

**Statement
Insurance Association of Connecticut
Labor and Public Employees Committee**

March 8, 2016

**HB 5591 AN ACT CREATING THE CONNECTICUT RETIREMENT
SECURITY PROGRAM**

My name is Dallas Dodge, and I serve as Counsel to the Insurance Association of Connecticut (“IAC”). The IAC is a trade organization that represents the insurance and financial services industry in Connecticut, and our members include some of Connecticut’s leading financial and retirement security companies. Although the IAC strongly supports the underlying purpose of HB 5591 – to increase the retirement savings for all workers – we believe the state should work in partnership, not competition, with private industry to achieve this goal. For this reason, the IAC opposes House Bill 5591, **An Act Creating the Connecticut Retirement Security Program.**

For over a century, Connecticut has been a worldwide leader in the insurance and financial services industry. Today, the industry remains one of the state’s most important economic drivers, employing more than 120,000 workers and last year accounting for more than \$36 million of Connecticut’s Gross Domestic Product. At a time when Connecticut’s economic recovery continues to lag behind the rest of the country and its business reputation has suffered a number of high-profile setbacks, state government cannot afford an expensive new financial experiment that would compete with one of its core industries.

Every day, financial experts in the insurance and financial services industry work hard to help people from all walks of life save for retirement. Our member companies

offer a wide variety of retirement investment solutions, and they compete aggressively to offer their services to anyone who can afford to save for retirement. HB 5591 would not only put the state in direct competition with the insurance and financial service industry, it would also give the state several major competitive advantages over the private sector.

These competitive advantages are formidable. For instance, the state would have a built-in and captive customer base, as employers without existing plans would be required to enroll their employees in the state-run plan. Some employers might even choose to drop their existing retirement plans in favor of the state-run plan. Finally, HB 5591 is intended and designed to avoid certain costly federal laws and consumer protections, meaning that the state-run plan would not be required to bear many of the regulatory costs of private sector retirement plans.

There is also a question of whether a state-run plan is even legal under federal law, and there is a very real risk that a court would rule that the plan is preempted by the federal Employee Retirement Income Security Investment Act (“ERISA”).

ERISA is a federal law that sets minimum standards for most employee sponsored pension and retirement plans, and it explicitly preempts state laws relating to private-sector plans. Although the U.S. Department of Labor (“DOL”) recently drafted a rule that would create a “safe-harbor” for plans like the one that would be created under HB 5591, the DOL rule has not yet been formally adopted. Many legal experts believe that the draft rule does not pass constitutional muster and will eventually be overturned by federal courts. Such a result would be extremely problematic, as the state’s entire investment in creating the Connecticut Retirement Security Authority could be wasted.

The question of preemption raises the issue of litigation— how much will it cost and who will pay for it? There is a likelihood that if HB 5591 is enacted, the state will be sued on the basis that the law is preempted by ERISA. Such complex litigation could drag on for years and, as a matter of first impression, could go as far as the U.S. Supreme Court. The cost of litigation would have to be borne by either the state or plan-participants. Even if a state-run plan is advisable as a matter of policy, prudence dictates that, before moving forward, the state should wait until the DOL rule is officially adopted and has withstood judicial scrutiny.

Again, the IAC and our member companies share your goal of increasing retirement savings for all workers. Given the above concerns, the Committee may wish to consider a partnership with private industry. One such option would be a program similar to one recently passed in Washington State, the “Washington Small Business Retirement Marketplace.” The Washington State program is a state-run digital “marketplace” that will eventually connect private sector employers to existing retirement plan vendors. The program is not dissimilar to the health insurance exchanges created under the Affordable Care Act, where the state ensures the products offered on the “marketplace” meet certain standards before being offered to the public. Having already proven itself to be a national leader in this arena with the success of its own AccessHealthCT, we are confident that Connecticut could achieve similar success with the creation of an employer exchange for retirement savings plans. A small business retirement marketplace would also avoid many of the unanswered legal questions regarding ERISA and the preemption of a state mandate on employers.

Thank you for the opportunity to testify.

