

Labor and Public Employees Committee

JOINT FAVORABLE REPORT

Bill No.: SB-227

Title: AN ACT CONCERNING A FAIR WORK WEEK SCHEDULE.

Vote Date: 3/10/2020

Vote Action: Joint Favorable

PH Date: 2/25/2020

File No.:

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SPONSORS OF BILL:

Labor and Public Employees Committee

REASONS FOR BILL:

Shift workers are not provided enough notice by employers to be available for a scheduled work shift or work schedule change which can impact a workers personal obligations.

RESPONSE FROM ADMINISTRATION/AGENCY:

Martin M. Looney, Senate Pro Tempore, State of CT: Sen. Looney testified unstable working conditions impact many families forced to struggle with fluctuating, unpredictable incomes. CT should follow the lead of other states who have enacted work hour protections including advance notice of work schedules, compensation for on-call shifts and giving employees the right to influence their work schedules.

Josh Michtom, Councilman and Public Defender, City of Hartford: His testimony stated this bill would finally give CT workers basic rights, dignity, security and respect. These are retail, foodservice and office cleaners who work the hardest to ensure things run smoothly for everyone else. Some of these workers require court-ordered counseling and drug-testing appointments every week in order to maintain jobs and housing.

Workers need a semblance of normalcy and regularity. It is immoral that CT workers are faced with the constant threat of job loss.

NATURE AND SOURCES OF SUPPORT:

Brian Anderson, Legislative Coordinator, Council 4 AFSCME: He testified this bill grants some minimal protections to workers who are exploited by profitable corporations.

Wildaliz Berudez, Councilwoman, City of Hartford: She testified employees working multiple part-time jobs in lieu of one full-time job forces them into depression or anxiety because they are unable to spend time with their families due to consecutive closing and opening shifts. A consistent and fair schedule is not too much to ask of an employer. An economy of limited part-time work increases our State's burden to provide and expand basic services and benefits.

Taylor Biniarz, Self, Hartford Resident: Her testimony revealed she was subject to two types of schedules: either she was told at the beginning of the work week or the day before she was to work while she was actually at work. Both constantly changed and she was often told she wasn't needed or told to go home early. Because of the uncertainty, she received several overdraft fees due to automatic bills taken from her account. This bill will stabilize working families by limiting on-call scheduling.

Giselle Chavez, theater employee, Bridgeport resident: Ms. Chavez said she was punished and taken off the schedule when she refused work because she had something planned, such as doctor's appointments and childcare issues. She was also sent home on occasions, so her work time ranged from zero to 40 hours per week. This bill will help families plan by knowing how much money they would earn each week.

Carl Chisem, President, SEIU Local 511: He said juggling schedules between work, childcare, school and extra-curricular activities is difficult, especially when employers are enabled to change work schedules with no notice.

Chelsea Connery, Former Hartford Public Schools Educator and PHD Student: Chelsea testified as a server/bartender she worked on-call shifts only to be sent home when she wasn't needed. This is stressful, making it difficult to make plans/appointments or predicting her pay each month. Balancing unstable work schedules can be hazardous to health due to stress. With the majority of low-wage earners, this bill is needed to ensure success for working-class families.

Steven Hernandez, Executive Director, CWCSEO: He testified the commission supports the bill because it creates a more sustainable lifestyle for CT residents. The uncertainty creates chaos in workers' finances and personal lives and harms their well-being. It prevents employees from pursuing other jobs or educational opportunities. On-call scheduling should be eradicated in CT.

Rachel Deutsch, Supervising Attorney, Center for Popular Democracy: Her testimony said last-minute scheduling is pervasive and the resulting instability makes it impossible for workers to plan their lives, having no input. Women of color are especially affected as are children. This is a common-sense solution.

Merrill Gay, Executive Director, CT Early Childhood Alliance: CT was in the handful of states that saw child poverty grow. This is due to part-time employment where parents are not

given a regular work schedule. In retail, foodservice and hospitality jobs, this enables businesses to achieve managing efficiency, but exacts a toll on employees. Workers are unable to get second jobs, pursue further education, or even get stable child-care.

Madeline Granato, Policy Director, CWEALF: Unpredictable schedules lead to real-life consequences for workers and their families. Often, child-care centers require a weekly or monthly fee regardless of how often the child attends. Holding a spot is expensive and infeasible for workers unsure of when they will work or how much they will earn. This bill is a common sense and necessary step forward for CT's workforce.

Juan Hernandez, District Director & Vice President, 32BJ SEIU: CT's recovery has been concentrated in lower wage industries requiring the attention of low wage workers who are forced to keep erratic hours and unpredictable schedules. Hours are often cut with no notice and workers are unable to attend classes or training to improve skills. "Clopings", where a worker stays on the night shift to close the business and then returns a few hours later to open, do not allow sufficient rest leading to accidents and is harmful to health. It is time for CT to join Oregon, New York and Philadelphia by enacting fair work week scheduling.

John Humphries, Self, Hartford Resident: Working families in front-line service jobs consist mostly of women and people of color who are especially vulnerable to on-call scheduling that is harmful to families. CT must update the existing law by ensuring workers receive partial compensation for shifts cancelled with less than reasonable notice, even if the workers have not physically reported to work. Policies in other states are designed to give working people access to family-sustaining incomes and balanced workweeks.

Angela Idrovo, Student, Students for a Dream: She testified the immigrant community in CT deserves to live unafraid. This means having economic security. Young workers, students and young parents are especially affected. Stabilizing income and schedules lifts them out of poverty to become financially independent.

Julia Lee, Policy Intern, CAHS: Ms. Lee said when work schedules unexpectedly change, impoverished working families and single parents struggle to find reliable childcare, navigate transportation or secure a second part-time job. Lack of quality time with children has a lasting effect on mental health and the ability to form relationships. It is time for CT to join other states and support policies giving all employees the right to regular, predictable work schedules.

Susan Eastwood, Founder & Chair, Clean Energy Task Force, Ashford: Although her testimony focused on clean energy, she also urged support of equal pay for equal work.

Sal Luciano, President, CT AFL-CIO: Mr. Luciano testified how employers of low-wage workers often exploit them by forcing work with little notice, or requiring availability for "on-call" shifts without the guarantee of actual work. Shifts are cancelled with little or no notice and workers are sent home early without pay when business is slow. This causes uncertainty and lost pay leading to difficulties for thousands of hardworking employees who cannot manage household budgets or family schedules. Employers would also benefit by having workers with higher levels of morale and productivity, reducing turnover and lowering training costs.

Elizabeth Martinez, Fast Food Restaurant Employee, Make the Road CT Member, Bridgeport Resident:

Ms. Martinez said she had difficulty making appointments and arranging child care because she did not know her work schedule beforehand. When she spoke up, her employer told her if she didn't like it she could leave. He later did comply with more reliable scheduling but cut her hours from 40 to 27 per week. This was problematic because she was unable to budget when her income would vary. It is not fair that individual workers must beg for humane work schedules and predictable hours.

Yadira Martinez, McDonald's Employee, West Haven Resident: She testified about bad conditions at interstate service plazas whose property is State-owned. They have few benefits and pay is so low that they believe it is in violation of the agreement with the State. She had the same problems as others with scheduling childcare and appointments. She was once called in at 2:00 for a 3:00 shift and when she was unable to get childcare and refused, her hours were cut the following week. This bill will stabilize the lives of many families.

Norma Martinez-HoSang, Organizing Director, Make the Road CT: Her testimony said their membership was comprised of both documented and undocumented low-income workers of color. After struggling to find work, they are disadvantaged due to their status. Because they need the income, they keep working even though their rights are violated. CT needs to catch up to other cities that have made changes to protect workers and their families.

Rick Melita, Director, SEUI State Council: Mr. Melita testified that hedge-fund operated multimillion-dollar corporations skirt labor law responsibility and maximize profits by forcing workers to accept low wages and hostile work conditions in plazas on CT highways. Volatile hours mean volatile income which adds to the strain of working families. These workers are unable to plan ahead for childcare, take classes, work a second job, or pursue other career opportunities. New technology allows businesses to track sales and customer flow with precise detail and some use algorithms to automatically set work schedules based on predicted customer traffic. This is a pro-worker bill that must be passed.

Carlos Moreno, Deputy Director, CT Working Families, Cornwall Resident: CT's rising inequality, the decline of high-wage jobs and increase of low-wage jobs prevent upward mobility, leading to family and child poverty. Just when most needed, unexpected drops in work hours contribute to families losing insurance, paid leave and childcare benefits. Six in ten adults regularly help care for aging parents. Businesses keep abusing on-call practices since quitting is not an option for most low-wage employees. Almost half of service workers have no input to their work schedules. Enacting this bill will benefit employers since stable work schedules and opportunities for full-time work will reduce absenteeism and staff turnover while increasing productivity.

Jane Nadal, Policy Coordinator, CTSI Immigration & Refugee Action Team: Low wage and immigrant workers are struggling to survive. The policies of "on-call" scheduling, under-scheduling and "clopening" have too long been abused. Under-scheduling denies workers their eligible benefits, so families resort to public assistance. There is evidence that predictability and stability increase productivity and sales which benefits employers. This group urges the State to join other states who have already passed workplace legislation.

Michelle Noehrem, Self: Her testimony said this bill promotes economic security for working parents who suffer stress when trying to find childcare at the last minute. Having a clear, predictable work schedule helps the employer's bottom line because workers will have increased morale and employees will be less stressed knowing what to expect.

PoliticaCT: Their testimony urged support because in recent years, workers have little to no inputs and have been assigned work schedules that vary too much. Women and people of color are disproportionately involved. Typically, women are the caregivers in the household in addition to their jobs.

Ann Pratt, Director Organizer, CT Citizen Action Group: Irregular scheduling creates impossible burdens for working families. Compensating employees with half-time rates for unworked hours as a result of cancelled shifts, providing employees at least 11 hours between shifts and providing 14 days advance scheduling will lessen these burdens.

Gretchen Raffa, Director, Public Policy, Advocacy & Strategic Engagement, Planned Parenthood of Southern New England, Inc: All aspects of a woman's life must be considered to include earning a living wage to ensure economic stability. Unpredictable work schedules contribute to a host of health and well-being issues. Women of color are disproportionately affected. Resultant stress is associated with depression, anxiety, disrupted sleep, food insecurity and numerous health problems.

Azucena Santiago, McDonald's Worker, I-95 Northbound Service Plaza: Ms. Santiago said many service plazas hire workers who are parents of young children and are given no personal or sick days. Some employees come to work with illnesses that affect others. Last year she worked at least 35 hours a week. However, when she became active with the union fight for better pay, benefits and scheduling rights, her employment was cut to only 5 hours a week and she was suspended from her job. She said she can no longer live this way but she will keep fighting for more workers' rights.

Kae Vargas, Retail Sales Associate, Hamden Resident: She currently works full time for a business where fixed schedules is a company policy. Workers choose their weekly schedules which has benefited her significantly since she has health problems requiring medical appointments. She kept her appointments and still earned income because if she needed someone to cover her shift, she was able to swap with a fellow worker directly via an app. This was crucial for her mental and physical health. All workers deserve a stable work-life.

Julie Vogtman, Director of Job Quality and Senior Counsel, National Women's Law Center: In recent years, employers use "just-in-time" scheduling enabled by modern workforce management systems using algorithms. This system frequently spreads work hours among many part-time employees so they can "flex-up" at a moment's notice. This makes it challenging for workers trying to fulfill responsibilities outside their jobs. This bill recognizes the disadvantage that last minute scheduling has for workers, discourages the unhealthy and unnecessary practice of "clopening" and promotes opportunities for full-time work.

Deborah Wright, Political Director, United Auto Workers, Region 9A: Many service industries have unpredictable emergencies such as weather, but last-minute cancellations of shifts without compensation translates into economic instability for employees.

NATURE AND SOURCES OF OPPOSITION:

Matthew V. Barrett, President/CEP, CT Association of Health Care Facilities and the CT Center for Assisted Living: Scheduling and payment requirements create challenges for nursing that require flexibility due to the fluctuation in the number of patients requiring staffing care. There is no way to predict the number of admissions and discharges in any given day. For these reasons, nursing homes should be exempt from this bill.

Michael Batista, President, CT Franchisee Association: Under this bill, employers would be obligated to award hours to under-performing individuals, including those who show up late or fail to meet company standards, simply because they are available. It removes the incentive to work with employees to improve their performance. Instead this bill encourages employers to terminate under-performing workers.

Keith Bishop, Co-Owner, Bishop's Orchards Farm Market and Winery, Guilford: His family ran this operation for 6 generations. They take pride in hiring high school students and first-time job holders and work hard to schedule around their school, sport and family obligations. Farm operations need to be nimble in response to weather conditions and customer demands. Both under and over scheduling take a toll on labor and management. CT farmers are well-intentioned stewards of resources, including labor issues, and should be respected.

CT Conference of Municipalities: Unpredictable events such as inclement weather may require a municipality to schedule more employees for a specific shift than are needed. Town leaders need autonomy to adjust schedules accordingly and make decisions based on workload. These mandates are impractical and limit the flexibility needed to meet constantly changing needs.

Joe and Anita Catalano, Owners, Joey C's Boathouse & Grill: They submitted testimony saying this would be devastating to small restaurant owners. The nature of the business disallows far-out scheduling due to many factors, including weather, reservations, private parties, and cancellations every day. This restrictive bill would put many out of business.

Lynn Dell, General Manager, Double Tree by Hilton, Bristol: The booking window for hotels for sleeping rooms and events often falls within a 5-7 day timeframe and is unpredictable. Employers need the ability to cut or add shifts based on business demand. Employers should not be forced to pay fines for uncontrollable reasons such as weather and fluctuating business demands.

Scott Dolch, Executive Director, CT Restaurant Association: On-call scheduling is an essential aspect to the hospitality industry. Parties, events and bereavements are booked at the last minute or are sometimes cancelled. Weather also forces restaurants to close outdoors dining. Employees call out at the last minute and must be replaced. This bill should be renamed "restrictive scheduling" because it eliminates the employee-centric process by replacing it with a rigid scheduling system. This is a risky proposal for CT's restaurants.

Tara Ewers, Director, Bank Street Theater, New Milford, CT: She told of her advancement in this industry after starting as a high school part-time student. Flexible hours allow students to participate in after-school sports, clubs, band, etc. Some of these activities are subject to rain dates, championship games, understudy calls, etc. that require changes in work hours. If this bill passes, small businesses would be forced to let go of seasonal college staff who rely on summer income to help offset school costs.

Eric Gjede, Vice President of Government Affairs, CBIA: Usually, employers schedule well in advance, but on-call employment positions are a critical component of certain industries. Employers are not always able to adjust for unexpected employee absences and many do not have the resources, equipment or materials needed. They will be forced to retain underperforming workers rather than hire additional workers that possess necessary skills. This bill erodes the ability of businesses to compete and adds unfair and unnecessary costs.

Julie Heinzelman, Associate General Counsel, National Amusements, Inc:
The nature and success of the movie exhibition business necessitates staffing levels based upon anticipated attendance. These jobs offer flexible work schedules making students able to meet commitments outside of work. Many factors are involved with the customer drawing power of films, including pre-release awareness, interest and revenue projections of box-office receipts. The ebb and flow of movie theater attendance is unpredictable and staffing schedules are based on attendance. Theaters should be excluded from this legislation.

Kirk Ives, Lumber Dealers Association of CT: The building materials industry operates on a small profit margin so any additional burdens will lead to higher consumer prices. Contractors may find that subcontractors are in short supply leading to months of delays and additional costs. Materials must be delivered quickly to keep projects on time and budget. Delays can add thousands of dollars to a project. This bill penalizes members and does not consider real-world scenarios that businesses face daily.

Toby Malara, Government Affairs Attorney, American Staffing Association: Unlike traditional workers, temporary workers seek the very flexibility this legislation would harm. Staffing firms could not comply with the provisions. Staffing firms are often used when a member of a client's permanent staff is ill or has an unexpected absence. The length of the temporary worker's job depends on how long the permanent employee is out making advance notices impossible. Requiring such notices eliminates the last-minute employment opportunities temporary workers depend on. They ask exemption from this proposed legislation.

Andy Markowski, State Director, National Federation of Independent Business: This legislation is unworkable for many small and mid-size businesses. Scheduling issues are solved every day without state government intervention. It possesses the potential for excessive penalties and enforcement actions for violations of businesses who require staffing flexibility based on customer demand, or emergency/unanticipated staffing needs.

Steve Matiatos, President, CT Lodging Association: The hotel industry has countless employees who began their jobs as bellhops, front desk agents or dishwashers, and with training and hard work, have advanced to become general managers and even higher levels. There are many categories including seasonal and on-call and this is simply not a "one-size-

fits-all" industry. This bill overlooks the realities and complexities of the workplace and will add additional burdens to employer-employee relationships where flexible scheduling is crucial to success.

Doug Murdoch, Executive Director, CT Association of Theater Owners, Inc: Flexibility in scheduling is the key to both satisfying patron service demands and to profitability in the motion picture business. Bookings vary drastically from week-to-week and attendance fluctuates based on unknown and unpredictable factors. Owners don't have much advance notice as to what films will be playing and scheduling adjustments may be needed to meet market demands. Most jobs are held by students or senior citizens who want to work where flexible hours are offered. They request movie theaters to be exempt from this proposed legislation.

Wayne Pesce, President, CT Food Association: CT's grocery community find these requirements extremely challenging since their workforce attracts workers who desire nontraditional/alternative work schedules with flexibility such as students, retirees, and second jobbers. Last minute absences, illnesses, weather-related occurrences, and earned sick time are often beyond control and create the need for schedule changes. Distributors schedule deliveries based on retailer needs and efficient routes which fluctuate due to daily sales volume changes and consumer demand. They would be happy to work with the committee to draft a proposal that is practical and respects the demands of both employers and employees.

Tim Phelan, President, CT Merchants Association: A key component for highly competitive retailers is the ability to attract employees by offering a variety of flexible schedules to meet the needs of diverse populations. Many businesses are open nights and weekends to serve their customers and meet shopper's needs. Students and retirees desire to supplement their incomes this way. Scheduling is not a 'one-size-fits-all' issue and things such as sales forecasts, delivery schedules, meal & rest breaks, payroll hours, and promotional events must be considered. Employers may need to offer fewer hours to current employees due to constraints in the ability to open shifts or make needed changes.

Michael B. Rambarose, President/CEO, Whitney Center, Inc: Nursing facilities must provide enough staff to meet needs of short and long term residents. The requirements and the number of people they serve changes daily. The providers must be able to modify their staffing levels to comply when there is an influx of post-acute patients arriving from hospitals or discharges. Because circumstances change constantly, it is not possible for nursing homes to meet the obligations of the proposed legislation. They ask for removal of the the nurse aide category from this bill.

Valerie Stolfi Collins, Executive Director, CT Recreation and Parks Assoc, Inc: This bill would apply to municipality-owned and operated concession stands that earn revenue to offset the cost of program fees at recreational facilities such as little league ball fields, pools and ice skating rinks. She asks that language in lines 50 and 51 be changed to: "Employer' means an employer, as defined in section 31-71a of the general statutes, who employs not less than twenty-five employees and is not the state or any political subdivision thereof."

Steven P.Tagliatela, Managing Partner, Saybrook Point Resort & Marina: On-call scheduling reflects the nature/needs of hospitality businesses. Scheduling changes occur due to

circumstances beyond forecast such as weather, changes in guest count for meetings, social gatherings, employee sickness and family issues that cause replacement needs. There would be no room for staff to switch schedules. This bill presents an unnecessary burden on employee-employer relationships.

Mag Morelli, President, LeadingAge CT: Skilled nursing home providers are responsible for high-quality direct care to people in need of short term, long term and post-acute rehabilitation. The number of staff requirements depends on the number of people needing care and the needs change daily due to new admissions or increased activity levels. Sometimes there is an influx of post-acute placements arriving directly from the hospitals affecting staffing needs. Since circumstances change constantly, the ability to utilize a per-diem or on-call system ensures quality and prevents the need for outside agency staff. She asks that the nurse aide category be removed from this bill.

Reported by: Marie Knudsen

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