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## OLR Bill Analysis

### sSB 315

#### ***AN ACT CONCERNING UNEMPLOYMENT BENEFITS FOR ADJUNCT HIGHER EDUCATION FACULTY.***

#### **SUMMARY**

By law, Connecticut higher education institutions' instructional, research, or principal administrative employees are ineligible to receive unemployment benefits if they are likely to be rehired after weeks of unemployment (1) between two successive academic years; (2) between two regular terms, regardless of whether they are successive; or (3) during a customary vacation period or holiday recess. The labor commissioner makes this ineligibility determination based on whether the employee has a contract or a "reasonable assurance" that he or she will work in any capacity for the educational institution in the subsequent academic year or term or period following the vacation or holiday recess (i.e., "once courses resume").

This bill requires the commissioner to determine on a case-by-case basis whether there is reasonable assurance for these higher education employees' rehiring. It establishes multiple factors that must collectively be present for the commissioner to find that reasonable assurance exists.

Lastly, the bill creates new reporting duties for higher education institutions, requiring them to submit two employee lists to the Department of Labor (DOL) at the end of an academic year or term to help inform the commissioner's reasonable assurance findings.

EFFECTIVE DATE: July 1, 2022

#### **REASONABLE ASSURANCE DETERMINATION**

Under the bill, the labor commissioner must determine that several factors are present when finding that a higher education employee has reasonable assurance to be rehired and is ineligible to receive unemployment benefits. These factors are as follows:

1. the higher education institution has made a written, oral, or implied offer to employ the person once courses resume;
2. the offer was made by an employee of the institution who is authorized to make it;
3. the offer is for the same type of services that the person provided and for at least 90% of the wages or a salary that the institution paid to the person in the first academic year or term or in the period before the customary vacation or holiday recess;
4. the offer is not contingent on factors within the institution's control, including course programming, available funding allocation, program modifications, or facility availability; and
5. it is highly probable that the person will provide services in the same capacity once courses resume, based on the totality of the circumstances, including funding availability, past enrollment levels, the person's seniority level, and the nature of the contingencies on the offer.

### **HIGHER EDUCATION EMPLOYEE LISTS**

Under the bill, Connecticut higher education institutions must submit two employee lists to DOL at least 10 days before the last day of an academic year or term. The first list must contain the names and social security numbers of people who (1) served in an instructional, research, or principal administrative capacity for the institution and (2) do not have reasonable assurance of providing the same services in the same capacity once courses resume.

The second list must contain employees who performed the same services and have reasonable assurance of providing these services in the same capacity once courses resume. However, the second list must also describe how the institution provided reasonable assurance to these employees, including (1) whether an offer was made in writing, orally, or implied; (2) the nature of any offer contingencies; and (3) the information about the offer communicated to the employee.

The bill allows the labor commissioner to consider these two lists when making reasonable assurance determinations, but the lists cannot be the sole, conclusive evidence of reasonable assurance, or lack thereof, in any case. It also requires the commissioner to consider an institution's failure to submit this information as establishing a rebuttable presumption of the lack of reasonable assurance of an employee's rehiring.

If an institution gives a person a reasonable assurance but does not honor it once courses resume, the bill requires that the person's unemployment benefits be retroactive to either (1) the date of the institution's attestation of reasonable assurance or (2) the date the attestation of assurance is required (presumably, the deadline for submitting the lists required by the bill). (It is unclear how this provision would apply if the person was still employed by the institution for any time on and after either of these dates.)

## **BACKGROUND**

### ***Related Bill***

sHB 5030 (File 12), favorably reported by the Higher Education and Employment Advancement Committee, contains substantially similar provisions to this bill.

## **COMMITTEE ACTION**

Labor and Public Employees Committee

Joint Favorable

Yea 10    Nay 3    (03/22/2022)