



STATEMENT REGARDING
House Bill 5460: AAC Captive Audience Meetings
Labor and Public Employees Committee
February 10th, 2011

The Central Connecticut Chambers of Commerce is the regional Chamber serving the communities of Bristol, Burlington, Farmington, Plainville, Plymouth/Terryville, Southington and Wolcott. Our Membership base contains large scale organizations such as ESPN and the Barnes Group down to the smallest of family owned or single entrepreneur businesses. Although highly different in size and scope every one of our members is focused on how we as a state reverse the tide of negative growth and once again find ourselves as a competitive leader providing job growth and economic security for all residents.

To that extent we urge the legislature to make Connecticut's economic recovery its exclusive priority. Our current situation is not good:

- Currently, Connecticut has the highest deficit per capita in the entire nation compounded by the highest bonded indebtedness.
- We are facing deficits in the next biennium that exceed \$7B, while unfunded public retiree pensions and healthcare hover around \$40B.

Given these enormous obstacles to recovery, let alone growth, any legislation that is irrelevant to the efforts underway to balance the state budget should be deferred until the state is once again on a solid financial footing. In fact, any legislation that exacerbates these conditions by further eroding our competitiveness should be immediately dismissed or rejected by anyone who truly wishes to create jobs in Connecticut.

Considering legislation such as House Bill 5460 which would make Connecticut less competitive and make it difficult for employers to communicate to their employees

regarding the political climate, pending legislation that may affect their employment, charitable giving or other community activities or events is just another step in the wrong direction. Under the National Labor Relations Act, employers must already comply with strict federal regulations regarding employer-employee speech. In 2004, the Connecticut General Assembly considered this concept and chose not to pursue it. In the bill summary, the Office of Legislative Research referenced the existing protections of the NLRA, "The NLRA guarantees the employer's right to express an opinion about unionization as long as the employer does not also threaten reprisal or promise a benefit."

By attempting to frustrate the purpose of existing federal law, House Bill 5460 would further decrease our ability to be competitive in a highly volatile marketplace. The mere concept of this legislation once again sends the wrong message to Connecticut's existing employers that we are not a friendly place for them to remain or expand. We need to go in a new direction. In a world marked by intense global competition for jobs, capital and talent, we cannot overstate the importance of sending yet another anti-growth message to incumbent businesses considering expansion as well as those looking to relocate.

As an economic development and member advocacy organization we ask you to work in cooperation with us and other Chambers to help Connecticut stand out as the place to do business and create jobs, and take steps to help us strengthen our economy for future growth, not weaken it further. Focusing instead on controlled spending and addressing our budget deficits is critical to our ability to retain and attract jobs, and must be priority one.

For all of these reasons, we urge the rejection and defeat of House Bill 5460.



**Testimony
Bart Russell
Executive Director
Connecticut Council of Small Towns (COST)
Before the Labor Committee
February 10, 2011**

**RE: HB-5465 AN ACT CONCERNING FAMILY AND MEDICAL LEAVE
BENEFITS FOR CERTAIN MUNICIPAL EMPLOYEES.**

The Connecticut Council of Small Towns (COST) *opposes* **HB-5465 - An Act Concerning Family and Medical Leave Benefits For Certain Municipal Employees**, which requires municipalities to grant certain ineligible municipal paraprofessionals the right to family and medical leave (FMLA).

In previous years, the Office of Fiscal Analysis identified expansion of FMLA as a potentially costly "state mandate" on municipalities. In fact, the bill would disproportionately impact smaller communities, which may not be able to afford to operate with employees absent for prolonged periods of time. Smaller towns are not in a position to absorb the cost of paying and training a replacement worker for the employee on leave or pay coworkers overtime to share the expanded workload.

This bill will impose significant costs on towns and cities resulting from net labor replacement costs as well as training and supervision for those replacement workers. It also imposes an administrative and staffing burden on our schools and town halls. According to the Society of Human Resource Management, 30% of leave under FMLA is intermittent leave, which is taken sporadically throughout the year, without much, if any, notice to the school system. If a school is unable to find an aide or substitute to fill in, they may have to hire a temporary worker to fill the position while the paraprofessional is gone. Not only will this be costly, it will prove very disruptive for the school system as well as the students.

Under federal law, local government employees must provide at least 1,250 hours of service and have worked for the previous 12 months in order to be eligible for FMLA benefits. This bill amends the federal law and lowers the threshold to 700 hours of service, greatly expanding the number of individuals covered under FMLA. According to the Department of Labor Wage and Workplace Statistics Division, it is estimated that an additional 25,000 paraprofessionals would be eligible for FMLA under this bill, increasing administrative and wage replacement costs to municipalities. Moreover, the annualized ongoing fiscal impacts would continue into the future subject to inflation.

There are also serious concerns regarding how the bill is drafted. Although the proponents of the bill intend it to apply to educator paraprofessionals, as drafted the bill applies without limitation to "paraprofessionals" of any town, city, borough, school

district, fire district, improvement association, or other district or association. The term paraprofessionals may therefore be construed to include other municipal employees.

It is also troubling that the legislation seeks to amend eligibility criteria set by *federal law* with a *state law*. This creates confusion regarding whether federal FMLA regulations, which include special provisions for employees of local education agencies, would be applicable to such paraprofessionals. For example, federal regulations allow leave taken by employees of local education agencies to be prorated based on the average number of hours worked in the 12 weeks prior to the beginning of the leave. It is unclear whether these provisions remain applicable.

In addition, by extending the FMLA to paraprofessionals, HB-5465 opens the door wide open for other municipal employees that do not meet the current eligibility criteria outlined under federal law to request FMLA leave. This sets a very bad precedent and could result in a patchwork of family and medical leave laws that would be cumbersome and costly for municipalities to administer.

Moreover, educator professionals are generally subject to the Municipal Employee Relations Act and, as such, issues involving wage and benefits are subject to collective bargaining. Provisions regarding various aspects of the Family and Medical Leave Act are generally addressed within the scope of such collective bargaining agreements.

COST urges opposition to this bill, which would impose yet another unfunded mandate and financial burden on towns and cities that will further strain local resources. **Given the fiscal challenges facing the state and municipalities, we urge lawmakers to reject passage of any additional unfunded mandates and, instead, support passage of mandate relief measures.**

Therefore, COST urges your *opposition to HB-5465*.



**Public Hearing Written Testimony of
Dennis C. Murphy, Acting Labor Commissioner**

**Labor and Public Employees Committee
February 10, 2011**

Good Afternoon Senator Prague, Representative Zalaski and members of the Labor and Public Employees Committee. Thank you for the opportunity to provide you with written testimony regarding **H.B. #5465 An Act Concerning Family and Medical Leave Benefits for Certain Municipal Employees**. My name is Dennis Murphy and I am the Acting Commissioner of the Department of Labor.

H.B. #5465 amends C.G.S. § 31-51rr, which was originally passed in 2007 to provide family and medical leave rights, as are provided by the federal Family and Medical Leave Act ("FMLA"), to municipal employees who are parties to a civil union. The House Bill seeks to extend similar family and medical leave rights to paraprofessionals who have been employed for at least 12 months by an employer and have worked 700 hours in the year immediately preceding the leave. Since the Connecticut FMLA statute specifically excludes municipalities from coverage, and the federal FMLA only applies to employees who have worked 1,250 hours in the year immediately preceding the leave, H.B. #5465 would seek to provide an FMLA type of right to the thousands of paraprofessionals that are presently ineligible for FMLA leave.

H.B. #5465 provides that qualifying paraprofessionals would be entitled to the same benefits as the federal FMLA without having the benefit of any federal enforcement or a private right of action. Rather, H.B. #5465 charges the Department of Labor with enforcing compliance with the law. H.B. #5465 does not mandate a complaint process for paraprofessionals seeking to enforce any rights that would be provided if the law were to pass. The statutory authority granted to the Department of Labor to hold a hearing on any complaint filed pursuant to the Connecticut FMLA currently does not apply to C.G.S. § 31-51rr and it is not extended in H.B. #5465 to cover that statute. The Department of Labor would have the authority to impose a \$300.00 civil penalty, pursuant to C.G.S. § 31-69a. However, even with this limited ability to enforce the statute, staff will need to understand each provision of the federal FMLA.

Until now, the Department interpreted and enforced only the Connecticut FMLA. Under this bill, the Department will be responsible for enforcing the provisions of the federal FMLA as well.

There has never been a complaint filed under C.G.S. § 31-51rr since its enactment in 2007. At that time, the law was limited to civil union partners. However, this bill opens up the population of potential complainants to the approximately 25,000 paraprofessionals who will be entitled to a federal FMLA type of leave. With the potential of many complaints, the Department may need additional staff, which may include an attorney and an investigator.

As a final note, C.G.S. § 31-51rr(a)(1) should change the language referring to a "party to a civil union" to a "party to a same-sex marriage."

Thank you for the opportunity to provide this testimony. Please feel free to contact me or my staff if you need additional information.

February 10, 2011

Honorable Members of the Labor Committee
Legislative Office Building
Harford, CT 06106

Re: Small Business Opposition to HB-5460, An Act Concerning Captive Audience Meetings

Dear Committee Members:

My name is Rick Willard. I volunteer to serve as Chairman of the Connecticut Leadership Council for the National Federation of Independent Business (NFIB). I am also the owner of GWS Health Services, LLC (formerly Griswold, Willard & Strong) in Wethersfield, a health services and insurance business. Previously I managed our family business, Comstock, Ferre & Co., also in Wethersfield. I have worked for and with small businesses for nearly my entire professional career.

A non-profit, non-partisan organization, NFIB is Connecticut's and the nation's leading small business advocacy group. NFIB's mission is "To promote and protect the *right* of our members to own, operate and grow their businesses." In Connecticut, NFIB represents thousands of small and independent business owners and their workers involved in all types of industries: including manufacturing, retail trade, wholesale trade, transportation, professional services and agriculture. In short, NFIB represents the "Main Street" businesses in every city and town across our state.

Recognizing the vital role that small & independent businesses play in Connecticut's economy, both I and NFIB oppose HB-5460, An Act Concerning Captive Audience Meetings.

This measure would ban employers from talking with their employees at regular, required staff meetings about many issues. Some of these issues include:

- developments at the state Capitol on issues affecting the employees' jobs and workplace;
- government contracts; and
- aspects of the employees' health benefits plan.

This bill would deal a devastating blow to the state's business and economic climates by:

- sending a clear message that Connecticut is not a business-friendly state;
- banning grassroots campaigns; and

- promoting confusion in the workplace over the communication of matters important to every employee, such as proposed legislation, and terms and conditions of employment.

The National Labor Relations Act (NLRA) was created in 1935 in large part because Congress wanted to provide an administrative mechanism to ensure balance in the workplace. Under the NLRA employees already have ironclad workplace protections and the Connecticut Fair Employment Policies Act restricts how employers can communicate with their employees.

For all of these reasons, we do not believe that HB-5460 is necessary.

Small businesses in Connecticut are responsible for creating over 90% of all new jobs in Connecticut during the last ten years. Unfortunately, the state has also witnessed a record number of small businesses closing their doors. While this can be attributed to a variety of economic woes, passage of this measure will reinforce the notion that Connecticut is an unfriendly state to do business.

Thank you for your consideration of my comments, and I ask that you reject HB-5460

Sincerely,

Rick Willard
Chairman, NFIB/Connecticut Leadership Council
GWS Health Services, LLC
365 Silas Deane Highway
Wethersfield, CT 06109
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STATE OF CONNECTICUT
DEPARTMENT OF PUBLIC WORKS



Testimony of Raymond Philbrick
Supervisor, Statewide Security, Department of Public Works
To the Labor Committee
February 1, 2011

House Bill 5174
An Act Concerning
State Employees and Training to Deal With Workplace Violence

Twelve years ago, in the wake of the tragedy that occurred at the Connecticut Lottery in March of 1998, the General Assembly enacted Public Act 99-220, An Act Concerning Security for State Facilities, now codified at Chapter 60a of the Connecticut General Statutes.

The act charged the Department of Public Works (DPW) with developing and then implementing a comprehensive security program for state employees at State-owned and leased facilities. New procedures were initiated and the program remains operational today. It is a responsibility that the DPW undertakes with the utmost seriousness.

One of DPW's first initiatives was to partner with several other agencies, most notably the Department of Administrative Services, the Department of Mental Health and Addiction Services, the Department of Public Safety, and the Office of Policy and Management, including its Office of Labor Relations, and in the preparation of a **workplace violence policy and procedures manual** for use at all state agencies. This manual known as the "Violence in the Workplace Policy and Procedures Manual for Human Resource Professionals" was most recently updated in September of 2010.

The DPW also played an active role in both the development and delivery of the original workplace violence prevention training program that was attended by several hundred human resources professionals. This is an area where we have a demonstrated degree of expertise and given the criticality of this subject matter, it is an area where we are always willing to offer our assistance.

We have gained a tremendous amount of knowledge from our experience in managing numerous workplace violence incidents and agencies seek our assistance and expertise on a regular basis. We have also continued to train on the topic internally and stay up to date on research in the area. We understand that far and away the most effective tool against workplace violence is to maintain open lines of communication and an employee base that is continually educated on the subject. Workplace violence prevention is not a subject that should be taught once and then put on a shelf

somewhere to be forgotten. Rather it should be continually reviewed and reinforced to ensure that employees have a clear understanding of the critical role they can play in preventing these tragedies.

As in most of these cases, including workplace and school violence, there is usually information that comes to light in the aftermath that a colleague or supervisor had a suspicion that something was wrong. It is essential to impress upon all our employees that each agency has a threat assessment team in place to investigate these matters by gathering information, comparing notes and when warranted developing the best course of action to prevent the next tragedy from occurring. The intent is not necessarily to be punitive but rather to intervene early before a situation spirals out of control. Providing our employees with a basic understanding of the early warning signs and whom to contact to report these types of concerns is paramount to maintaining a safe and secure work environment for everyone.

The Department of Public Works has over a decade of experience administering the statewide workplace violence prevention program and stands ready to assist the committee with any refinements to that program that it deems appropriate to enact. If the intent is to codify our existing program, with minor adjustment, we would assume this could be accomplished within existing resources. Thank you for the opportunity to submit this testimony.

For further information, please contact:

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TESTIMONY OF THE

GREATER DANBURY CHAMBER OF COMMERCE
MILFORD CHAMBER OF COMMERCE
NORTHWEST CONNECTICUT CHAMBER OF COMMERCE
CONNECTICUT COALITION OF PROPERTY OWNERS
ALLIANCE OF CONNECTICUT YMCAS
LUMBER DEALERS' ASSOCIATION OF CONNECTICUT
CONNECTICUT MESSENGER COURIER ASSOCIATION

BEFORE THE LABOR & PUBLIC EMPLOYEES COMMITTEE
3:00 PM, TUESDAY, FEBRUARY 1, 2011
ROOM 2E, LEGISLATIVE OFFICE BUILDING
HARTFORD, CONNECTICUT

Good afternoon, my name is Marshall Collins. I am appearing today in my capacity as Counsel for Government Relations for the above referenced organizations (hereinafter the "Organizations"). Collectively they represent approximately 3,500 employers in Connecticut. They include both for profit and not-for-profit employers.

I am here today to state their **opposition to HB 5460 AAC Captive Audience Meetings** and **SB 798 AA Requiring Double Damages Be Awarded In Civil Actions To Collect Wages.**

HB 5460 AAC Captive Audience Meetings is not a concept new to the General Assembly. For good reasons it has failed to pass numerous times and it is certainly not an idea whose time has come. To the contrary, it would send a message contrary to what was heard in the recent elections here in Connecticut. Candidates from both parties spoke about the need to create jobs and that Connecticut is open for business. How would this create one job and how would it encourage one company to either move to or stay in Connecticut?

HB 5460 is so poorly drafted that it invites litigation, particularly against smaller employers without the benefit of full time legal counsel. Section 1(b) prohibits an employer from requiring employees to attend:

*"...an employer-sponsored meeting ...the primary purpose of which is to communicate the employer's opinion concerning ...**political matters...**"* (Emphasis added).

Political matters is more than broadly defined in Section 1(a) (6):

“Political matters includes political party affiliation or the decision to join or not join any lawful political, social or community group or activity or any labor organization.”

Employers that required employees to attend any such meeting would be subject to civil action and among other penalties treble damages, attorneys’ fees and costs.

If Electric Boat had held a meeting for its employees to discuss the need for them to contact their Congressman and to tell them the importance of not closing the Sub Base in Groton, they would have violated the law.

If a non-profit that is dependent upon funding from the United Way asked its employees to listen to the United Way’s planned giving appeal, they would have violated the law.

Then if an employee that refused to attend either of these meetings didn’t receive the raise that they expected, they could allege retaliation for not attending. The employer would incur thousands of dollars of legal expenses to defend itself.

These situations are not “business friendly.” They do not encourage companies to grow or come here.

If the objective is to prevent employers from talking to their employees about union organizing campaigns, the bill also runs afoul of the National Labor Relations Act.

HB 5460 should not be favorably reported.

SB 798 AA Requiring Double Damages Be Awarded In Civil Actions to Collect Wages also is unnecessarily punitive and should be rejected.

Current law already permits courts to award such double damages. However, such awards are permissive rather than mandatory. SB 798 changes the language from “may” recover...to “shall” recover...“twice the full amount of such wages with costs and such reasonable attorney’s fees” There is no justification for removing the court’s discretion. Passage of SB 798 would be a further step in declaring that Connecticut is not a desirable place to do business.

SB 798 should be rejected.

This completes my testimony. Thank you for your consideration.



Property Casualty Insurers
Association of America

Shaping the Future of American Insurance

STATEMENT

PROPERTY CASUALTY INSURERS ASSOCIATION OF AMERICA (PCI)

February 1, 2011

S.B. 23, An Act Concerning Employees Injured Between 1993 and 2006 and Social Security Offsets Under the Workers' Compensation Act

The Property Casualty Insurers Association of America (PCI) appreciates the opportunity to comment on S.B. 23 which would require an increase in workers' compensation payments to individuals whose payments were offset as a result of receiving Social Security between 1993 and 2006. PCI is a national trade association representing over 1,000 insurance companies. In Connecticut, PCI members write 36% of the workers' compensation insurance in the state. PCI opposes this legislation because it would exacerbate the problem of rising workers' compensation costs in Connecticut and the retroactive impact of this proposal would result in an unfunded liability for workers compensation insurers and establish a harmful precedent.

The Connecticut Workers Compensation system, as it is currently structured provides a high level of benefits to injured employees, supported by high employer costs. Higher costs do not always translate into higher patient satisfaction or better return to work rates. In addition, a competitive workers compensation market is critical to Connecticut's economic viability, especially during this economic downturn.

Employers and their employees mutually benefit from a system that is designed to provide quality medical care, wage replacement and permanent disability benefits, when warranted, to injured employees. The system is designed to try to balance the need to control employer costs without infringing upon employee benefits.

However, workers compensation costs are becoming mission critical for business owners. The Oregon Department of Commerce & Business Services provides a biannual "Premium Rate Ranking." This report provides employers with information on individual state costs. In 2010, Connecticut's index rate of \$2.55 placed our state as the 6th highest cost of 51 jurisdictions analyzed. The previous study by Oregon in 2008 had placed Connecticut at the 20th highest. Collectively, we need to control costs where we can so that we can continue to provide quality benefits to our injured workers.

This bill would apply the provisions of Public Act 06-84 which prospectively eliminated the workers compensation social security offset retroactively and, if enacted, would mark a troublesome divergence from the way that workers compensation benefits are calculated. The calculation of benefit amounts is generally determined by the prevailing law at the time of injury. If this bill is enacted, a retroactive precedent will be established in regard to the calculation of benefits which would increase costs for employers. In the future, there could be changes which could potentially

decrease benefits; will employers and insurers be allowed to retroactively apply those changes? Predictability is a key component to maintaining balance in the workers compensation system. This change would upset the balance in the system.

Additionally, because workers compensation premiums are determined on a prospective basis, the retroactive application of Public Act 06-84 would create an unfunded liability for employers and insurers. If this legislation were to be enacted, we would submit that insurers should have the ability to recalculate experience modifications and apply the changes/charges retroactively to the appropriate policyholder. Also, the Workers Compensation Commission would need to address Second Injury claims which would be difficult due to the repeal of the Second Injury Fund in 1995.

In summary, this bill proposes escalating costs to the workers compensation system and creates significant uncertainty for employers. If enacted, this bill could have dire consequences in Connecticut's ability to sustain employers and to attract new employers to the state.

For the foregoing reason, PCI urges your Committee to not favorably advance S.B.23.