

**TESTIMONY OF
KIM HOSTETLER, VICE PRESIDENT & CHIEF OF STAFF
CONNECTICUT HOSPITAL ASSOCIATION
BEFORE THE LABOR AND PUBLIC EMPLOYEES COMMITTEE
Tuesday, February 24, 2004**

**HB 5396, An Act Requiring Recipients Of State Financial Assistance
To Sign Neutrality Agreements**

Good afternoon Senator Prague, Representative Ryan, and members of the Committee. I am Kim Hostetler, Vice President and Chief of Staff of the Connecticut Hospital Association and I appreciate the opportunity to testify on **HB 5396, An Act Requiring Recipients Of State Financial Assistance To Sign Neutrality Agreements**. CHA opposes this bill.

This bill would require a nonprofit organization that is receiving loans, grants, guarantees or tax abatements from the state or any of its agencies to sign a "neutrality agreement" prohibiting the organization from "interfering in labor organizing and education campaigns, interfering with or participating in the activities of labor organizations, discriminating in hiring based on past labor organizing activity or to encourage or discourage membership in a labor organization, persuading employees to support or oppose labor organizing activity, harassing employees engaged in labor organizing activity, and hiring or consulting legal counsel or other consultants to advise the nonprofit organization on how to assist, promote or deter labor organizing or how to impede a labor organization that represents the nonprofit organization's employees from fulfilling its representational responsibilities".

Employees are entitled by the federal National Labor Relations Act (NLRA) to vote their free choice in a fair, honest, secret-ballot election to determine whether they want union representation. The process is regulated to be impartial. Section 7 of the NLRA guarantees that employees shall have the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection, and shall also have the right to refrain from any or all such activities. As part of the election process, both the union and employer have the opportunity to present information to eligible voters. The National Labor Relations Board (NLRB) oversees the election process to ensure it is fair. This proposed law would disrupt that balanced, regulated process by allowing unions to campaign freely but prohibiting employers from being able to talk to their employees and present them with relevant facts and information to make an informed decision.

The NLRB itself has stated that such neutrality laws are preempted by federal law. On September 16, 2002, a federal judge in California ruled that the NLRA preempts a California law that prohibits employers from using state funds to assist or deter unionization efforts by their employees. The judge determined that the neutrality provision is not enforceable because it regulates employer speech about union organizing under specified circumstances, in contradiction to what Congress intended. In June 2003, the NLRB filed an amicus brief in support of the court ruling, stating that the California statute, while nominally about state spending decisions, is really an impermissible regulatory attempt to substitute California labor policy for existing federal labor policy, and that unlike California, Congress generally favors robust debate of union

representation issues as a means of enhancing the opportunity for employees to make a free and informed choice.

Employees are guaranteed the right to seek union representation. Federal law also provides a framework through which employees have access to information from both the union (or unions) and their employer in order that they make their own, private informed decisions. This bill is in direct conflict with federal policy favoring free speech in union organizing drives. Additionally, it abrogates an employer's fundamental right to seek advice of counsel, and it interferes with the employment relationship by denying employees access to information to which they are entitled.

Thank you for your consideration of our position.

KKH:pas