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Raised Bill 911, An Act Concerning Civil Actions to Collect Past Due Payments to Employee Welfare Funds

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Public Hearing, Committee on Labor and Public Employees

Connecticut Construction Industries Association, Inc. (CCIA) represents the commercial construction industry in the state and seeks to advance and promote a better quality of life for all citizens in the state. Formed over 40 years ago, CCIA is an organization of associations, where all sectors of the commercial construction industry work together to advance and promote their shared interests. CCIA is comprised of more than 300 members, including contractors, subcontractors, suppliers and affiliated organizations representing many sectors of the construction industry.

AGC of Connecticut is the building division of CCIA, representing 150 commercial, industrial, and institutional construction contractors, subcontractors, material suppliers and professionals serving the Connecticut construction industry. AGC of Connecticut is a chapter of AGC of America.

Raised Bill 911 would make employers personally liable for past due payments to employee welfare funds and to require payments to employees welfare fund to be considered "wages." CCIA and AGC oppose this bill because federal ERISA law, which governs Taft-Hartley multiemployer plans, preempts such state statutes.

CCIA appreciates the fact that employees deserve to know that the benefits that they earn are going to be paid into their trade's multiemployer benefit fund on a timely basis. The collective bargaining agreements that our signatory contractors sign with the unions all contain payment provisions which require timely payment of wages and benefits as well as penalties for delinquencies. Therefore, Taft-Hartley benefit funds are well-equipped under federal law to pursue any delinquent payments to ensure that employees' benefits are protected.

The primary problem with this bill is that its provision to make any employee of a company who fails to make wage and benefit payments to an employee welfare fund personally liable for those payments is similar to a New York law that was ruled by a federal court to be preempted by ERISA. In the case, Romney v. Ljn, 94 F.3d 74 (1996), the United States Court of Appeals for the Second Circuit ruled that a New York statute which held shareholders of a corporation liable jointly and severally for all debts owed to employees, including amount owed to benefit funds, was preempted by ERISA.

The court noted in its decision, "Congress' purpose in providing for preemption in ERISA was to relieve employers from having to comply with differing regulatory requirements in differing states, lest burdens of such compliance introduce considerable inefficiencies, which might lead those employers with existing plans to reduce benefits, and those without such plans to refrain from adopting them."

Thank you for your consideration. If you have any questions, please contact Don Shubert or John Butts at 860-529-6855.

