

Testimony of Eric W. Gjede
Assistant Counsel, CBIA
Before the Labor Committee
Hartford, CT
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Testifying in Opposition to SB-910
An Act Concerning An Employee Access To Personnel Files

Good Afternoon Senator Osten, Representative Tercyak, and members of the Labor and Public Employees Committee. My name is Eric Gjede and I am assistant counsel at the Connecticut Business and Industry Association (CBIA) which represents more than 10,000 large and small companies throughout the state of Connecticut.

CBIA opposes SB-910 because it imposes significant administrative burdens on the business community. Furthermore, it subjects all employers to a significantly increased threat of penalties and litigation.

CBIA takes issue with several aspects of the bill as it is currently drafted:

1. Employers will be penalized if they do not provide the contents of a personnel file within a specified number of days from the receipt of a written request from an employee. However, there is no way to determine the date the employer received the request. If the request is mailed to the employer, unless a return receipt is requested, neither party knows when their deadline expires or whether the employer has even “received” the notice.
2. The bill also does not address which person at a business needs to receive the written request from the employee. If the employee sends their notice to a supervisor who is unaware of the timeline in this bill, and they fail to timely pass along this notice to the appropriate person, then the business is in violation of the law and subject to penalty.
3. The three and ten day deadlines are, in most circumstances, impossible for businesses to comply with due to personnel shortage and document location. Employees providing HR functions in small companies often have many other duties to perform. Asking them to disregard other duties to comply with this short time frame means other responsibilities go unfulfilled. HR professionals in larger businesses often have off-site document storage. They also may have pieces of an employee’s personnel file stored in multiple locations which makes them difficult to compile in time. For example, an employer may have performance evaluations stored with an employee’s immediate supervisor, while disciplinary actions may be stored with the HR department.
4. Disciplinary action is not defined, and is therefore completely subjective. What one person deems an email containing a “coaching suggestion” may be considered a written “disciplinary action” by another. If the employer fails to provide a copy of that email upon request, or notify the employee they have a right to provide a response statement, they could be in violation of this law.

If the committee is looking to defined “within a reasonable time” in section 31-128b, then the business community would suggest 30 days is a more appropriate timeframe to comply with the requests to inspect and copy for both current and prospective employees. Additionally, we would also suggest the written requests be delivered by first class mail with return receipt to ensure all parties know when the employer actually received the employee’s written request.

However, even with the suggested modifications, the business community is concerned about SB-910 because it imposes new legal liability on the shoulders of Connecticut businesses. Requiring an employer to provide a copy of any “documented notice of termination” as required in section 1, or the opportunity for an employee to “submit a written statement explaining his or her position” on a notice they are being terminated, as required in section 2, is only inviting future litigation for employers that are unaware of these obligations.

The protections provided to employees under the current law have been working so well that they have not needed to be modified since 1980. The labor department has been able to enforce the current law and go after the “bad” employers refusing to provide personnel documents when requested.

We urge the committee to oppose SB-910 because the employees are already sufficiently protected under the current statute.