

Labor and Public Employees Committee

JOINT FAVORABLE REPORT

Bill No.: SB-658

AN ACT REQUIRING EMPLOYERS TO RECALL CERTAIN LAID-OFF
Title: WORKERS IN ORDER OF SENIORITY.

Vote Date: 3/25/2021

Vote Action: Joint Favorable

PH Date: 2/18/2021

File No.:

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SPONSORS OF BILL:

Labor and Public Employees Committee

REASONS FOR BILL:

After laying off employees due to the COVID-19 pandemic, employers were able to hire new employees. often at lower rates of pay, rather than re-hire their experienced employees.

RESPONSE FROM ADMINISTRATION:

NONE SUBMITTED.

NATURE AND SOURCES OF SUPPORT:

MARTIN M. LOONEY, PRESIDENT PRO TEMPORE, SENATE, STATE OF CT.

This bill would create protections for laid off workers by requiring that they be rehired in order of seniority. This protects workers who were laid off so that when they are called back, they will return to their former jobs at their former rate of pay and conditions of work. It would protect these employees from being forced to re-apply for their jobs as if they were new employees and being hired at a much lower rate of pay. This protection will be needed as our economy improves as we get COVID under control. The last year has been a long one for employees in our state as they have struggled with the economic hardships caused by the pandemic. We owe them a fair deal and a level playing field as they work to regain their former economic standing.

STEPHEN ANDERSON, PRESIDENT, CSEA, LOCAL 2021

The past year has been unlike any other we have faced. Working people, union members or not, have experienced havoc in their lives because of the COVID-19 pandemic. With the numbers of positive tests decreasing and the number of people receiving vaccines increasing, we are starting to see the light at the end of the tunnel. This bill provides structure and guidance and will give relief to laid off workers as they return to the workforce as quickly as possible and in a fair manner.

BEVERLY BRAKEMAN, REGIONAL DIRECTOR, UNITED AUTO WORKERS REGION 9A

There is nothing more fundamental to a worker than to know what hours that they must work so they can plan their life accordingly. Many service industries are saddled with unpredictable fluctuation of workweeks over which they have no control. This causes insecurity for workers, particularly for women and workers of color. They are often forced to work with little notice and must maintain open availability for "on-call" shifts without any guarantee they actually will work. Planning anything outside of work is impossible and shifts are often cancelled at the last minute, with employees receiving no compensation. This translates into economic and caregiving instabilities for the entire family.

JOELLE FISHMAN, CHAIR, CT COMMUNIST PARTY USA

The cost of the pandemic cannot be placed on the backs of essential workers who have risked their lives to do their jobs. Without stability, it isn't possible to take an extra job, plan for childcare or take care of other necessities without knowing definite work hours in advance. The necessity for home schooling has made this even worse, especially for women and people of color. Restaurant/hotel workers, among others, have suffered layoffs and are struggling to keep their housing and healthcare. They require protections to assure that when their industries re-open they are the ones hired back into their jobs according to seniority. Anything less would undermine work protections and collective bargaining for those having union protection. It is the responsibility of government to make sure families thrive and take concrete steps to end practices that harm essential workers and discriminate according to race and gender.

ROSA FRANCO, FORMER McDONALD'S WORKER, DARIAN NORTHBOUND SERVICE AREA

For almost 14 years, she worked the overnight shift at McDonald's and was a good dependable worker even on Christmas, missing time with her daughters, including the youngest, who has special needs. In 2019, she began to raise her voice for better pay, benefits and treatment. The Department of Labor got involved and came to an agreement with the owner George Michell to give them backpay, because they were paying less than the standard wage. The issue went to the National Labor Relations Board who studied the case and the owner was charged with unfair labor practices. The trial ran for 3 weeks but it is a complicated case and they don't know what the judge will decide. Everyone deserves to have the clear protection of the law on their side.

TERESA GHILARDUCCI, PROFESSOR OF ECONOMICS, DIRECTOR, SCHWARTZ CENTER FOR ECONOMIC POLICY ANALYSIS

Rules that require employers to recall their former workers first are efficient and a triple win for the economy, employer and employee. The ideal system would be a wage replacement program where, instead of unemployment insurance, the government would pay most or all

wages of stressed employers who would have laid off their workers without the program. Since the USA does not have this or a job-sharing program like Germany and the UK, worker recall legislation would be the next best thing. This would extend the economic benefits that keep the employer/employee connection rather than the extreme and traumatic unemployment solution. Maintaining employer-employee ties speeds up economic recoveries. Recalling workers instead of searching for new ones could minimize the time necessary to match employees with jobs and reduce the unemployment rate more quickly. Permanently laid off workers have relatively longer unemployment spells than recalled workers and suffer sizable losses in wages and job stability. This legislation would increase consumer spending, which is critical to reviving the economy. Long-term unemployment is especially devastating for older workers since retirement wealth is scarce.

SAL LUCIANO, PRESIDENT, AFL-CIO

Those who have suffered the most during the pandemic are the workers who have been laid off due to no fault of their own. Many are low-wage workers – most black, brown and women – not deemed essential. Health benefits are also gone as they continue to struggle to feed their families and keep a roof over their heads. When business begins to reopen, these workers deserve a fair opportunity to return to their jobs and restore their liveliness. There is always the risk of discrimination and retaliation in the recall of workers including hiring an entirely new workforce when reopening. Recall rights are familiar to union workers who usually benefit from negotiated contract language. This bill protects non-union members from being denied their jobs and new employees hired at lower wages and benefits. It makes good business sense to rehire skilled veteran workers when reopening. This allows the employer to quickly return to pre-pandemic activities without the added stress, delay and expense of training new workers.

JOHN MURPHY, UNITED AUTO WORKERS

COVID has caused a job crisis with tens of thousands of CT workers becoming unemployed through no fault of their own. Many of these people are disproportionately women and workers of color. Once businesses reopen and jobs become available, companies must offer former workers job positions before hiring new workers. A worker must be qualified for the position and they would be rehired by order of tenure. Studies document non-white workers face greater discrimination in finding new jobs and black and latina women take longer to recover from unemployment than any other group. This bill will reduce discriminatory, unfair or improper hiring practices. Recalling saves the expense of the search and training and recalled workers generally last twice as long as new hires. Their experience gets the business running more efficiently and faster.

ELI GAVIN RAU

His testimony consisted of a series of graphs and charts explaining how COVID-19 has affected hotel workers in CT and the demographic breakdown (race and gender) of workers in this industry. He used current and historical CT data.

SEAN EDMUND ROERS, Ph.D, SENIOR PROFESSOR OF HUMAN RESOURCES AND LABOR RELATIONS, EXECUTIVE DIRECTOR OF INCLUSIVE EXCELLENCE, UNIVERSITY OF RHODE ISLAND

He shared his analysis of why this legislation may reduce discrimination. His research has been published by the National Labor Relations Board. Black and brown workers have been disproportionately harmed by the COVID-19 recession. In order of the number of people laid

off, latino had the highest rate, followed by black, and white workers were last. There is a risk that managers will discriminate when choosing which workers to recall from layoffs. Racial and gender disparities are present in all aspects of employment and they are often the result of implicit unintentional cognitive biases. Even if unintentional, this is unlawful. This proposal has the potential to reduce discrimination against disadvantaged communities, thereby improving economic outcomes. It reduces unchecked employer discretion by requiring employers to rehire workers based on the objective criteria of tenure and qualifications. It also created a system of monitoring and accountability over managerial hiring decisions. Minimizing racial bias in the job market is particularly important in a state like Connecticut, which suffers from some of the highest levels of inequality and racial segregation in the country. Without intervention to support marginalized communities, racial and economic disparities will become further entrenched.

SEIU HEALTHCARE

This bill would bring protection and structure for workers who have been laid off during the COVID pandemic. Year 2020 was a one none of us had planned for, and many workers were pushed to the brink and over the cliff when it came to savings and being able to afford to take care of their families. Many of them were laid off and as the economy starts to bounce back, we need to make sure these workers are taken care of and brought back to work as quickly and fairly as possible.

RUQAIJAH YEARBY, J.D., PROFESSOR OF LAW, ST. LOUIS UNIVERSITY LAW SCHOOL, EXECUTIVE DIRECTOR/CO-FOUNDER, INSTITUTE FOR HEALING JUSTICE AND EQUITY

This bill has potential public health benefits. Information was compiled in partnership with the COVID-10 Taskforce on Racism & Equity, comprised of public health researchers, practitioners and providers, to address the inequities in the impact of the pandemic disease, and responses on the health and well-being of communities. A greater sense of job security will increase compliance with COVID-19 mitigation recommendations. Economic factors have played an important role in determining the level of compliance with local shelter-in-place and other mitigation recommendations and mandates. Social distancing among low-income communities increased after the CARES Act stimulus transfers provided additional income to many individuals. Increased income increases community safety. Racial disparities constitute a public health matter. Decades of racist policies in employment, housing and healthcare put black and latino communities at a greater risk of negative health outcomes, including contracting COVID. A greater sense of job security will reduce stress levels for workers, which will protect their immune systems. Higher stress levels are associated with decreased immunity. Experienced, tenured employees are better situated to create a safer workplace. A factor to speaking up about safety is experience. Less experienced employees are less willing to speak up.

STACY ZIMMERMAN, ASSOCIATE DIRECTOR, SERVICE EMPLOYEES INTERNATIONAL UNION

This past year has been unlike any other, and working people, both union and non-union, have been adversely affected. As infection rates continue to decline and vaccines continue to be distributed, we can start to see recovery. This bill provides structure and guidance to employers while providing relief and hope to workers. Getting laid-off workers back on the job as quickly and as fairly as possible is the best thing for the CT economy as well as the workers and employers.

NATURE AND SOURCES OF OPPOSITION:

ERIC GJEDE, VICE PRESIDENT OF GOVERNMENT AFFAIRS, CBIA

Sadly, it is expensive to run a business in this state. It is even more difficult now due to the restrictions related to the pandemic. Economists estimate it will be up to 10 years before the State achieves full recovery. Requiring businesses to recall individuals based on seniority alone asks them to ignore an employee's skills, level of training, performance, past disciplinary actions and attendance history. This will have long-term implications on the ability of CT businesses to remain competitive.

WENDY TRAUB, OWNER, SMALL CONSTRUCTION COMPANY, NORTHERN CT

Outside of COVID -related layoffs, certain industries experience seasonal layoffs on an annual basis, construction being one of those industries. Employers need to have the professional ability to assess and refill vacancies in a way that best benefits the overall function of that company. There can be times when a junior employee has the technology background needed. Mandating the senior employee be rehired first, before hiring the more competent employee, may put the company in a position where they can't stay open. In the construction industry, there are some employees who have exhibited proven definite superior skills on certain pieces of equipment and there may be laborers who have specific skillsets that may be required and more beneficial, depending on the project. Privately-owned small businesses whose owners have invested money and time over decades in some cases make up a significant portion of CT's workforce. Recalling workers based merely on their date of hire denies them the ability to run in the most effective and efficient manner. They need this freedom to make human resource decisions that benefit the entire company's success. It is a constant struggle that over-reaching bills meant for the larger companies force smaller companies to get stuck in the proverbial "net". These recall mandates can and have been included in union contracts but should not extend to at-will employers. This slowly shreds the fibers of the rights of private employers. As written, this bill will negatively affect small businesses in Connecticut.

Reported by: Marie Knudsen, Assistant Clerk

Date: April 7,2021