments to the Second Injury Fund*.

This proposal is a technical amendment to Sec. 31-354(a) which would clarify an ambiguity in the penalty provision for late payment by employers and insurance companies of assessments to the Second Injury Fund. (Please note that there is a typographical error in the raised bill: reference is made to section 31-54 of the general statutes, rather than 31-354.)

By way of background, in 2005 I proposed legislation that reflected the recommendations of the Second Injury Fund Advisory Board and my office that clarified Second Injury Fund's statutes, practices and formulas for assessments. We successfully achieved consensus on a number of important issues which resulted in passage of Public Act 05-199. Among these issues, there was amendment to the interest penalty provision of Section 31-354(a) to provide a late penalty of fifteen per cent or a minimum of fifty dollars on unpaid assessments or surcharges.

Since passage of this act, the Auditors of Public Accounts have construed the current statute to mean that an interest penalty of \$50 dollars is the maximum required by statute. Adding the words "whichever is greater" to Section 31-354 clarifies which penalty is due the Treasurer by those who fail to timely pay the assessment. As a result of this ambiguity, the Second Injury Fund has not imposed any penalties and, consequently, late payments to the Second Injury Fund declined from \$251,000 in Fiscal Year 2005 to \$55,000 in Fiscal Year 2006.

The fiscal impact of this ambiguity continues to worsen. Specifically, in the fourth quarter of FY 2009, the Second Injury Fund collected a total of \$8.9 million in assessments from 473 companies. Of these companies, 78 paid their assessments after the due date. Had the law clearly allowed the Second Injury Fund to impose a 15 percent penalty for late filings, the Fund could have collected approximately \$185,307 in penalties from those companies submitting assessments. In other words, 16.5% of the companies filing assessments with the Fund filed late during the fourth quarter of 2009. As more companies realize that the Fund is not charging an appropriate penalty for late filings and delay their payments, the Fund will not have the necessary funds to provide needed benefits to our injured workers.

Passage of this proposal would ensure that the legislative intent of imposing a meaningful penalty for late payments is realized. This technical change has the support of the Second Injury Fund Advisory Board whose members are representative of the industry.

It bears noting that the Treasury believes that this proposal represents clarifying language that will not impose additional burdens on our business community during these difficult times. I am pleased that during the past eleven years of my administration, we have maintained or reduced the assessment rates on insurers and employers. This was accomplished through prudent management of our claims base and judicious settlement of outstanding claims. The cumulative effect of the rate reductions since 1999 has been a net savings of \$482 million for Connecticut businesses. This also reflects a total reduction of 72.5% in rates assessed for insurance companies and 73.5% for self-insured employers. In these uncertain times, my administration continues to work diligently to pass along savings to Connecticut businesses without compromising any benefits due to Connecticut workers.

For all of these reasons, I urge your favorable consideration of this bill.