



House of Representatives

General Assembly

File No. 322

February Session, 2018

Substitute House Bill No. 5480

House of Representatives, April 9, 2018

The Committee on Labor and Public Employees reported through REP. PORTER of the 94th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING UNEMPLOYMENT COMPENSATION BENEFITS.

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 Section 31-231a of the general statutes is repealed and the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, 2018*):

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 current benefit
18 year's base period in which such wages were highest but not less than
19 (1) fifteen dollars nor more than one hundred fifty-six dollars in any
20 benefit year commencing on or after the first Sunday in July, 1982, nor
21 more than sixty per cent rounded to the next lower dollar of the
22 average wage of production and related workers in the state in any
23 benefit year commencing on or after the first Sunday in October, 1983,
24 and (2) fifty dollars nor more than sixty per cent rounded to the next
25 lower dollar of the average wage of production and related workers in
26 the state in any benefit year commencing on or after the first Sunday in
27 October, 2018, and provided the maximum benefit rate in any benefit
28 year commencing on or after the first Sunday in October, 1988, shall
29 not increase more than eighteen dollars in any benefit year, such
30 increase to be effective as of the first Sunday in October of such year,
31 and further provided the maximum benefit rate shall not increase in
32 any benefit year commencing on or after the first Sunday in October,
33 2018, if the balance in the Unemployment Trust Fund results in an
34 average high cost multiple that is less than 0.7, as calculated pursuant
35 to subsection (f) of section 31-225a. The average wage of production
36 and related workers in the state shall be determined by the
37 administrator, on or before August fifteenth annually, as of the year
38 ended the previous June thirtieth to be effective during the benefit year
39 commencing on or after the first Sunday of the following October and
40 shall be so determined in accordance with the standards for the
41 determination of average production wages established by the United
42 States Department of Labor, Bureau of Labor Statistics.

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

48 manner and format in which employers shall report the identification
49 of such workers to the administrator.

50 Sec. 2. Subdivision (4) of subsection (a) of section 31-236 of the
51 general statutes is repealed and the following is substituted in lieu
52 thereof (*Effective October 1, 2018*):

53 (4) During any week with respect to which the individual has
54 received or is about to receive remuneration in the form of (A) wages
55 in lieu of notice or dismissal payments, including severance or
56 separation payment by an employer to an employee beyond the
57 employee's wages upon termination of the employment relationship,
58 [unless the employee was required to waive or forfeit a right or claim
59 independently established by statute or common law, against the
60 employer as a condition of receiving the payment,] or any payment by
61 way of compensation for loss of wages, or any other state or federal
62 unemployment benefits, except mustering out pay, terminal leave pay
63 or any allowance or compensation granted by the United States under
64 an Act of Congress to an ex-serviceperson in recognition of the ex-
65 serviceperson's former military service, or any service-connected pay
66 or compensation earned by an ex-serviceperson paid before or after
67 separation or discharge from active military service, or (B)
68 compensation for temporary disability under any workers'
69 compensation law;

70 Sec. 3. Subdivision (16) of subsection (a) of section 31-236 of the
71 general statutes is repealed and the following is substituted in lieu
72 thereof (*Effective October 1, 2018*):

73 (16) For purposes of subparagraph (A) (ii) of subdivision (2) of this
74 subsection, "illness or disability" means an illness or disability
75 diagnosed by a health care provider that necessitates care for the ill or
76 disabled person for a period of time longer than the employer is
77 willing to grant leave, paid or otherwise, and "health care provider"
78 means (A) a doctor of medicine or osteopathy who is authorized to
79 practice medicine or surgery by the state in which the doctor practices;
80 (B) a podiatrist, dentist, psychologist, optometrist or chiropractor

81 authorized to practice by the state in which such person practices and
82 performs within the scope of the authorized practice; (C) an advanced
83 practice registered nurse, nurse practitioner, nurse midwife or clinical
84 social worker authorized to practice by the state in which such person
85 practices and performs within the scope of the authorized practice; (D)
86 Christian Science practitioners listed with the First Church of Christ,
87 Scientist in Boston, Massachusetts; (E) any medical practitioner from
88 whom an employer or a group health plan's benefits manager will
89 accept certification of the existence of a serious health condition to
90 substantiate a claim for benefits; (F) a medical practitioner, in a practice
91 enumerated in subparagraphs (A) to (E), inclusive, of this subdivision,
92 who practices in a country other than the United States, who is
93 licensed to practice in accordance with the laws and regulations of that
94 country; or (G) such other health care provider as the Labor
95 Commissioner approves, performing within the scope of the
96 authorized practice. For purposes of subparagraph (B) of subdivision
97 (2) of this subsection, "wilful misconduct" means deliberate
98 misconduct in wilful disregard of the employer's interest, or a single
99 knowing violation of a reasonable and uniformly enforced rule or
100 policy of the employer, when reasonably applied, provided such
101 violation is not a result of the employee's incompetence and provided
102 further, in the case of absence from work, "wilful misconduct" means
103 an employee must be absent without either good cause for the absence
104 or notice to the employer which the employee could reasonably have
105 provided under the circumstances for three separate instances within a
106 twelve-month period. Except with respect to tardiness, for purposes of
107 subparagraph (B) of subdivision (2) of this subsection, each instance in
108 which an employee is absent for one day [or two consecutive days]
109 without either good cause for the absence or notice to the employer
110 which the employee could reasonably have provided under the
111 circumstances constitutes a "separate instance". For purposes of
112 subdivision (15) of this subsection, "temporary help service" means any
113 person conducting a business that consists of employing individuals
114 directly for the purpose of furnishing part-time or temporary help to
115 others; and "temporary employee" means an employee assigned to

116 work for a client of a temporary help service.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2018</i>	31-231a
Sec. 2	<i>October 1, 2018</i>	31-236(a)(4)
Sec. 3	<i>October 1, 2018</i>	31-236(a)(16)

Statement of Legislative Commissioners:

In Section 1(b), subdivisions (1) and (2) were designated to clarify the applicability of the increase to the weekly unemployment benefit.

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 19 \$	FY 20 \$
Labor Dept.	UCF - Savings	Up to 70.2 million	Up to 93.5 million
Labor Dept.	Employment Security Administration Fund - Cost	Up to 800,000	None
Labor Dept.	Employment Security Administration Fund - Uncertain	See Below	See Below
State Comptroller - Fringe Benefits	Various - Savings	Potential	Potential

Note: UCF=Unemployment Compensation Fund; Various=Various

Municipal Impact:

Municipalities	Effect	FY 19 \$	FY 20 \$
Various Municipalities	Savings	Potential	Potential

Explanation

The bill makes various unemployment benefits-related changes which result in an estimated savings to the Unemployment Compensation Fund (UCF) of up to \$70.2 million in FY 19 and up to \$93.5 million in FY 20, as well as a one-time cost of up to \$800,000 to the Department of Labor's (DOL) Employment Security Administration Fund (ESAF) in FY 19.

Increasing, from \$600 to \$2,000, the minimum base period earnings required for non-construction workers to qualify for unemployment

benefits is estimated to result in an annualized savings of less than \$1 million to the UCF. It should be noted that United States Department of Labor has indicated that implementing different formulas for determining unemployment benefit eligibility and amounts for construction workers versus all other workers is out of conformity with federal law. Lack of conformity with federal law could risk federal funding of up to \$53 million currently utilized by the DOL to administer the state unemployment insurance program.

Freezing the maximum unemployment benefit at the current value of \$616 until the average high cost multiple (ACHM) of the UCF is at least 0.7 results in an estimated annualized savings of \$33.5 million. This estimate assumes the ACHM will remain below 0.7 through at least 2025.

Expanding the circumstances under which a claimant is prohibited from receiving unemployment benefits concurrently with severance pay results in an estimated annualized savings of up to \$59 million. This is based on the number of dismissal pay issues adjudicated by the DOL in 2016.

Establishing each day of an absence (rather than up to two consecutive days) as an instance of absence for unemployment eligibility purposes results in a minimal savings to the UCF.

It is anticipated that implementing the benefits changes under the bill's provisions would also result in a one-time cost of up to \$800,000 in FY 19 to the ESAF associated with business plan development, implementation/testing, and information technology programming.¹

To the extent the bill's provisions result in lower unemployment benefits paid to claimants, there is a potential savings to the state and

¹ It should be noted that the ESAF is federally funded; however, receipt of funding is contingent upon federal approval. To the extent that federal funding is not approved, this cost would be borne by the agency's General Fund budget.

municipalities as reimbursing employers.²

The Out Years

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

Sources: Labor Department Unemployment Division Statistics

² Reimbursing employers are billed by the DOL for the actual amount of benefits paid to former employees collecting unemployment; this option is only available to the state, municipalities, Native American tribes, and non-profits.

OLR Bill Analysis

sHB 5480

AN ACT CONCERNING UNEMPLOYMENT COMPENSATION BENEFITS.

SUMMARY

This bill makes several changes in the unemployment system. Among other things, it:

1. increases the minimum weekly unemployment benefit for non-construction workers from \$15 to \$50;
2. increases the minimum earnings these claimants need to qualify for the minimum benefit from \$600 to \$2,000; and
3. prohibits annual increases in the maximum weekly unemployment benefit if the unemployment trust fund holds less than 70% of the amount needed to provide one year of benefits at a recession level payout rate.

Current law generally prohibits claimants from receiving benefits during any week for which they received severance pay but makes an exception if, as a condition for receiving the severance pay, a claimant was required to forfeit a right or claim against an employer. The bill eliminates this exception.

By law, employees are ineligible for unemployment benefits if they were terminated after three separate instances of being absent from work without either good cause or notifying the employer. Under current law, an "instance" of absence can be either one day or two consecutive days (thus, an employee who is absent for two consecutive days counts as one absence). The bill instead requires each day of being absent without good cause or notice to be counted as an instance of absence.

EFFECTIVE DATE: October 1, 2018

MINIMUM BENEFITS AND EARNINGS

Starting with any benefit year commencing on or after the first Sunday in October 2018, the bill increases non-construction workers' minimum weekly unemployment benefit from \$15 to \$50. Because the law generally 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 these claimants must earn over the course of their base period to qualify for the minimum benefit (CGS § 31-235). Thus, to qualify for the bill's \$50 minimum weekly benefit, claimants must have earned at least \$2,000 ($\50×40) over their base period, instead of the \$600 required by current law.

MAXIMUM BENEFIT CAP FREEZE

Current 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 must adjust the cap on the first Sunday of each October but cannot increase it more than \$18 each year.

The bill further prohibits the commissioner from increasing the cap in any benefit year starting on or after the first Sunday in October 2018 if the balance in the unemployment trust fund results in an average high cost multiple (AHCM) less than 0.7, as calculated by law. The AHCM is a formula that expresses how many years the unemployment trust fund can pay out benefits at a recession-level payout rate. If the AHCM is 1.0, the fund should be able to cover one year of benefits in a recession that is the average magnitude of the last three recessions.

BACKGROUND

Related Bill

sHB 5478, reported favorably by the Labor and Public Employees Committee, requires the maximum unemployment benefit to be

calculated as 50% of the average wage of all workers in the state, rather than 60% of the average wage paid to the state's production workers.

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable Substitute

Yea 13 Nay 0 (03/20/2018)