



**TESTIMONY OF  
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SUBMITTED TO THE  
LABOR AND PUBLIC EMPLOYEES COMMITTEE  
Tuesday, March 15, 2005**

**SB 1274, An Act Concerning Companies That Violate State Labor Or Employment Laws**

The Connecticut Hospital Association (CHA) appreciates the opportunity to submit testimony concerning **SB 1274, An Act Concerning Companies That Violate State Labor Or Employment Laws.**

CHA and its members support the enforcement of existing federal and Connecticut laws designed to protect employees' rights. As drafted, however, SB 1274 would go beyond any permissible legislative remedy scheme by creating a harsh, cumulative and unconstitutional punishment for employers that bears no rational relationship to the underlying infraction.

The bill is fraught with legal infirmities. First, it is unconstitutionally vague. Due process requires that laws be sufficiently clear so that defendants, even in civil actions, can know the parameters of the law to allow them to plan their affairs. SB 1274 does not satisfy this standard. It is unclear as to whom it pertains; the types of compensation or other forms of financial payments included within the intended meaning of "financial assistance" is uncertain; and whether the initial decision of an agency in a contested case can be determinative of a business's right to maintain financial assistance is also unclear.

Second, even putting aside the concern that the bill is unconstitutionally vague, the bill also violates the right to a civil jury trial, which is a virtually insurmountable right that must be observed when civil damages are being assessed. Although administrative proceedings are available to resolve certain employment related claims, the Connecticut Constitution, Article 1, Section 19, as well as the Seventh Amendment to the United States Constitution, dictate that a jury trial is required when civil money damages are assessed. This bill attempts to assess those damages, but fails to meet the fundamental principle of a right to a jury trial.

Third, the bill would apply only to business organizations that utilize, or are owned by, communicator lobbyists. Singling out legitimate businesses that use communicator lobbyists to represent them before the government will undoubtedly lead to meritorious constitutional challenges based on equal protection, First Amendment rights relating to

free speech and the right to petition the government, as well as due process relating to the State's ethics laws.

In short, the law invites complex legal challenges, and certainly most large industries in Connecticut and their trade associations would be forced to challenge the law on these, and similar grounds, in each and every application of employment law where there was a risk of a finding against them. Increased litigation will certainly result because employers will be forced, with each new employment claim, to challenge the double-penalty and lack of appropriate due process for revoking funds. Such challenges would generate expensive and protracted administrative proceedings, trial level appeals, and appellate level appeals in both state and federal courts. Settlements would not be an option. Final disposition of each matter by a court of last resort would likely take several years. In the interim, employers and employees would have invested substantial resources on prosecuting and defending these ancillary issues, when the substantive issues addressed in the existing labor and employment laws should be the focus.

SB 1274 is an extreme penalty that would cripple many of Connecticut's largest industries and risk substantial harm to Connecticut's business climate, creating a substantial barrier to incoming business and a major incentive for existing businesses to leave the state. If the labor and employment laws currently in place are failing to meet particular or practical needs of Connecticut's workforce, the most direct and more effective approach would be to address those specific issues. SB 1274 paints with too broad a brush to be effective or lawful.

Thank you for your consideration of our position.

PJM:jaf