Testimony of Assistant Deputy Treasurer Maria Greenslade

SUBMITTED TO THE LABOR AND PUBLIC EMPLOYEES COMMITTEE
MARCH 3, 2016

Greetings, Senator Gomes, Representative Tercyak, and members of the Labor and Public Employees Committee. Thank you for the opportunity to submit testimony concerning Raised House Bill No. 5449, An Act Concerning Liability for Unfair Insurance Practices in Workers' Compensation Claims. My name is Maria Greenslade and I am the Assistant Deputy Treasurer for the Second Injury Fund and Unclaimed Property in the Office of State Treasurer Denise L. Nappier.

As drafted, House Bill 5449 negatively impacts the Second Injury Fund and Connecticut businesses and employers. We recommend that the bill not be adopted.

The Second Injury Fund is a state operated workers' compensation insurance fund established in 1945 to discourage discrimination against veterans and encourage the assimilation of workers with a pre-existing injury into the workforce. Public Act 95-277 closed the Fund to new "second injury" claims for injuries sustained on or after July 1, 1995.

Today the Fund continues to be liable for claims transferred to the Fund prior to 1995 as well as claims involving uninsured employers, reimbursement of cost of living adjustments for certain injuries or dependent widow's disability benefits and certain reimbursement to employers of any worker who had more than one employer at the time of the injury. Where possible, the Fund settles claims, which ultimately reduces the burden of Second Injury Fund liabilities on Connecticut taxpayers and businesses. The Fund is financed by assessments on all Connecticut employers. State Treasurer Nappier, as Custodian of the Second Injury Fund, establishes the assessment rate on or before May 1 of each year.

The Fund does not administer workers' compensation claims for state employees. The Department of Administrative Services is responsible for managing such claims.

House Bill 5449 permits a claimant to file a claim before the Workers' Compensation Commission and simultaneously file a claim in court whenever the claimant believes that the employer or insurer "unreasonably contested liability" or that "payments or adjustments of compensation" have been "unreasonably delayed". The Second Injury Fund is considered to be "in the shoes of an employer or insurer" and could be party to such court action if the Fund raises defenses which the claimant believes to be an "unreasonable contest of liability".

The purported intent of the bill is to impose financial disincentive to individuals and organizations for incongruous discharge of their responsibilities as administrators of workers' compensation benefits. Unfortunately, as drafted the bill includes vague terminology that could allow a claimant to drive up the cost of settling disputed cases by threatening to file a claim in court. This could be done prior to or simultaneous to the Workers' Compensation Commission determining if the claim is covered under the Workers' Compensation Act and determining benefits due the injured worker. The bill also allows a court to award damages in excess of the award contemplated by the Workers' Compensation Commission, including damages for pain and suffering and attorney fees.

Passage of this bill will introduce uncertainty into the Second Injury Fund's ability to accurately project payments and, in turn, set the assessment rates on Connecticut businesses. For the past seventeen years Treasurer Nappier has eased the assessment burden on businesses without compromising any benefits due to injured workers. During her seventeen years in office, Treasurer Nappier has either reduced or maintained assessment rates each year – the longest period of time without a rate increase in the Fund's history. The cumulative savings to Connecticut businesses since 1999 is estimated at $1.1 billion including $110 million in projected savings for Fiscal Year 2016. As of June 30, 2015 the Fund's open claim inventory was 2,899. Passage of this bill will destabilize the sound and stable methodology of setting the assessment rates while undermining the workers' compensation system in Connecticut and could harm businesses.

House Bill 5449 impairs the Fund's ability to thoroughly adjudicate claims for workers' compensation benefits in accordance with state law. Furthermore, section 31-300(a) of the general statutes currently has sanctions available to aggrieved claimants. For these reasons the Second Injury Fund opposes passage of House bill 5449.