

Higher Education and Employment Advancement Committee

JOINT FAVORABLE REPORT

Bill No.: HB-6582

AN ACT CONCERNING UNEMPLOYMENT BENEFITS FOR ADJUNCT

Title: FACULTY.

Vote Date: 3/22/2021

Vote Action: Joint Favorable Substitute

PH Date: 3/9/2021

File No.:

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SPONSORS OF BILL:

The Higher Education and Employment Advancement Committee

REASONS FOR BILL:

Adjunct faculty do not qualify for unemployment benefits if there is "reasonable assurance" they will work in the position again after the unemployment period. Adjunct faculty positions fluctuate in response to class enrollment and the availability of full-time faculty with seniority, resulting in sudden changes to employment near class start dates. This bill outlines the factors of "reasonable assurance" and requires higher education institutions submit to the Department of Labor, before the end of each academic year, a list of individuals who do and do not have reasonable assurance of providing the same services during the second period following the break between academic years/terms/holiday/vacation.

SUBSTITUTE LANGUAGE:

Removes the requirement that the DOL commissioner must consider an institution's failure to submit the list as a rebuttable presumption of the lack of reasonable assurance of an employee's return to providing services

RESPONSE FROM ADMINISTRATION/AGENCY:

[Kurt Westby, Commissioner, Department of Labor:](#)

Mr. Westby says certain elements of the bill do not conform with federal law and his office has sought the opinion of the US Department of Labor since there is a risk of losing federal funds and they account for most of the agency's budget. He says:

"We will inform the Higher Education and Employment Advancement Committee members and the proponents of the bill as soon as we receive advice from US DOL and will be available to discuss this matter further."

NATURE AND SOURCES OF SUPPORT:

Maureen Chalmers, President, Congress of Connecticut Community Colleges (4Cs):

Submitted written testimony in support. Ms. Chalmers says that 4Cs believes the bill will improve their members ability to collect unemployment when necessary but is concerned about language around "offers." She says, "For many of our members, they are not offered a written contract until days before or sometimes even AFTER they start work. Our members should not have to rely on an 'implied offer.' If you don't have a written, signed contract for the next semester," she says, "there is no reasonable guarantee that you will have work. It's that simple."

Carl Chisem, President, Municipal Employees Union Independent, SEIU Local 506, Connecticut Employees Union Independent, SEIU Local 511:

Submitted written testimony in support. Mr. Chisem says the Pandemic forced drastic changes on our system and pushed many into unemployment, however, even though the need for adjunct professors in the new school year was uncertain, adjunct unemployment insurance claims "were denied, challenged, or delayed for weeks and months." He attributes this to the use of third-party watch-dog groups by employers to challenge claim requests. They use the "reasonable assurance" expectation meant for full-time K-12 and higher education instructors. He calls obstructing claims without a specific end date or confirmed contract, "callous and cruel."

Jennifer Jensen, Adjunct Lecturer, Housatonic Community College:

Submitted written testimony in support. Ms. Jensen says she "[has] been a victim of the educational employee exemption [herself] . . . waiting for a UI hearing to determine whether the exemption applies," which led to "a cascade of late fees, tanked credit scores and extreme stress." This innately "capricious" adjunct system puts adjuncts' livelihoods "at the mercy of budgets, curriculum changes, student enrollment, and even the personal feelings of full-time faculty and students," since contracts are not received, "until after the semester has started, and those contracts always contain a contingency condition..." She says she has witnessed the system used to abuse colleagues and shares the story of one whose employer cost him a job with another employer just to avoid paying out unemployment. Ms. Jensen details the costs of this system the adjuncts and students, as well as three "absurdities" perpetuated by this system – the state wasting its investment in training teachers; forcing teachers into jobs they are overqualified for to cover their needs; and preventing employees from collecting the benefits they contribute to over their entire career.

Kevin J. Kean, Ph.D, Department of Psychological Science, CCSU (1) (2):

Submitted written testimony in support, along with an issue brief from the American Association of University Professors (AAUP). Dr. Kean there are over 10,000 faculty across Connecticut and ~56% are part-time contingency faculty or adjuncts. He says he and his colleagues "are paid a fraction of what our full-time colleagues earn for comparable work;" "have extremely limited access to benefits, such as health insurance;" and their "contracts limit how many credit hours we can teach." He says these disadvantages continue during winter and summer sessions when employers rely on "reasonable assurance" of employment

to deny unemployment insurance coverage, despite explicit contractual language to the contrary. Dr. Kean details several "wrinkles" to the employer position – unchallenged claims for other sessional employees; colleges employing a third party to fight claims; and Unemployment Insurance rules were relaxed for many other sectors during the Pandemic. Dr. Kean says these rules are an anachronistic injustice and the state does not have to use the same language as the federal statute.

Sal Luciano, President, Connecticut AFL-CIO:

Submitted written testimony in response. Mr. Luciano says that part-time community college staff experienced mass unemployment at the start of the Pandemic much like other sectors and appropriately filed for unemployment insurance. Unlike other sectors, however, their claims were contested by their employers through a third-party, Employers Edge, citing "reasonable assurance" and other false objections. This "reasonable assurance" claim is disingenuous, he continues, since "Many institutions have specifically written into their rules that contingent faculty do not have reasonable assurance of continued employment." Mr. Luciano says this bill requires employers to provide to the Department of Labor a list of employees with and without reasonable assurance of employment before the end of each academic year, and that "Failure to do so would establish a rebuttable presumption in favor of the employee on the question of reasonable assurance for purposes of awarding unemployment benefits."

John McNamara, Advancement Director, Capital Community College, Delegate Assembly of the Congress of CT Community Colleges, SEIU Local 1973:

Submitted written testimony in support. Mr. McNamara says many adjunct faculty provide instruction at multiple institutions "without the guarantees of benefits and tenure." He says that since their employment fluctuates with enrollment and they contribute to unemployment compensation, they should be entitled to unemployment benefits when they need them. He urges you to follow New Jersey's lead and pass this legislation.

Patricia O'Neill, President of Connecticut State University – American Association of University Professors (CSU-AAUP):

Submitted written testimony in support. Ms. O'Neill says the bill "attempts to fix an inequitable historic injustice that has singled out educational employees and made it nearly impossible for adjuncts to collect deserved unemployment compensation..." She says, "Adjuncts ... almost never have a guaranteed contract that they will have a job in the fall." This system resulted in adjunct faculty being denied unemployment insurance despite the worst pandemic in a century. Since colleges can reliably predict their enrollment numbers, "there is no reason, other than to deny unemployment compensation, that most adjunct faculty could not be given a guaranteed contract after having taught for a few semesters." This bill puts the burden of proof on employers and will allow more contingent faculty to collect unemployment compensation.

Colena Sesanker, PhD, Assistant Professor of Philosophy, Gateway CC:

Submitted written testimony in support. Dr. Sesanker says that our current system unfairly penalizes those in whom we should invest. She says she fell in love with community college teaching at Three Rivers Community College, and is now a full-time, tenure track professor, but the "safety of [her] employment, is miles away from the existence of the transient, part-timer [she] once was." Dr. Sesanker says that part-time instructors are "hardly *adjunct* to our functioning," but are "indispensable," and now, "when work and enrollment are more

precarious than ever, ... it is time to offer some measure of security to our part-timers to whom the reasonable assurance of employment does not currently apply."

[Kimberly Small, Office Manager, 4Cs SEIU 1973:](#)

Submitted written testimony in support. Ms. Small says, "Unemployment, by design, requires jumping through hoops to qualify for and receive benefits. The logic for this is 'to prevent fraud'. True fraud within social support programs is typically between 1-2%, making a mistake while applying for said programs occurs far more often." Linking to a larger article from New Faculty Majority, she shares a quote explaining the motivation for this design:

"Institutions that obstruct [unemployment] claims are trying to have it both ways: they want all of the 'benefits' of contingent employment without the responsibilities...In short, the disingenuousness of higher ed on this issue is evident in the fact that many institutions have it specifically written into their rules that contingent faculty DON'T have reasonable assurance of continued employment, while at the same time obstructing claims by asserting that they DO have reasonable assurance."

Additional Testimony:

Adjunct faculty submit testimony in support. They explain their positions have no reasonable assurance of employment, and share the financial hardships this system creates for them.

[Pat Baird, MA, RD, FAND](#)

[Sara Berry](#)

[Melissa Bettigole](#)

[Linda Bradley, MFA ATR](#)

[Lisa Macbride, Adjunct Instructor, Tunxis Community College](#)

[Kristin Nord Phelps, Writing Tutor, Naugatuck Valley Community College](#)

[Bonnie Yeomans](#)

NATURE AND SOURCES OF OPPOSITION:

[Jennifer Widness, President Connecticut Conference of Independent Colleges \(CCIC\):](#)

Submitted written testimony in opposition. Ms. Widness says the bill requires review from the Department of Labor, and CCIC has "significant concerns." She says "the nature of adjunct faculty is that their positions are part-time and temporary. They are hired ... to supplement the course offerings by teaching a course that may not need to be offered every year or every semester." She says adjunct positions are, "not intended to be a permanent position," "many adjunct faculty are employed elsewhere," and "the majority of adjuncts ... are not the primary source of household income." Ms. Widness also says the bill is impractical because it requires institutions to provide a list to the Department of Labor of who does and does not have a "reasonable assurance" of employment in April or May. She continues to say that institutions "can not" provide "reasonable assurance" because "schedules are finalized over the summer. If a course does not have adequate enrollment to proceed, a course may be

canceled." Thirdly, "this bill would be cost prohibitive to implement for institutions of higher education that are already facing enormous fiscal stress ... Unlike public institutions of higher education, independent institutions are self-insured and have to cover their unemployment expenses out of their operating budget."

Reported by: Jeremy Salyer

Date: 03/31/2021