



Senate

General Assembly

File No. 78

January Session, 2011

Substitute Senate Bill No. 934

Senate, March 17, 2011

The Committee on Labor and Public Employees reported through SEN. PRAGUE of the 19th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING THE REASONABLE ASSURANCE DOCTRINE UNDER THE UNEMPLOYMENT COMPENSATION ACT.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (d) of section 31-227 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective*
3 *October 1, 2011*):

4 (d) Benefits based on service in employment defined in subdivisions
5 (1) (C) and (D) of subsection (a) of section 31-222 shall be payable in
6 the same amount, on the same terms and subject to the same
7 conditions as compensation payable on the basis of other service
8 subject to this chapter; except that:

9 (1) [with] With respect to weeks of unemployment beginning after
10 December 31, 1977, benefits shall not be paid based on service
11 performed in an instructional, research or principal administrative
12 capacity for an educational institution for any week of unemployment

13 commencing during the period between two successive academic
14 years, or during a similar period between two regular terms, whether
15 or not successive, or during a period of paid sabbatical leave provided
16 for in the individual's contract, to any individual if such individual
17 performs such services in the first of such academic years (or terms)
18 and if there is a contract or a reasonable assurance that such individual
19 will perform services in any such capacity for any educational
20 institution in the second of such academic years or terms provided,
21 however, that to constitute a reasonable assurance of continued
22 employment there must be evidence that the employer actually
23 communicated, either in writing or verbally, to the employee an offer
24 or assignment for the following academic year or term;

25 (2) [with] With respect to weeks of unemployment beginning after
26 October 29, 1983, for service performed in any other capacity for an
27 educational institution, benefits shall not be paid on the basis of such
28 services to any individual for any week which commences during a
29 period between two successive academic years or terms if such
30 individual performs such services in the first of such academic years or
31 terms and there is a reasonable assurance that such individual will
32 perform such services in the second of such academic years or terms,
33 except that if benefits are denied to any individual under this
34 subdivision and such individual is not offered an opportunity to
35 perform such services for the educational institution for the second of
36 such academic years or terms, such individual shall be entitled to a
37 retroactive payment of benefits for each week for which the individual
38 filed a timely claim for benefits and for which benefits were denied
39 solely by reason of this subdivision;

40 (3) [with] With respect to weeks of unemployment beginning after
41 March 31, 1984, for services described in subdivisions (1) and (2) of this
42 subsection, benefits shall not be payable on the basis of such services to
43 any individual for any week which commences during an established
44 and customary vacation period or holiday recess if such individual
45 performs such services in the period immediately before such vacation
46 period or holiday recess and there is a reasonable assurance that such

47 individual will perform such services in the period immediately
48 following such vacation period or holiday recess; and

49 (4) [with] With respect to weeks of unemployment beginning after
50 March 31, 1984, for services described in subdivisions (1) and (2) of this
51 subsection, benefits shall not be payable on the basis of such services
52 under the circumstances prescribed in subdivisions (1), (2) and (3) of
53 this subsection to any individual who performed such services in an
54 educational institution while in the employ of an educational service
55 agency. For purposes of this subdivision the term "educational service
56 agency" means a governmental agency or governmental entity which
57 is established and operated exclusively for the purpose of providing
58 such services to one or more educational institutions.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2011	31-227(d)

LAB *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 12 \$	FY 13 \$
Comptroller Misc. Accounts (Unemployment Benefits)	GF - Cost	Potential Indeterminate	Potential Indeterminate

Note: GF=General Fund

Municipal Impact:

Municipalities	Effect	FY 12 \$	FY 13 \$
Local and Regional School Districts	Cost	Potential Indeterminate	Potential Indeterminate

Explanation

Currently, instructional, research and administrative employees at educational institutions¹ are not eligible for unemployment compensation benefits during academic breaks if they have a "reasonable assurance" that they will return to work after the break. The bill prohibits considering an employee's work history from determining whether these employee have a "reasonable assurance".

There are an estimated 6,300 part-time and adjunct faculty at the state constituent units of higher education. These employees generally work on a semester-to-semester basis, and their position's availability is contingent on class enrollment and funding. Therefore, excluding work history from determining whether these employees have a "reasonable assurance" of returning to work, makes an unknown number of these employees eligible for unemployment compensation. This may result in increased costs to the state, as the state must reimburse the Unemployment Compensation Fund for any benefits

¹ Educational institutions include state, municipal or non-profit institutions of elementary, secondary or higher education.

paid to claimants made eligible by this bill.

The bill may make some non-certified² educational employees (i.e. paraprofessionals and teachers' aides) at state, local and regional boards of education eligible for unemployment compensation benefits if they do not have a written or verbal contract and were otherwise ineligible because work history had been considered in determining whether there was a reasonable assurance of returning to work. There are an estimated 40,376³ non-certified educational employees statewide; it is uncertain how many such employees would be eligible for unemployment compensation. This may result in increased costs to the state, local and regional boards of education, as they must reimburse the Unemployment Compensation Fund for any claimants made eligible by this bill.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

² It should be noted that tenured teachers have a reasonable assurance of returning to work. Pursuant to CGS 10-151(c) non-tenured teachers must receive notification by April 1st as to whether they are returning to work.

³ Connecticut Department of Education, CT Education Data and Research, 2010 Report on full-time equivalent non-certified employees

OLR Bill Analysis**sSB 934*****AN ACT CONCERNING THE REASONABLE ASSURANCE DOCTRINE UNDER THE UNEMPLOYMENT COMPENSATION ACT.*****SUMMARY:**

Under current law, instructional, research, or principal administrative employees at state, municipal, or non-profit educational institutions cannot receive unemployment benefits during the break between academic years or terms if they have “reasonable assurance” that they will return to their employment following the break. This bill specifies that the reasonable assurance must consist of a written or verbal offer or assignment for the following academic year or term. In effect, it bans factors such as an employee’s history of returning every semester from being considered as reasonable assurance that he or she will be re-employed after the break.

EFFECTIVE DATE: October 1, 2011

BACKGROUND***Employment Status***

Full-time teachers, professors, administrative personnel, and educational service agency employees who work in an educational institution typically have reasonable assurance of returning to work provided under the terms of their employment. Part-time and adjunct faculty members generally work on a semester-by-semester basis, with their position’s availability subject to factors such as class enrollment and funding.

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable Substitute

Yea 7 Nay 4 (03/03/2011)