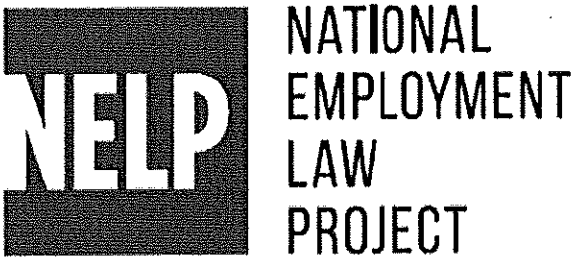

TESTIMONY

OF

TSEDEYE GEBRESELASSIE

NATIONAL EMPLOYMENT LAW PROJECT

BEFORE THE

LABOR AND PUBLIC EMPLOYEES COMMITTEE

ON HB6877:AN ACT CONCERNING A MINIMUM WORK WEEK FOR PERSONS PERFORMING JANITORIAL WORK.

MARCH 5, 2015

HARTFORD, CONNECTICUT

National Office
National Employment Law Project
75 Maiden Lane, Suite 601
New York, NY 10038
212.285.3025

Good afternoon Senator Gomes, Representative Tercyak, and members of the Labor and Public Employees Committee. My name is Tsedeye Gebreselassie, and I am a senior staff attorney with the National Employment Law Project. Thank you for the opportunity to present testimony before you today.

The National Employment Law Project is a non-profit, non-partisan research organization specializing in employment policy. We are based in New York with offices across the country, and we partner with federal, state, and local lawmakers on a wide range of workforce issues.

Across the country, our staff are recognized as policy experts in areas such as unemployment insurance, wage and hour enforcement, and, as is relevant for today's hearing, the low-wage labor market and labor policy. We have worked with dozens of state legislatures across the country and with the U.S. Congress on measures to create more living wage jobs and improve working conditions for low-paid workers.

Involuntary part time employment among building service workers, and commercial office cleaners in particular, is a solvable problem in the State of Connecticut. This is work that can be performed on a full time basis. In fact, building service workers in New York, Chicago and the Los Angeles Metro Area, are overwhelmingly employed full-time.[1] Provided the worker is employed at a building that is large enough and of the type of use that requires a certain level of service, there is a need for full time labor. It is an appropriate exercise of the State's police power to ensure that the demand for labor is met with the existing supply of workers desiring full time work. The State of Connecticut has taken the lead in adopting innovative policies to meet the realities of its residents. It should do so again and adopt the Better Jobs Act.

Building service work in the State of Connecticut has not yet fulfilled the promise of providing family-sustaining jobs for the most part. While Hartford is largely a full-time

[1] Economic Policy Institute analysis of the Census Bureau's American Community Survey data, February 2015.

market, the majority of building services work in other jurisdictions, such as Fairfield County and New Haven, is performed on a part-time basis[2]. Insufficient hours combined with relatively low wages means that office cleaners either have insufficient income to support their families, or are required to juggle multiple part time jobs - with all of the logistical and scheduling challenges that entails - to make ends meet. Moreover, they are likely to be deprived of employer-provided health insurance if they fall below the 30 hour Affordable Care Act threshold. Low wages and erratic schedules have a detrimental impact on the health and well-being of these workers and their families.

Part time workers with limited income and no access to employer-provided healthcare will have to rely on the State to meet basic needs – such as healthcare for themselves and their families. While it is essential that the State provide essential supports to those in need, it does not make sense for profitable businesses to transfer these costs to the State in order to cut costs.

Experience from other markets shows that there is building service work to be done. As we are hearing today, there are women and men in Connecticut who want to do that work on a full-time basis. The State can and should take steps to establish minimum workweek hours in order to ensure that the men and women performing this work are able to support themselves and their families in a healthy and sustainable way.

While the practice of staffing building service work on a full-time basis is something that can and has been adopted on a voluntary basis, it is also something the State can and should require as part of the development of a policy framework for the 21st Century economy. It is critical that the State continue to be aware of its evolving responsibility to adopt policies that correspond to the reality of an increasingly low-wage service economy. In this case State of Connecticut needs to take action, to stop the bottom from falling out on low wage worker and their families, to stop the growing chasm between the haves and have-nots in the state, and to reduce the cost to the state caused by low wage jobs.

---

[2] SEIU 32BJ internal analysis of dues and health benefits funds data.

As I discuss below, when the manufacturing jobs made up a greater share of the national economy, the focus of states was appropriately on limiting overwork. As the low-wage service sector takes on greater significance in the economy, it becomes more pressing to ensure that workers have access to sufficient work to support their families. The Federal Reserve System recently observed, looking at national trends, what it described as "stark differences across two major industry groups [private service-providing and goods-producing] in the behavior of involuntary part-time work." [3] In particular, they identified a higher prevalence of continued involuntary part-time work due to inability to find work in the private service-providing sector. They further speculated that this may be due to organizational aspects of industry and observed that as the economy shifts away from goods-producing and toward service-providing, we are likely to see a higher prevalence of this type of involuntary part-time work. [4]

The establishment of a 30 hour minimum workweek for certain building services workers is something the State of Connecticut is able to do through the exercise of its police power. As discussed below, the establishment of labor standards falls within a state's traditional police power. In fact, some of the earliest court decisions upholding state's police power to establish such standards focused on statutes regulating hours of work. In the face of business arguments that states should not interfere with the ability of employers and employees to establish terms and conditions of work solely through private contracts, courts have held that a state's police power springs from its interest in establishing baseline standards in order to preserve the public health, safety and well-being.

The question of the states' police power to regulate conditions of labor, and hours of work in particular, is one that was the subject of much examination during the late 19th

---

[3] Tomaz Cajner, Dennis Mawhirter, Christopher Nekarda, David Ratner, *Why is Involuntary Part Time Work Elevated?* "(April 14, 2014), *available at* http://www.federalreserve.gov/econresdata/notes/feds-notes/2014/why-is-involuntary-part-time-work-elevated-20140414.html

[4] *Id.*

and early 20th Centuries.[5] In 1892, in upholding a Utah statute limiting the hours of work of miners in the face of a challenge that it violated the Fourteenth Amendment and interfered with the right of employers and employees to contract, the Supreme Court described the police power in the following way: "[w]hile this court has held, [...] that the police power cannot be put forward as an excuse for oppressive and unjust legislation, it may be lawfully resorted to for the purpose of preserving the public health, safety or morals, or the abatement of public nuisances, and a large discretion 'is necessarily vested in the legislature to determine not only what the interests of the public require, but what measures are necessary for the protection of such interests.'"[6] In 1917, the Supreme Court upheld an Oregon Statute limiting the hours of work and requiring overtime pay for employees in mills, factories and manufacturing establishments[7], observing that "[s]ection 1 of the law expresses the policy that impelled its enactment to be the interest of the State in the physical well-being of its citizens and that it is injurious to their health for them to work 'in any mill, factory or manufacturing establishment' more than ten hours in any one day."[8]

Over time, courts have upheld a wide range of labor regulations as appropriate exercises of state police power, and more recently, the Supreme Court has noted, "the establishment of labor standards falls within the traditional police power of the State."[9]

In fact, The State of Connecticut has exercised its power to establish labor standards numerous times, including but not limited to: establishing minimum wage standards and protecting workers against discrimination in hiring. The State has regulated hours, for example, placing limitations on the hours of labor of handicapped, minors and elderly persons employed in certain types of establishments.[10]

---

[5] *See, Protective Labor Legislation in the Courts: Substantive Due Process and Fairness in the Progressive Era*, 31 Law & Hist. Rev. 275 (May, 2013).
[6] Holden v Hardy, 169 U.S. 366, 392 (Feb. 28, 1898) (quoting Lawton v. Steele, 152 U.S. 133, 136.).
[7] Bunting v Oregon, 243 U.S. 426 (April 9, 1917).
[8] Id at 435.
[9] Fort Halifax Packing Co. v. Coyne, 482 U.S. 1, 21 (U.S. 1987).
[10] Connecticut General Statutes §31-12, §31-13.

Significantly, as I mentioned previously, the State of Connecticut has taken the lead in adopting innovative policies to defend low-wage workers. Connecticut was the first state in the country to adopt paid sick leave requirements for working people, leading a growing movement. Subsequently, the states of California and Massachusetts followed suit, along with a growing number of cities throughout the country. In his recent State of the Union speech, the President spoke of the need to adopt paid sick leave legislation.

Once again, with this legislation, the State of Connecticut can lead the way. It makes sense to take steps to match the need for building service labor with the demand for full-time work. Similar legislation is expected to be introduced in a number of jurisdictions throughout the region in the coming months.

The state has the power to set minimum hours requirements. In the last century, the emphasis was on establishing limits on excessive hours in order to protect vulnerable workers in a manufacturing or construction context. Given current labor market trends, the need now is to establish minimum required hours to prevent businesses from splitting jobs into part-time shifts, leaving workers without benefits and with insufficient hours to make ends meet. In other words – we need to get back to the concept of the 40 hour work week – just from the other direction.

***

For more information, please contact NELP Senior Staff Attorney Tsedeye Gebreselassie at tsedeye@nelp.org. For more information about NELP, visit www.nelp.org or www.raisetheminimumwage.org