

# FED CHIEF FAULTED

## *Lawyers Say Bernanke Using State Law As Scapegoat In AIG Payments*

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Federal Reserve Chairman Ben Bernanke would have pursued a lawsuit to block the AIG bonuses, he told Congress on Tuesday ? but Connecticut's labor law prevented him.

In Connecticut, public officials and employment lawyers have been disputing that notion since last week, when AIG itself cited the state statute.

Bernanke said he had asked that a suit be filed to prevent AIG from delivering \$165 million in retention payments to employees of its Wilton-based subsidiary, AIG Financial Products. But he was informed by legal staff that Connecticut law would "provide for substantial punitive damages" if the suit failed and "could thus have the perverse effect of doubling or tripling the financial benefits to the AIG-FP employees," he said in his testimony before the House Financial Services Committee.

AIG cited the Connecticut Wage Act in a memo to U.S. Treasury Secretary Timothy Geithner as the reason that it was legally obligated earlier this month to pay out the "stay bonuses."

Lawyers said that Bernanke ? like AIG ? is using the Connecticut Wage Act as a "scapegoat," and state officials said that the nation's top banking official obviously "misunderstood or was misinformed" of Connecticut's wage law, which is well-trodden in the courts.

"Now it seems like the Feds, and perhaps the White House, are taking the same position as AIG ? which is to blame it on the laws, blame it on the Connecticut Wage Act," said Glastonbury employment lawyer N. Kane Bennett of Raymond & Bennett. "It seems

>> Obama's economic chiefs argue for greater regulatory power. Page A13

like everybody is just looking for something to blame here after the fact, when they've suddenly got this huge public outcry."

In fact, he and other lawyers and public officials said, even though the Connecticut law does call for double damages, AIG ? which received more than \$170 billion in federal bailout money ? had many legal ways to avoid making the bonus payments, considering the financial condition of the company.

Connecticut Attorney General Richard Blumenthal said Tuesday that he "respectfully disagrees" with Bernanke's statements, adding that the Federal Reserve never contacted his office to discuss Connecticut's laws.

Blumenthal has maintained that the bonuses are not wages and are thus not protected by the Connecticut Wage Act.

"With all due respect, he is one of the world's most eminent and distinguished economists, but he probably doesn't

have an intimate knowledge of Connecticut's wage statute," Blumenthal said. "My hope is that he may now correctly understand the Connecticut law and that he may now work with my office in a common effort to recover the excessive payments."

Bernanke's press office did not return a call seeking comment about his testimony Tuesday afternoon.

It was unclear Tuesday why Bernanke felt that Connecticut law could triple the bonuses to employees, because state law only allows for a possible doubling of damages, attorneys said. And the chances of a judge's actually ordering double damages could be slim, said attorney Richard Hayber of Hartford, because it would have to be proved that AIG "acted either arbitrarily, unreasonably or in bad faith" by refusing to pay the bonuses.

In response to Bernanke's testimony Tuesday, Gov. M.

Jodi Rell said in a written statement that "there is a lot of excuse-making and finger-pointing going on right now."

"People are angry and have every right to be," she said.

"There needs to be a grown-up in the room ? to accept responsibility, to make sure this never happens again with taxpayer money and to recover the AIG bonus payments."

Rell has ordered the state's consumer protection commissioner, Jerry Farrell Jr., to investigate whether AIG violated the Connecticut Unfair Trade Practices Act by paying out bonuses "against public policy."

State legislators have discussed changing the Connecticut Wage Act to exempt any companies that have received bailout or federal stimulus money from the double-penalty provision in the law, but the state House of Representatives is not expected to discuss the changes in a session today.

And employment rights lawyers warned against touching the wage act at all.

"The wage law, as it presently exists, stands to protect a lot of folks," said Hartford labor attorney Bernard Jacques of Pepe & Hazard. "I'd be really cautious about changing it, particularly in this instance, where it's not the culprit. I think what it does is, it distracts us from the real issue at hand, and the real issue at hand is: Why was no one monitoring the situation?"

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## Abstract (Document Summary)

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