



House of Representatives

General Assembly

File No. 230

February Session, 2016

Substitute House Bill No. 5367

House of Representatives, March 29, 2016

The Committee on Labor and Public Employees reported through REP. TERCYAK of the 26th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING THE TOTAL UNEMPLOYMENT BENEFIT RATE AND AN ONLINE EMPLOYMENT EXCHANGE.

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

1 Section 1. Section 31-231a of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2016*):

3 (a) For a construction worker identified pursuant to regulations
4 adopted in accordance with subsection (c) of this section, the total
5 unemployment benefit rate for the individual's benefit year
6 commencing on or after April 1, 1996, shall be an amount equal to one
7 twenty-sixth, rounded to the next lower dollar, of his or her total
8 wages paid during that quarter of his or her current benefit year's base
9 period in which wages were the highest but not less than fifteen
10 dollars nor more than the maximum benefit rate as provided in
11 subsection (b) of this section.

12 (b) For an individual not included in subsection (a) of this section,

13 the individual's total unemployment benefit rate for his or her benefit
14 year commencing after September 30, 1967, shall be an amount equal
15 to one twenty-sixth, rounded to the next lower dollar, of the average of
16 his or her total wages, as defined in subdivision (1) of subsection (b) of
17 section 31-222, paid during the two quarters of his or her current
18 benefit year's base period in which such wages were highest but not
19 less than fifteen dollars, and commencing after October 1, 2016, shall
20 be an amount equal to one twenty-sixth, rounded to the next lower
21 dollar, of the average of his or her total wages, as defined in section 31-
22 222, paid during the four quarters of his or her current benefit year's
23 base period but not less than fifty dollars nor more than one hundred
24 fifty-six dollars in any benefit year commencing on or after the first
25 Sunday in July, 1982, nor more than sixty per cent rounded to the next
26 lower dollar of the average wage of production and related workers in
27 the state in any benefit year commencing on or after the first Sunday in
28 October, 1983, and provided the maximum benefit rate in any benefit
29 year commencing on or after the first Sunday in October, 1988, shall
30 not increase more than eighteen dollars in any benefit year, such
31 increase to be effective as of the first Sunday in October of such year,
32 and further provided the maximum benefit rate shall not increase in
33 benefit years 2016, 2017 and 2018. The average wage of production and
34 related workers in the state shall be determined by the administrator,
35 on or before August fifteenth annually, as of the year ended the
36 previous June thirtieth to be effective during the benefit year
37 commencing on or after the first Sunday of the following October and
38 shall be so determined in accordance with the standards for the
39 determination of average production wages established by the United
40 States Department of Labor, Bureau of Labor Statistics.

41 (c) The administrator shall adopt regulations pursuant to the
42 provisions of chapter 54 to implement the provisions of this section.
43 Such regulations shall specify the National Council on Compensation
44 Insurance employee classification codes which identify construction
45 workers covered by subsection (a) of this section and specify the
46 manner and format in which employers shall report the identification
47 of such workers to the administrator.

48 Sec. 2. Section 31-236 of the general statutes is repealed and the
49 following is substituted in lieu thereof (*Effective October 1, 2016*):

50 (a) An individual shall be ineligible for benefits:

51 (1) If the administrator finds that the individual has failed without
52 sufficient cause either to apply for available, suitable work when
53 directed so to do by the Public Employment Bureau or the
54 administrator, or to accept suitable employment when offered by the
55 Public Employment Bureau or by an employer, such ineligibility to
56 continue until such individual has returned to work and has earned at
57 least six times such individual's benefit rate. Suitable work means
58 either employment in the individual's usual occupation or field or
59 other work for which the individual is reasonably fitted, provided such
60 work is within a reasonable distance of the individual's residence. In
61 determining whether or not any work is suitable for an individual, the
62 administrator may consider the degree of risk involved to such
63 individual's health, safety and morals, such individual's physical
64 fitness and prior training and experience, such individual's skills, such
65 individual's previous wage level and such individual's length of
66 unemployment, but, notwithstanding any other provision of this
67 chapter, no work shall be deemed suitable nor shall benefits be denied
68 under this chapter to any otherwise eligible individual for refusing to
69 accept work under any of the following conditions: (A) If the position
70 offered is vacant due directly to a strike, lockout or other labor dispute;
71 (B) if the wages, hours or other conditions of work offered are
72 substantially less favorable to the individual than those prevailing for
73 similar work in the locality; (C) if, as a condition of being employed,
74 the individual would be required to join a company union or to resign
75 from or refrain from joining any bona fide labor organization; (D) if the
76 position offered is for work which commences or ends between the
77 hours of one and six o'clock in the morning if the administrator finds
78 that such work would constitute a high degree of risk to the health,
79 safety or morals of the individual, or would be beyond the physical
80 capabilities or fitness of the individual or there is no suitable
81 transportation available from the individual's home to or from the

82 individual's place of employment; or (E) if, as a condition of being
83 employed, the individual would be required to agree not to leave such
84 position if recalled by the individual's former employer;

85 (2) (A) If, in the opinion of the administrator, the individual has left
86 suitable work voluntarily and without good cause attributable to the
87 employer, until such individual has earned at least ten times such
88 individual's benefit rate, provided whenever an individual voluntarily
89 leaves part-time employment under conditions that would render the
90 individual ineligible for benefits, such individual's ineligibility shall be
91 limited as provided in subsection (b) of this section, if applicable, and
92 provided further, no individual shall be ineligible for benefits if the
93 individual leaves suitable work (i) for good cause attributable to the
94 employer, including leaving as a result of changes in conditions
95 created by the individual's employer, (ii) to care for the individual's
96 spouse, child, or parent with an illness or disability, as defined in
97 subdivision [(16)] (17) of this subsection, (iii) due to the discontinuance
98 of transportation, other than the individual's personally owned
99 vehicle, used to get to and from work, provided no reasonable
100 alternative transportation is available, (iv) to protect the individual, the
101 individual's child, the individual's spouse or the individual's parent
102 from becoming or remaining a victim of domestic violence, as defined
103 in section 17b-112a, provided such individual has made reasonable
104 efforts to preserve the employment, but the employer's account shall
105 not at any time be charged with respect to any voluntary leaving that
106 falls under subparagraph (A)(iv) of this subdivision, (v) for a
107 separation from employment that occurs on or after July 1, 2007, to
108 accompany a spouse who is on active duty with the armed forces of
109 the United States and is required to relocate by the armed forces, but
110 the employer's account shall not at any time be charged with respect to
111 any voluntary leaving that falls under subparagraph (A)(v) of this
112 subdivision, or (vi) to accompany such individual's spouse to a place
113 from which it is impractical for such individual to commute due to a
114 change in location of the spouse's employment, but the employer's
115 account shall not be charged with respect to any voluntary leaving
116 under subparagraph (A)(vi) of this subdivision; or (B) if, in the opinion

117 of the administrator, the individual has been discharged or suspended
118 for felonious conduct, conduct constituting larceny of property or
119 service, the value of which exceeds twenty-five dollars, or larceny of
120 currency, regardless of the value of such currency, wilful misconduct
121 in the course of the individual's employment, or participation in an
122 illegal strike, as determined by state or federal laws or regulations,
123 until such individual has earned at least ten times the individual's
124 benefit rate; provided an individual who (i) while on layoff from
125 regular work, accepts other employment and leaves such other
126 employment when recalled by the individual's former employer, (ii)
127 leaves work that is outside the individual's regular apprenticeable
128 trade to return to work in the individual's regular apprenticeable trade,
129 (iii) has left work solely by reason of governmental regulation or
130 statute, or (iv) leaves part-time work to accept full-time work, shall not
131 be ineligible on account of such leaving and the employer's account
132 shall not at any time be charged with respect to such separation, unless
133 such employer has elected payments in lieu of contributions;

134 (3) During any week in which the administrator finds that the
135 individual's total or partial unemployment is due to the existence of a
136 labor dispute other than a lockout at the factory, establishment or other
137 premises at which the individual is or has been employed, provided
138 the provisions of this subsection do not apply if it is shown to the
139 satisfaction of the administrator that (A) the individual is not
140 participating in or financing or directly interested in the labor dispute
141 that caused the unemployment, and (B) the individual does not belong
142 to a trade, class or organization of workers, members of which,
143 immediately before the commencement of the labor dispute, were
144 employed at the premises at which the labor dispute occurred, and are
145 participating in or financing or directly interested in the dispute; or (C)
146 the individual's unemployment is due to the existence of a lockout. A
147 lockout exists whether or not such action is to obtain for the employer
148 more advantageous terms when an employer (i) fails to provide
149 employment to its employees with whom the employer is engaged in a
150 labor dispute, either by physically closing its plant or informing its
151 employees that there will be no work until the labor dispute has

152 terminated, or (ii) makes an announcement that work will be available
153 after the expiration of the existing contract only under terms and
154 conditions that are less favorable to the employees than those current
155 immediately prior to such announcement; provided in either event the
156 recognized or certified bargaining agent shall have advised the
157 employer that the employees with whom the employer is engaged in
158 the labor dispute are ready, able and willing to continue working
159 pending the negotiation of a new contract under the terms and
160 conditions current immediately prior to such announcement;

161 (4) During any week with respect to which the individual has
162 received or is about to receive remuneration in the form of (A) wages
163 in lieu of notice or dismissal payments, including severance or
164 separation payment by an employer to an employee beyond the
165 employee's wages upon termination of the employment relationship,
166 unless the employee was required to waive or forfeit a right or claim
167 independently established by statute or common law, against the
168 employer as a condition of receiving the payment, or any payment by
169 way of compensation for loss of wages, or any other state or federal
170 unemployment benefits, except mustering out pay, terminal leave pay
171 or any allowance or compensation granted by the United States under
172 an Act of Congress to an ex-serviceperson in recognition of the ex-
173 serviceperson's former military service, or any service-connected pay
174 or compensation earned by an ex-serviceperson paid before or after
175 separation or discharge from active military service, or (B)
176 compensation for temporary disability under any workers'
177 compensation law;

178 (5) Repealed by P.A. 73-140;

179 (6) If the administrator finds that the individual has left
180 employment to attend a school, college or university as a regularly
181 enrolled student, such ineligibility to continue during such attendance;

182 (7) Repealed by P.A. 74-70, S. 2, 4;

183 (8) If the administrator finds that, having received benefits in a prior

184 benefit year, the individual has not again become employed and been
185 paid wages since the commencement of said prior benefit year in an
186 amount equal to the greater of three hundred dollars or five times the
187 individual's weekly benefit rate by an employer subject to the
188 provisions of this chapter or by an employer subject to the provisions
189 of any other state or federal unemployment compensation law;

190 (9) If the administrator finds that the individual has retired and that
191 such retirement was voluntary, until the individual has again become
192 employed and has been paid wages in an amount required as a
193 condition of eligibility as set forth in subdivision (3) of section 31-235;
194 except that the individual is not ineligible on account of such
195 retirement if the administrator finds (A) that the individual has retired
196 because (i) such individual's work has become unsuitable considering
197 such individual's physical condition and the degree of risk to such
198 individual's health and safety, and (ii) such individual has requested of
199 such individual's employer other work that is suitable, and (iii) such
200 individual's employer did not offer such individual such work, or (B)
201 that the individual has been involuntarily retired;

202 (10) Repealed by P.A. 77-426, S. 6, 19;

203 (11) Repealed by P.A. 77-426, S. 6, 19;

204 (12) Repealed by P.A. 77-426, S. 17, 19;

205 (13) If the administrator finds that, having been sentenced to a term
206 of imprisonment of thirty days or longer and having commenced
207 serving such sentence, the individual has been discharged or
208 suspended during such period of imprisonment, until such individual
209 has earned at least ten times such individual's benefit rate;

210 (14) If the administrator finds that the individual has been
211 discharged or suspended because the individual has been disqualified
212 under state or federal law from performing the work for which such
213 individual was hired as a result of a drug or alcohol testing program
214 mandated by and conducted in accordance with such law, until such

215 individual has earned at least ten times such individual's benefit rate;

216 (15) If the individual is a temporary employee of a temporary help
217 service and the individual refuses to accept suitable employment when
218 it is offered by such service upon completion of an assignment until
219 such individual has earned at least six times such individual's benefit
220 rate; [and]

221 (16) During any week in which the administrator finds that the
222 individual, having commenced a claim for benefits on or after January
223 1, 2017, has failed to post his or her resume on an online employment
224 exchange designated by the administrator and designed for employers
225 and job seekers in the state after the sixth consecutive week of
226 collecting benefits under this chapter. The administrator may adopt
227 regulations, in accordance with the provisions of chapter 54, to
228 implement the provisions of this subdivision; and

229 [(16)] (17) For purposes of subparagraph (A)(ii) of subdivision (2) of
230 this subsection, "illness or disability" means an illness or disability
231 diagnosed by a health care provider that necessitates care for the ill or
232 disabled person for a period of time longer than the employer is
233 willing to grant leave, paid or otherwise, and "health care provider"
234 means (A) a doctor of medicine or osteopathy who is authorized to
235 practice medicine or surgery by the state in which the doctor practices;
236 (B) a podiatrist, dentist, psychologist, optometrist or chiropractor
237 authorized to practice by the state in which such person practices and
238 performs within the scope of the authorized practice; (C) an advanced
239 practice registered nurse, nurse practitioner, nurse midwife or clinical
240 social worker authorized to practice by the state in which such person
241 practices and performs within the scope of the authorized practice; (D)
242 Christian Science practitioners listed with the First Church of Christ,
243 Scientist in Boston, Massachusetts; (E) any medical practitioner from
244 whom an employer or a group health plan's benefits manager will
245 accept certification of the existence of a serious health condition to
246 substantiate a claim for benefits; (F) a medical practitioner, in a practice
247 enumerated in subparagraphs (A) to (E), inclusive, of this subdivision,

248 who practices in a country other than the United States, who is
249 licensed to practice in accordance with the laws and regulations of that
250 country; or (G) such other health care provider as the Labor
251 Commissioner approves, performing within the scope of the
252 authorized practice. For purposes of subparagraph (B) of subdivision
253 (2) of this subsection, "wilful misconduct" means deliberate
254 misconduct in wilful disregard of the employer's interest, or a single
255 knowing violation of a reasonable and uniformly enforced rule or
256 policy of the employer, when reasonably applied, provided such
257 violation is not a result of the employee's incompetence and provided
258 further, in the case of absence from work, "wilful misconduct" means
259 an employee must be absent without either good cause for the absence
260 or notice to the employer which the employee could reasonably have
261 provided under the circumstances for three separate instances within a
262 twelve-month period. Except with respect to tardiness, for purposes of
263 subparagraph (B) of subdivision (2) of this subsection, each instance in
264 which an employee is absent for one day or two consecutive days
265 without either good cause for the absence or notice to the employer
266 which the employee could reasonably have provided under the
267 circumstances constitutes a "separate instance". For purposes of
268 subdivision (15) of this subsection, "temporary help service" means any
269 person conducting a business that consists of employing individuals
270 directly for the purpose of furnishing part-time or temporary help to
271 others; and "temporary employee" means an employee assigned to
272 work for a client of a temporary help service.

273 (b) Any individual who has voluntarily left part-time employment
274 under conditions which would otherwise render him or her ineligible
275 for benefits pursuant to subparagraph (A) of subdivision (2) of
276 subsection (a) of this section, who has not earned ten times his or her
277 benefit rate since such separation and who is otherwise eligible for
278 benefits shall be eligible to receive benefits only as follows: (1) If such
279 separation from the individual's part-time employment precedes a
280 compensable separation, under the provisions of this chapter, from his
281 or her full-time employment, he or she shall be eligible to receive an
282 amount equal to the benefits attributable solely to the wages paid to

283 him or her for any employment during his or her base period other
 284 than such part-time employment; or (2) if such separation from the
 285 individual's part-time employment follows a compensable separation,
 286 under the provisions of this chapter, from his or her full-time
 287 employment, he or she shall be eligible to receive an amount equal to
 288 the lesser of the partial unemployment benefits he or she would have
 289 received under section 31-229 but for such separation from his or her
 290 part-time employment or the partial unemployment benefits for which
 291 he or she would be eligible under section 31-229 based on any
 292 subsequent part-time employment. In no event may the employer who
 293 provided such part-time employment for the individual be charged for
 294 any benefits paid pursuant to the subsection. For purposes of this
 295 subsection, "full-time employment" means any job normally requiring
 296 thirty-five hours or more of service each week, and "part-time
 297 employment" means any job normally requiring less than thirty-five
 298 hours of service each week.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2016	31-231a
Sec. 2	October 1, 2016	31-236

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 17 \$	FY 18 \$
Labor Dept.	UCF - Savings	Up to 107.8 million	Up to 143.2 million
Labor Dept.	UCF - Cost	112,320	224,640
Labor Dept.	UCF - Cost	Potential Significant	None

Note: UCF=Unemployment Compensation Fund

Municipal Impact: None

Explanation

The bill makes various unemployment benefits-related changes which result in an estimated savings to the Unemployment Compensation Fund (UCF) of up to \$107.8 million in FY 17 and up to \$143.2 million in FY 18, as well as an estimated cost to the UCF of \$112,320 in FY 17 and \$224,640 in FY 18 and a one-time potentially significant cost in FY 17.

Increasing, from \$600 to \$2,000, the minimum base period earnings required to qualify for unemployment benefits is estimated to result in an annualized savings of up to \$5.6 million to the UCF. Based on unemployment claims data from 2015, it is estimated that this change would disqualify up to 9,300 claimants that are currently eligible.¹

Modifying the unemployment benefit calculation based on average wages over four quarters results in an estimated annualized savings of

¹ It is possible that some of these claimants would be eligible for unemployment benefits under an alternate wage calculation. Thus, the savings estimate represents a maximum impact to the UCF.

approximately \$136 million to the UCF. Based on unemployment claims data from 2015, it is estimated that this change would decrease the weekly benefit received by approximately 130,000 claimants.²

Freezing the maximum unemployment benefit rate at the current value of \$598 through 2018 results in an annual savings of \$1.6 million to the UCF in 2017 and 2018. This estimate assumes an average annual increase of \$5, which is the approximate amount of increase in recent years.

Requiring unemployment benefit recipients to post a resume online is anticipated to result in an increased cost to the Labor Department associated with additional adjudication hearings for claimants who are out of compliance with the requirement. Specifically, it is anticipated that additional personnel would be necessary to accommodate the workload at an annualized cost of approximately \$224,640 (\$120,000 for salary and \$104,640 for fringe costs).

It is anticipated that implementing the benefits changes under the bill's provisions would also result in a significant one-time cost to the UCF associated with system programming and other information technology changes.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation, with the exception of the freezing of the maximum unemployment benefit rate which expires in 2018.

Sources: Labor Department Unemployment Division Statistics

² The increase in minimum base period earnings requirement and four-quarter calculation method do not apply to construction workers.

OLR Bill Analysis**sHB 5367*****AN ACT CONCERNING THE TOTAL UNEMPLOYMENT BENEFIT RATE AND AN ONLINE EMPLOYMENT EXCHANGE.*****SUMMARY:**

This bill makes several changes to unemployment benefits and eligibility requirements for receiving them. It:

1. increases from \$15 to \$50 the minimum amount of weekly unemployment benefits most claimants can receive,
2. increases from \$600 to \$2,000 the minimum amount most claimants must earn during their base period (the first four of the last five calendar quarters) to be eligible for benefits, and
3. requires most claimants' benefits to be based on their average quarterly wages during all four quarters of their base period, instead of during their two highest earning quarters.

None of the above changes apply to construction workers' unemployment benefits or eligibility.

For all unemployment benefits claimants, the bill also (1) freezes the maximum benefit cap through 2018 and (2) requires claimants who file for benefits after January 1, 2017 to post their resumes on an online employment exchange after they receive benefits for six consecutive weeks.

EFFECTIVE DATE: October 1, 2016

MINIMUM BENEFITS AND EARNINGS

The bill increases the minimum weekly unemployment benefit for non-construction workers from \$15 to \$50. Because the law requires

claimants to have earned at least 40 times their weekly benefit during their base period to qualify for benefits, increasing the minimum benefit also increases what claimants must earn over the course of their base period to qualify for benefits (CGS § 31-235). Thus, to qualify for the bill's \$50 minimum weekly benefit, claimants must earn at least \$2,000 ($\50×40) over their base period, instead of the \$600 required by current law.

BENEFIT DETERMINATIONS

Under current law, a claimant's weekly unemployment benefit is calculated as one twenty-sixth of the claimant's average quarterly wages during the two highest earning quarters of his or her base period. For example, if claimant "A" earns \$10,000 per quarter in two quarters and \$5,000 per quarter in two quarters, he receives a \$384 weekly benefit ($1/26$ of \$10,000). And if claimant "B" earns \$10,000 per quarter in all four quarters, he also receives a \$384 benefit.

The bill instead requires benefits for non-construction worker claimants to be calculated as one twenty-sixth of the claimant's average quarterly wages during the four quarters of his or her base period. Under this formula, claimant A would receive a \$288 weekly benefit ($1/26$ of \$7,500) while claimant B's benefit would remain \$384 ($1/26$ of \$10,000).

MAXIMUM BENEFIT CAP FREEZE

The law caps the maximum benefit allowed for any unemployment claimant at 60% of the average wage paid to the state's production (i.e., manufacturing) workers. The labor commissioner adjusts the cap on the first Sunday of each October but cannot increase it more than \$18 each year. The bill freezes the cap at its current value (\$598) for anyone who files for unemployment in 2016, 2017, or 2018.

ONLINE RESUME POSTING

The bill requires claimants who file for unemployment benefits after January 1, 2017 to post their resumes on an online employment exchange after they receive benefits for six consecutive weeks.

Claimants are ineligible for benefits during any week in which the labor commissioner finds they failed to do so. The online exchange must be one designated by the labor commissioner and designed for the state’s employers and job seekers. The commissioner may adopt regulations to implement the bill’s online resume requirement.

BACKGROUND

Related Bills

sHB 5369, reported favorably by the Labor and Public Employees Committee, requires the maximum benefit cap to be 50% of the statewide average wage, rather than 60% of the average production wage.

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable Substitute

Yea 13 Nay 0 (03/10/2016)