



Office of the Attorney General
State of Connecticut

TESTIMONY OF

ATTORNEY GENERAL GEORGE JEPSEN

BEFORE THE COMMITTEE ON LABOR AND PUBLIC EMPLOYEES

MARCH 3, 2016

Good afternoon Senator Gomes, Representative Tercyak, and distinguished members of the Committee. Thank you for the opportunity to present testimony regarding House Bill 5449, *An Act Concerning Liability for Unfair Insurance Practices in Workers' Compensation Claims*.

My Office represents the Department of Administrative Services in defending workers' compensation claims made by state employees and the Connecticut Second Injury Fund in defending workers' compensation claims brought by private citizens whose employers failed to maintain workers' compensation insurance coverage. We currently handle several hundred claims filed every year in the Workers' Compensation Commission's eight district offices around the state.

HB 5449 proposes to amend state law in a number of problematic respects. First, it creates a new cause of action in the Superior Court for unreasonable contest and undue delay in the payment of workers' compensation benefits. Such conduct is already addressed, however, by Section 31-300 of the General Statutes. That statute gives the Workers' Compensation Commission exclusive jurisdiction over such conduct and provides for a range of penalties, including: 1) an award of interest at the rate of 10% per year as well as a reasonable attorney's fee in cases in which there has been an unreasonable delay in the adjustment of workers' compensation indemnity benefits; 2) an award of interest at the rate of 12% per year as well as a reasonable attorney's fee in cases in which there has been undue delay in the payment of workers' compensation benefits; and 3) an award of a reasonable attorney' fee in cases where the claimant prevails and the Commissioner finds that the employer or insurer has unreasonably contested liability. Thus, to a significant degree, HB 5449 is redundant of the existing provisions of Section 31-300, which permit Workers' Compensation Commissioners to sanction employers and insurers for the same conduct addressed in HB 5449.

Second, the proposed amendment creates a new and duplicative venue for the adjudication of these claims. As presently drafted, HB 5449 would permit claimants to bring claims in the Workers Compensation Commission, the Superior Court, or both. Allowing claimants to bring similar claims in multiple venues would unduly burden attorneys on both sides of such controversies, including the attorneys in my Office. The adjudication of these types of claims is best left to the province of Workers' Compensation Commissioners, who have a specialized expertise in this area.

Third, HB 5449 expands significantly upon the types and amounts of damages claimants may recover if aggrieved by unreasonable contests or delays in the payment of compensation. These new remedies likely would lead to additional claims and higher awards, both of which would have potentially significant fiscal ramifications for the State.

While I trust the proposal is well-intentioned, I believe it is unnecessary and could have significant fiscal implications for my Office and the State budget. Thank you once again for the opportunity to testify about this matter.