
Public Hearing

before

SENATE LABOR COMMITTEE

SENATE CONCURRENT RESOLUTION No. 60

(Proposes constitutional amendment requiring contributions collected from assessments on wages to be used for employee benefits and prohibiting use of the contributions for any other purpose)

LOCATION: Committee Room 10
State House Annex
Trenton, New Jersey

DATE: December 8, 2008
10:00 a.m.

MEMBERS OF COMMITTEE PRESENT:

Senator Paul A. Sarlo, Chair
Senator Fred H. Madden Jr., Vice Chair
Senator Sandra B. Cunningham
Senator Sean T. Kean
Senator Joseph Pennacchio



ALSO PRESENT:

Gregory L. Williams
Office of Legislative Services
Committee Aide

Eugene Lepore
Senate Majority
Committee Aide

John Hutchison
Senate Republican
Committee Aide

Hearing Recorded and Transcribed by
The Office of Legislative Services, Public Information Office,
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SENATOR PAUL A. SARLO, (Chair): Good morning, everybody. Welcome to the December 8 Senate Labor Committee.

We'll do a roll call.

MR. WILLIAMS (Committee Aide): Senator Pennacchio.

SENATOR PENNACCHIO: Here.

MR. WILLIAMS: Senator Kean.

SENATOR KEAN: Here.

MR. WILLIAMS: Senator Cunningham. (no response)

Vice Chairman Madden.

SENATOR MADDEN: Here.

MR. WILLIAMS: Chairman Sarlo.

SENATOR SARLO: Here.

Senator Cunningham is here. She just went to testify on a piece of legislation.

We're going to do the hearing first, SCR-60. Senator Sweeney is here, and he does have to run to another meeting. So I just want to, as a courtesy to our colleague, give him the opportunity to speak on behalf of his resolution.

MR. WILLIAMS: Do you want me to give you the description?

SENATOR SARLO: Please.

MR. WILLIAMS: All right. Senate Concurrent Resolution No. 60-1R amends the State Constitution to prohibit the State from collecting contributions from employers or employees, by means of assessment on the wages or salaries paid by the employers to the employees, unless the contributions are used exclusively to provide employee benefits, including

the cost of administering the benefits; and if the State is the employer, also to make employee authorized or federally required payments, or to collect employee debts pursuant to law.

The proposed constitutional amendment dedicates all contributions collected by the State from any employee, employer, or insurer for any fund or program established to provide employee benefits, including but not limited to the Unemployment Compensation Fund, the State Disability Benefits Fund, and the Second Injury Fund, solely for the purpose of providing the benefits for which the program or fund is established.

The proposed constitutional amendment prohibits the direct or indirect transfer, borrowing, appropriating, or using the contributions for any other purpose. The proposed constitutional amendment also dedicates, to the purpose of providing employee benefits, all income or interest that derive from any investment or contributions to employee benefit funds. It specifies that the contributions may be applied to benefits for any employee or employee families or dependents, not just the specific employee on whose behalf the contributions are made; and that in the case of training and employment programs, benefits may be provided not only for current or laid-off employees, but to prospective employees as well.

The requirements of the proposed constitutional amendment would not apply to the Gross Income Tax, which is dedicated by the Constitution to the purpose of reducing or offsetting local property taxes.

SENATOR SARLO: Thank you, Greg.

Okay. We have Senator Sweeney with us, and then we have some other folks who are all here to testify, but all in favor. So this should be quite simple.

Senator Sweeney.

SENATOR STEPHEN M. SWEENEY: Chairman, I want to thank you for having this hearing.

It is quite unique when myself and the business community are on the same page. In fact, it's a good thing. But, you know, unfortunately with the economy as it is today, the purpose of this bill-- Everyone was talking about: We're going to have to raise the unemployment tax at a very, very horrible time to even consider doing that, with the bad economy. And if the moneys that had been left in this account -- if they left it alone, we wouldn't be talking about that. We wouldn't be talking about raising \$400 million in taxing businesses that really can't afford it at this time.

So I appreciate you putting this up for a hearing. I appreciate my Co-Sponsor, Senator Kean. We made it a very nonpartisan issue here.

Again, money that is raised and paid for by taxpayers or workers and businesses should only be used for that purpose, which is Unemployment, TDI, and those purposes.

So, again, I want to thank you for having this hearing. This is an important step to move this bill forward. And unfortunately, if we worry about tomorrow a little bit-- If we start worrying about tomorrow a little bit, we won't run into this crisis that we're running into today.

So I want to thank you for having this today.

SENATOR SARLO: Thank you, Senator Sweeney.

Any questions for Senator Sweeney? (no response)

And I did just want to note, since going back in our packets since 1992 -- the diversions have been considerable, significant since 1992 on all the funds -- the Unemployment Insurance Fund, the Temporary Disability Insurance Fund, and the Workers' Comp.

SENATOR SWEENEY: Senator, thank you again. We have to start worrying about the future.

SENATOR SARLO: Thank you, Senator.

SENATOR SWEENEY: Thank you.

SENATOR SARLO: Okay. We're going to bring up the next groups in panels.

Eric Richard, New Jersey State AFL-CIO; and Brian Volz, from the New Jersey Education Association.

ERIC RICHARD: Members of the Committee, good morning.

My name is Eric Richard. I'm testifying in support, on behalf of the New Jersey State AFL-CIO.

We want to thank you for holding this public hearing, Chairman. And we also are proud that the resolution before you today, as mentioned by the Prime Sponsor, does have broad bipartisan support, does have support from not only organized labor but the business community. And we see this as a net positive, overall -- not just for the labor community here in the state, for the business community as well. And so, again, we're thankful for Senator Sweeney's leadership on this issue, as well as this hearing this morning.

At the heart of the issue is a desire to inject fiscal discipline into the budgetary process and to restrict the often cited but, to date, never remedied practice of removing employee protection funds such as

Unemployment Insurance, Temporary Disability Insurance, and Second Injury Fund moneys, amongst others. From 1992 through 2007, over \$4.7 billion has been transferred from these funds to the General Fund. These funds are a combination of worker payroll deductions and employer contributions that are being spent on balancing the budget rather than providing stable and long-term funding for their intended purposes, which is insuring workers.

We believe that the timing of this initiative could not be better. We are once again faced with a very difficult budget cycle, which all too often in the past has led to employee protection funds being appropriated for purposes other than their intended use.

Fortunately, Governor Corzine has refrained from removing money from the Unemployment Trust Fund, and we support his message of fiscal discipline; and believe that if this resolution is passed it would send a strong message to future governors and legislators that this practice should be refrained from.

Although the resolution before you does not ban this type of diversion from the UI fund, it creates a mechanism to strongly discourage this practice. We thank Governor Corzine for being the first Governor, both Democrat and Republican alike, in almost two decades that has stood on principle and refrained from the large-scale raids that have plagued the UI fund in the past.

Finally, the recent Unemployment Insurance bailout underscores the dire consequences of the actions of previous administrations. If this resolution is passed and eventually approved by the voters, this type of extreme budgetary measure would no longer be

necessary and the Legislature would be free to use the funds for other obligations, alleviating a small portion of the fiscal hardship this State is now confronted with.

Thank you, again, Chairman.

SENATOR SARLO: Thank you.

Mr. Volz.

BRIAN S. VOLZ: Through the Chair, members of the Committee, my name is Brian Volz. I'm with the NJEA. We represent over 200,000 members, 170,000 active employees who are contributing to these funds.

I don't want to read my whole speech to you. Eric said it quite well, the Senator has already said it quite well. We need to bring some fiscal responsibility to this process. We need to ensure that employees' and employers' contributions are spent for the intended purpose.

Thank you.

SENATOR SARLO: Thank you, Mr. Volz.

Thank you.

Next panel will be John Rogers, New Jersey Business & Industry Association; Christina Genovese, Chamber of Commerce, Southern New Jersey.

JOHN ROGERS, ESQ.: Thank you, Mr. Chairman.

I believe Christina is testifying in another Committee right now.

SENATOR SARLO: Okay.

MR. ROGERS: Good morning.

My name is John Rogers. I'm the Vice President of Human Resource Issues for the New Jersey Business & Industry Association. And I

also strongly want to echo the remarks of my colleagues that appeared in the panel before you, and that of Sponsor Senator Sweeney about the importance of this legislation.

I'm not going to read from my comments, which I've submitted to the panel today and to be appended to this record. However, I just wanted to make a couple of points about the importance of this particular bill since the last time we met to talk about it. When the Committee met in May to hear this very Concurrent Resolution, New Jersey's unemployment insurance rate was around 4 percent -- 4 percent, 4.5 percent, depending on the day you looked at it. Today, we're at least at 6 percent -- probably most folks would say we're heading closer to 6.5 percent as the year goes on. That's an extraordinarily large jump in just the time that this Committee approved this Concurrent Resolution unanimously, since May.

We are very, very concerned about the health of our UI fund. We believe that this resolution will go a long way to prevent the diversions that folks have already spoken about from ever occurring again.

And just to give you a snapshot about all the diversions, again: about \$4.7 billion from the UI alone. You had over \$500 million from the TDI fund, with \$150 million coming within the last two years. And you have over \$500 million coming from our Workers' Compensation funds.

It's an extraordinarily large amount of money, Mr. Chairman.

If those moneys cannot be kept for their dedicated purpose, you will see the variety of employee Social Security programs experiencing the same kind of problems that workers -- excuse me, Unemployment Insurance is facing now. If we cannot accurately predict that our tax

moneys are going to be used for these funds -- for their intended purpose -- then you're going to have a variety of funds experiencing the insolvency, possibly going bankrupt the way our UI fund is going now.

Finally, let me just commend you, Mr. Chairman, and the rest of the members of the Committee -- the foresight you had in putting \$260 million back into our fund for this year. Going forward, we would ask Chairman Madden, next year, as the Committee begins to look at that issue, to make additional assurance that we do not trigger a vast employer-paid payroll tax next year. It would be devastating to New Jersey's economy.

When you look at the types of jobs that we're losing, and the speed at which we're losing them-- If you have a payroll tax like that triggering every business in the State of New Jersey, the likelihood that New Jersey's recession will go far past the nation's increases exponentially.

So with that, Mr. Chairman, I'd like to thank the Committee for their further support of this particular resolution.

I'm available to answer any questions you may have.

SENATOR SARLO: Any questions? (no response)

Thank you.

MR. ROGERS: Thank you.

SENATOR SARLO: Thanks, John.

And just for the record, according to OLS, from 1992 to 2007, 22 laws have been enacted which have diverted a total of \$5.4 billion in resources from various funds dedicated to benefits for workers. There are 22 laws from 1992 to 2007.

Two other folks who are in favor of, no need to testify: Michael Travostino, Building Contractors Association of New Jersey; and Mary Ellen Peppard, from the New Jersey Chamber of Commerce. Also, Kevin Sullivan, New Jersey Building and Construction Trades Council is in favor, no need to testify.

Oh, we have one more, Scott Ross, New Jersey Food Council, in favor of, no need to testify.

Mary.

MARY ELLEN PEPPARD: Chairman, could I--

SENATOR SARLO: Yes, you may.

MS. PEPPARD: I'd like to read my statement into the record.

Thank you very much, Chairman and members of the Committee.

The State Chamber -- the New Jersey State Chamber of Commerce strongly supports SCR-60, and we thank the Committee for taking up this legislation.

The State Chamber believes this legislation will assist both employers and employees by keeping our UI fund, and TDI fund, and various workers' compensation funds solvent. This resolution will ensure that dedicated employment funds have sufficient revenues to provide benefits without increasing employer taxes. As you're well aware, this issue has been a continuing cause for concern.

The business community is very appreciative of this legislation and the fact that this will ensure that funds are not diverted from the UI fund. And more than ever in this economic climate, this is not the time to trigger a tax increase.

So, again, thank you very much.

SENATOR SARLO: Thank you.

Okay. Any comments, questions? (no response)

That concludes the hearing. There's no need to take any vote on that.

Any comments?

SENATOR PENNACCHIO: First, Chairman, I'd just like to welcome you back in one piece.

SENATOR SARLO: Thank you.

SENATOR PENNACCHIO: It's a pleasure to have you here.

Just to commend the sponsors of the bill -- and to say only in New Jersey, quite frankly, do we need a State amendment to the Constitution to state the obvious.

I'm sorry that we don't have somebody here from the administration, because I really would like to ask some of those questions like: Where are we going to get that money? More than likely we're going to have a trigger that's -- going to have a shortfall that's going to trigger an increase. And the last thing we need at this moment right now is an increase in the UI fund.

So it would have been nice if somebody could have answered those questions -- and what they plan on doing. But hopefully we can work together, and we can try to prevent that from happening.

Thank you.

SENATOR SARLO: Thank you, Senator Pennacchio.

(HEARING CONCLUDED)