

Legislative History for Connecticut Act

HB 6808	PA 474	1969
Senate	2296	(1)
House	2969-2976, 2993-2995, 3376-3377	12
Judiciary	0	
		Total- 13p

Transcripts from the Joint Standing Committee Public Hearing(s) and/or Senate
and House of Representatives Proceedings

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SENATE

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2032-2564

May 23, 1969

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THE CHAIR:

Any further remarks? All those in favor signify by saying, "aye". Opposed? The bill is passed.

THE CLERK:

CAL. NO. 1051. File 1085. Favorable report of the Joint Committee on Roads and Bridges. Senate Joint Resolution No. 97.

CAL. NO. 1057. File No. 1085. Favorable report of the Joint Committee on Judiciary and Governmental Functions. Substitute for House Bill No. 6808. An Act concerning the Time Within Which Arbitration Awards Shall be Rendered.

SENATOR BUCKLEY:

Mr. President, I move acceptance of the joint committee's favorable report and passage of the bill. This reduces the time in which arbitration proceedings must be made from 60 to 30 days. And also provides for additional extension if filing dates are affixed by the arbitrator.

THE CHAIR:

Any further remarks? All those in favor signify by saying, "aye". Opposed? The bill is passed.

THE CLERK:

Clerk has received a bill under a recall resolution, concerning the City of Derby. Favorable report of the Joint Committee on Cities and Boroughs. Modified House Bill No. 5805. An Act Amending the Charter of the City of Derby. Clerk has an amendment.

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2592-3131

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MR. AJELLO: (118th)

Mr. Speaker, may this item, Calendar 649, Modified House Bill 5231, be passed retaining its place on the Calendar?

THE SPEAKER:

Hearing no objections, it is so ordered.

THE CLERK:

Are we ready to proceed with the matters which were passed temporarily?

THE SPEAKER:

The gentleman from the 1st.

MR. KENNELLY: (1st)

Mr. Speaker, I would call the members' attention to the Foot of the Calendar, Page 19, the third matter up from the bottom, and I would move, sir, that Calendar 556, Substitute for House Bill No. 7350, File 606, be removed from the Foot of the Calendar, and if so moved, be passed retaining its place on the regular Calendar.

THE SPEAKER:

The question is on moving Calendar 556 off the Calendar? All those in favor, say Aye. Those opposed? 'It is so ordered.

THE CLERK:

Page 6 of the Calendar. Calendar 749. Substitute for House Bill 6808. This matter was passed temporarily earlier today.

THE SPEAKER:

The gentleman from the 130th.

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MR. MERLY: (130th)

Mr. Speaker, I move acceptance of the Joint Committee's favorable report and passage of the bill

THE SPEAKER:

The question is on acceptance of the Committee's favorable report and passage of the bill. Will you remark?

MR. MERLY: (130th)

Mr. Speaker, the Clerk has an Amendment. I move that the reading of it be waived, and I can try to explain it.

THE SPEAKER:

Any objection to the waiving of the reading? And to an explanation? Hearing none, you may proceed.

MR. MERLY: (130th)

Mr. Speaker, this bill is designed as a housecleaning measure to correct an ambiguity in a part of Section 52-416 of the General Statutes. Section 52-416 is concerned with arbitrations, and it provides that an arbitration award must be rendered in sixty days from the date that arbitrators are empowered to act. I recently had an appeal before the State Supreme Court in which the term "empowered to act" had to be interpreted. The Court indicated that it was a difficult phrase, and that it should be, and the statute should be modified to clarify it. There are about five or six Connecticut court decisions on it. They all differ. I therefore propose in the Amendment that instead of putting sixty days that arbitrators are empowered to act, that it will read "thirty days from the date the oral hear-

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ing or hearings are completed, or if the parties are to submit additional matter after the hearings, as of the date fixed by the arbitrator, or arbitrators, or umpire, for the receipt of such and such material." This sets thirty days after the completion of the hearing, a definite date, or after briefs are filed. The reason for the amendment is that we brought out the bill originally on a deadline, and I did not have a chance to fully consider the matter. I think this is a good bill, and it ought to pass.

THE SPEAKER:

The question is on the adoption of the Amendment. Will you remark? The gentleman from the 157th.

MR. BINGHAM: (157th)

Mr. Speaker, I rise in opposition to the Amendment. Mr. Merly's Amendment is directed toward an ambiguity in the statute 52-416. Mr. Merly's Amendment makes the statute more ambiguous than it already is. I would like to know what "as of the date" means in his Amendment. As I understand it, or read his Amendment, it says that the decision must be thirty days from the date of the oral hearing - first of all, I would like to know what an oral hearing or hearings means in an arbitration - and secondly,^{or} if the parties are to submit additional matters after the hearing as of the date fixed by the arbitrator, or arbitrators or umpire for the receipt of such material." As that reads, Mr. Speaker, if you have received time to submit briefs, then the arbitrators must make a decision as of the

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date that you submit the brief. I respectfully submit that that in and of itself is an impossibility. We expect our arbitrators to read the briefs prior to the time of making a decision. If it means thirty days from after the stage is set, or after you submit your brief, I respectfully submit that this is too short a period of time. Now there is a lot of law in this Mr. Speaker, and I am quoting from Westbrock Lodge, International Association of Machinists vs. Geometric Tool Company, wherein it says, "Twenty-two states have arbitration statutes, but impose no specific limits on the time which an arbitration must be handed down. The absence of a specific time limit requirement in these statutes indicates that these states consider this an undesirable interest to the arbitration process. The common law rule presumably applies in these states." I respectfully suggest that the proposer consider the law of Massachusetts, New York and Rhode Island, and surrounding states, whereupon they do not impose a mandatory time limit on the rendering of an arbitration decision. Mr. Speaker, arbitrary limitations of time on arbitration awards operate to inhibit and restrict the effectiveness of arbitration. This Amendment strikes at the very heart of our arbitration law, and I think it should be defeated.

THE SPEAKER:

Will you remark further on the Amendment? The gentleman from the 130th.

MR. MERLY: (130th)

Mr. Speaker, through you, to the gentleman who raised

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questions concerning the bill. First of all, the Connecticut Legislature declared the public policy of this state many years ago to be that we do have a mandatory requirement for rendering arbitration awards. We are not now determining that policy. It has been established. All we are trying to do is clarify an existing statute. The fact of the matter is that it is desirable to have a time limit so that the parties can look at a statute and know where they stand. The problem with the Amendment in the file is that it is too complicated and it costs people money. The file provides - - - -

MR. BINGHAM: (157th)

Mr. Speaker, Mr. Merly is talking about - - - -

THE SPEAKER:

For what purpose does the gentleman from the 157th rise?
Do you rise to a point of order?

MR. BINGHAM: (157th)

Yes, Mr. Speaker. We are talking about the Amendment and not file no. 813.

THE SPEAKER:

The gentleman will confine his remarks to the Amendment.

MR. BINGHAM: (157th)

Thank you, Mr. Speaker.

MR. MERLY: (130th)

To answer another point raised, I don't see any ambiguity in the statement that I have in the Amendment. It says "thirty

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days from the date the oral hearings are completed." It is self-evident what this means, and I don't think we need any explanation. "Or thirty days from the date briefs are filed." This gives the arbitrator a full thirty days after having gone through the entire hearing, and having read the briefs. I think it is a good Amendment. It is a complicated issue, and it is in conformity with the wishes of our Supreme Court. Thank you.

THE SPEAKER:

I believe the gentleman from the 157th has spoken twice already on the Amendment.

MR. BINGHAM: (157th)

With your permission, Mr. Speaker, I would just like to ask - - - -

THE SPEAKER:

You will have to ask the permission of the House, Are there objections?

MR. BINGHAM: (157th)

I ask permission of the House to answer Mr. Merly.

THE SPEAKER:

Permission is asked for, - - - -

MR. MCKINNEY: (141st)

Mr. Speaker, point of order.

THE SPEAKER:

The gentleman from the 141st.

MR. MCKINNEY: (141st)

Sir, I don't question your ruling, but I believe this

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gentleman has spoken only once. He did rise once for a point of order, but he has spoken only once on the Amendment. I think that is correct, Mr. Speaker.

THE SPEAKER:

O.K., I will accept that.

MR. BINGHAM: (157th)

Mr. Speaker, I direct Mr. Merly's attention to International Brotherhood of Teamsters vs. Shapiro, 138 Conn. 157, wherein it states, "Arbitrary time limitations are not mandatory. They are only directional."

THE SPEAKER:

Will you remark further? The gentleman from the 123rd.

MR. CONNERY: (123rd)

Mr. Speaker, I agree with Representative Bingham. I think that the language of the Amendment is confusing, and is adding to confusions already existing confused problems. I would submit to the proposer of this Amendment that just as a matter of simple grammar, he might take a look at the Amendment and the commas that are employed. I think even replacing or re-fixing the commas might be helpful. Basically, I think it is indicated that this is adding confusion to a problem which is quite confused already. I would also oppose the Amendment.

THE SPEAKER:

Will you remark further on the Amendment? The gentleman from the 154th.

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MR. ROGERS: (154th)

Yes, Mr. Speaker. A reading of the Amendment makes it very clear that there is a very serious ambiguity built in. This is without regard to the substantive debate, but this is a matter of phraseology. It states clearly that "the arbitrators shall render the award thirty days from the date of the oral hearing, or if additional arguments and materials are to be submitted, as of the date fixed for the receipt of such material." I do not believe that is even the intent of the gentleman who brought the bill out, and I would respectfully suggest that the matter be passed retaining until that obvious ambiguity could be corrected.

THE SPEAKER:

The gentleman from the 118th?

MR. AJELLO: (118th)

That was exactly my intention, sir, pursuant to an agreement between leadership on both sides of the aisle. I think we are going to run over the time that we agreed to adjourn today, and I would therefore ask that this matter be passed retaining at this time.

THE SPEAKER:

Do I hear any objections? If not, it is passed retaining. The gentleman from the 118th.

MR. AJELLO: (118th)

Mr. Speaker, I would now move that we reconsider our previous action on Page 6, Calendar 816, Substitute for House

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MR. AJELLO: (118th)

I move that Cal. 729, Substitute for House Bill 8461.
be passed retaining its place on the Calendar.

THE SPEAKER:

Is there objection. Hearing none, so ordered.

THE CLERK:

Page 5 of the Calendar. Cal. 749. Substitute for
House Bill 6808. File 813. An act concerning the Time within
which Arbitration Awards Shall be Rendered.

MR. MERLEY: (130th)

Mr. Speaker, I move adoption of the Joint Committee's
favorable report and passage of the bill.

THE SPEAKER:

Question is on acceptance and passage. Will you remark.

MR. MERLEY: (130th)

The Clerk has an amendment.

THE SPEAKER:

Clerk has House Amendment Schedule "A". Is there
objection to its being summarized. Will the gentleman from the
130th please summarize the amendment.

MR. MERLEY: (130th)

Thank you, Mr. Speaker. The existing law says that
an award must be rendered within sixty days from the date that
the arbitrars are empowered toact. The amendment reads that an
award must be rendered thirty days from the day the hearing or

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hearings are completed. This amendment gives the arbitrator a full thirty days after the hearings are completed and all materials are in to decide the case. I move adoption of the amendment.

MR. BINGHAM: (157th)

Mr. Speaker, through you to Mr. Merly - does Mr. Merly have any objections to that part in File 813 which states the party or parties may set a time in writing either before or after the expiration thereof.

MR. MERLY: (130th)

Through you, Mr. Speaker, that portion of the statute has remained the same, it is not being amended. Parties can extend the time in writing according to the existing law - it is not being changed.

MR. BINGHAM: (157th)

This amendment is contrary to the Uniform Arbitration Act upon which File 813 is based. This amendment as drafted by Mr. Merly, as I read it, does not permit the parties to extend time in writing before or after the expiration date. The amendment presented replaces the present ambiguity with even vaguer language. The purpose of arbitration is not to bind and it is my portent that there should be a provision for labor in the amendment in the event that the arbitrators do not render a decision within a stated period. A 30-day period is not a long period of time as we know from receiving decisions from courts and arbitrators. If there is this time period in the law, there

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should be a waiver period whereby a party will waive his objection^{roc} to this and state it in writing. So, it is on this, Mr. Speaker, that I must oppose the amendment as stated.

MR. STEVENS: (122nd)

Mr. Speaker, through you, I have a question to the gentleman who reported this out. Regarding Amendment "A" which is a one-time amendment which ends on line 9 of our file copy, is it the intention of Mr. Merley that the remainder of the file copy which is italicized shall remain in the bill to be acted on.

Mr. MERLEY: (130th)

Through you, Mr. Speaker, the existing statute remains the same. The only change is the underlined portion in that statute.

THE SPEAKER:

Will you remark further on the amendment. If not, will all those in favor indicate by saying AYE. Those opposed. The Amendment is ADOPTED. It is ruled substantive and will be returned to the Legislative Commissioners' Office.

Does the gentleman from the 130th care to offer his other amendment at this time as opposed to doing it piecemeal.

MR. MERLEY: (130th)

Is that amendment "B". If so, it will be unnecessary.

THE SPEAKER:

The amendment is then withdrawn.

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The bill was discussed by Rep. Camp of the 163rd.

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On a voice vote the bill passed in concurrence with the senate.

THE CLERK:

Judiciary and Governmental - Matters Returned from the
Legislative Commissioner - Favorable report of J.S.C.

Sub. for H.B. No. 6808. File No. 813,1085. An Act concerning the Time Within Which Arbitration Awards Shall be Rendered. (As amended by House Amendment Schedule "A.")

The bill was explained by Rep. Merly of the 130th.
(Sound returns to record 9/11.)

MR. SPEAKER:

Question is on acceptance and passage as amended by amendment Schedule "A." Will you remark?

REP. MERLEY - 130th D.

The reason for the bill is that there are four of five court decisions trying to interpret -- power to act and each decision comes up with a different time. Parties in arbitration don't know what their rights are. They have to go into court to get an interpretation. Therefore, the procedure is expensive, time consuming and uncertain. The handed in appeal to the Supreme Court recently and at which time the Supreme Court indicated that the statutes ought to be amended. The amendment provides that an award unless otherwise agreed upon by the parties, must be rendered within thirty days of the completion of the hearing or if additional material is submitted afterward, thirty days from that date. This gives the Arbitrator

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a full thrity days in which to decide the case . I think it is fair and quitable its time certain so that the parties will know what their rights are by reading the statutes. I think its a good bill and I urge its passage.

REP. SULLIVAN - 169th D.

Mr. Speaker, I opposed the original bill, one of the persons who opposed the original bill, as was offered to us. Based on the corrections that were made in the amendment, I think it has become a good bill and I would agree with Representative Merly, it should pass and it will serve a good and useful purpose.

MR. SPEAKER:

Will you remark further on the bill as amended? If not, all those in favor indicate by saying aye. Those opposed?

The bill is passed.

Calendar No. 860. M.S.B. No. 1175 (File No. 741,1086) An Act ~~amended-by~~ concerning Terms of Office of Department Heads. As amended by House Amendment Schedule "A."

REP. CARROZZELLA - 81st D.

Mr. Speaker, I move acceptance of the J.C. favorable report and passage of the bill as amended by House Amendment Schedule "A."

MR. SPEAKER:

Question is on acceptance and passage as amended by amendment Schedule "A." Will you remark?

REP. CARROZZELLA - 81st D.

Mr. Speaker, the bill before us allows the Governor