



STATEMENT OF AT&T CONNECTICUT

Raised House Bill No. 6406

An Act Concerning Employer's Responsibilities and Employee Rights Before the Joint Committee on Labor and Public Employees

February 24, 2011

Proposal:

Raised House Bill No. 6406 would require employers to provide non exempt or hourly employees who have worked at least a minimum number of hours for the employer notice regarding specified entitlements and benefits resulting from statute or collective bargaining agreements. Entitlements and benefits under the bill include paid sick leave, maternity leave, vacation time, employee discounts, family and medical leave, and worker's compensation benefits. Employers are prohibited from taking retaliatory personnel action or discriminating against an employee because the employee requests or uses these entitlements and benefits or files a complaint with the Labor Commissioner alleging the employer's violation of the act. "Retaliatory personnel action" is defined as "any termination, suspension, constructive discharge, demotion, unfavorable reassignment, refusal to promote, disciplinary action, warning, whether verbal or written or other adverse employment action taken by an employer against an employee." Employers who are found by the Labor Commissioner to have violated the act are liable for a civil penalty, and the Labor Commissioner may award an affected employee "all appropriate relief."

Comments:

The problem intended to be addressed by Raised House Bill No. 6406 is not clear, and its potential application appears to be unlimited. As drafted, the bill could be used to penalize an employer for taking good faith measures necessary to operate its business and, as a result, would discourage employers from offering benefits due to the increased liability associated with administering those benefits. Under the very broad definition of "retaliatory," any negative consequence might be considered to be retaliatory and subject an employer to penalties and other sanctions; for example, telling an employee they cannot take vacation time when they request due to the needs of the business or imposing sanctions because an employee committed tuition or FMLA fraud, or used a sick day to go fishing on a charter boat.

In addition, Raised House Bill No. 6406 would impose requirements regarding benefits which are subject to the federal Employee Retirement Income Security Act (ERISA), namely, medical, prescription drug, dental and vision coverage. It is well settled that any state-law that duplicates, supplements, or supplants ERISA conflicts with the clear congressional intent to make ERISA remedies exclusive and is pre-empted. As to these benefits, the law would be ineffective.

Conclusion:

AT&T opposes Raised House Bill No. 6406 and urges the Committee to reject it.