



Testimony of

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Labor & Public Employees Committee – March 15, 2022

***SB 417 An Act Concerning Amnesty for Nonfraudulent Unemployment Overpayments***

***HB 5439 An Act Concerning Wage Theft Responsibility***

***SB 418 An Act Concerning Wage Theft***

***SB 419 An Act Establishing a State Training Account for  
State Service Career Development***

***HB 5441 An act Adopting the Recommendations of the Task Force to Study the State  
Workforce and Retiring Employees***

***SB 420 An Act Concerning the State Workforce and Discrimination  
and Retaliation in the Workplace***

***HB 5442 An Act Concerning Experience Rate***

***SB 421 An Act Concerning Standard Wages***

***SB 422 An Act Concerning the Essential Workers COVID-19 Assistance Program***

***HB 5444 An Act Concerning Union Workers***

***SB 423 An Act Improving Indoor Air Quality in Public School Classrooms***

***HB 5445 An Act Concerning State Staffing Levels***

Good morning Senator Kushner, Representative Porter, and members of the Labor & Public Employees Committee. My name is Ed Hawthorne, and I am proud to serve as President of the Connecticut AFL-CIO, a federation of hundreds of local unions representing more than 200,000 members in the private sector, public sector and building trades. Our members live and work in every city and town in our state, reflecting the diversity that makes Connecticut great. Thank you for the opportunity to provide testimony on several bills today.

***SB 417 An Act Concerning Amnesty for Nonfraudulent Unemployment Overpayments -  
SUPPORT***

Losing a job can be financially and emotionally draining. During the pandemic, hundreds of thousands of Connecticut residents have felt that pain and uncertainty. Unemployment insurance should have provided them some assistance and helped quiet their fears until they could return to work. Unfortunately for some workers, their unemployment applications may have contained mistakes, were mishandled, or not adequately reviewed for months. They received weekly payments to help survive the downturn, but now, months later, the state had deemed them ineligible and wants that money back.

The Connecticut Department of Labor overpaid \$8.6 million in unemployment benefits in just one quarter (April and June) of 2021<sup>1</sup>, a huge increase over previous years. Many cases can be attributed to mistakes made by an applicant or by the Department of Labor, which is understandable given the volume of applications during the pandemic. Historically low

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<sup>1</sup> <https://ctmirror.org/2021/09/19/state-to-thousands-who-got-unemployment-money-give-it-back/>

understaffing levels at the agency was also a factor. Most applicants were applying for the very first time and the federal government implemented several different benefits within the overall system. Human error played a large role in many cases. Nevertheless, applicants are on the hook to repay thousands of dollars they likely don't have.

SB 417 establishes a pandemic unemployment non fraudulent overpayment account and requires the Department of Labor to invite eligible individuals to apply for reimbursement of their overpayment. Given the events of the last two years, it's a compassionate and common sense measure. We urge the Committee to support this bill.

### **HB 5439 An Act Concerning Wage Theft Responsibility - SUPPORT**

HB 5439 provides another means for exploited workers in the construction industry to secure payment and collect unpaid wages and benefits for work that has already been performed by holding contractors responsible for unpaid wages of a subcontractor.

HB 5439 would motivate general contractors and construction managers to better vet their subcontractors. With the passage of this legislation, they would be more likely to award work to subcontractors without past labor and tax violations.

Currently, on public construction projects, the Department of Labor can demand that a prime contractor withhold payment to their subcontractor if they believe and find that the subcontractor owes back wages or civil penalties. This is an effective tool that wage investigators use to collect back wages. But there are some limitations. This tool can only be used if there is still money left on the contract, meaning that if the subcontractor has already been paid in full by the prime contractor, then this tool is not enforceable. It also does not necessarily mean that prime contractors are held liable for their subcontractors' underpayment or nonpayment of wages.

We respectfully request the Committee to amend this legislation so that it mirrors the same joint and several liability on public construction contracts.

### **SB 418 An Act Concerning Wage Theft - SUPPORT**

Special Act 19-11 established a task force to "study Debarment and Limitations on the Awarding of State Contracts". It submitted a report and recommendations to the General Assembly on January 31, 2020.

The report details the obstacles the Department of Labor faces when debaring irresponsible and unscrupulous contractors who have been awarded public contracts. The report found that, "it is not the agency's practice to refer these matters to the State's Attorney, nor is it the agency's practice to seek to debar the contractors who are in violation. In fact, it has been 20 years since the agency has sought a court ruling on debarment of a contractor. The Department's position is that their ability to settle is a valuable tool, but that it also presents challenges and obstacles with regard to curbing future violations."

SB 418 increases the civil penalty for violations from a minimum of \$2,500 to \$5,000 to deter contractors from violating the wage law. It also directs the Labor Commissioner to refer a contractor's violations, which have occurred within a 5-year period, to the Attorney General, who will have the authority to recover any unpaid wages and civil penalties and may initiate debarment proceedings against said company.

SB 418 does not circumvent a contractor's due process. The proposal very specifically lays out a process to appeal the Attorney General's issued citations and debarment actions. The contractor can request an administrative hearing to appeal the debarment proceedings.

Providing the Attorney General the authority to enforce and recoup unpaid wages and civil penalties is an important enforcement mechanism. The Attorneys General in states like Massachusetts, New York and Pennsylvania have realized great success in recouping wages and policing the industry by using similar authority. Pennsylvania's Attorney General recovered over \$20 Million in unpaid wages from a state contractor for failure to comply with the state's prevailing wage law last year. That company is now facing debarment.

We urge the Committee to support this bill.

**SB 419 An Act Establishing a State Training Account for State Service Career Development - SUPPORT**

The COVID-19 pandemic has exacerbated the huge racial and economic inequities that exist in Connecticut. With the expected retirement cliff in state employment and the resulting staffing shortages, now, more than ever, is the time to provide state employees with the opportunity for upward mobility in their careers. Establishing a state training fund, administered through a joint labor/management committee, for state workers that will reimburse costs incurred to obtain certifications, attend trainings and conferences, and pursue other avenues for growth in their jobs will not only benefit the citizens of our great state by creating a more skilled and trained workforce but will also improve the state's ability to staff hard-to-fill positions with internal candidates.

We urge the Committee to support this bill.

**HB 5441 An act Adopting the Recommendations of the Task Force to Study the State Workforce and Retiring Employees - SUPPORT**

The long expected retirement of a large number of state employees in 2022 prompted the development of a task force to study the resulting implications. That task force developed many recommendations to ease the burden on state agencies and all of Connecticut's residents who rely on state services in one way or another. Task force recommendations include:

- Creating an exit survey for retiring employees;
- Requiring Commissioners to develop strategic plans that examine positions and position types that they recommend be replaced due to changing needs;
- Establishing a Chief Diversity, Equity, and Inclusion Officer and an Equity Advisory Committee to determine action plans necessary to address racial and gender disparities;
- Requiring Commissioners to provide a list of training and professional development programs to employees and encourage engagement with those programs;
- Addressing management pay and ensuring their pay is kept in line with unionized state employees;
- Requiring each agency to fill all open positions to appropriate levels in FY 22-23 budget and to adopt continuous recruitment practices;
- Requiring the Office of Policy & Management to consult with SEBAC to allow employees to continue working past July 1, 2022, without COLA changes until one (1) month after their replacement is hired.

Each of these recommendations will ensure that the state government will be provided the necessary means to operate efficiently as a result of the increased number of retiring employees. Ensuring stability and efficiency for state workers and recipients of state services will benefit us all.

We urge the Committee to support HB 5441.

**SB 420 An Act Concerning the State Workforce and Discrimination and Retaliation in the Workplace - SUPPORT**

The ongoing struggle of workers who face discrimination in the workplace must be addressed. To continue to ignore the personal accounts of the many state employees who have experienced racism and discrimination on the job and who are disciplined and/or terminated as a result needs to end. Implementing the language of SB 420 will provide the necessary means to eliminate the unfair culture pervading our state workforce by:

- Codifying a zero tolerance policy on retaliation or termination for discriminatory reasons.
- Creating a Racial Justice Ombudsperson who is responsible for fostering a workplace where managerial authorities are held accountable to lead and model antiracist practices, and make the changes needed to ensure an antiracist, equitable workplace for all.
- Making the Racial Justice Ombudsperson responsible for designing a culture and climate survey, creating a structure for the delivery of antiracist/bias trainings, and reviewing/making suggestions/changes to the performance review process.

It is well past time to end the ongoing racist and discriminatory environment that is allowed to exist throughout the state workforce.

We urge the Committee to support SB 420.

**HB 5442 An Act Concerning Experience Rate - OPPOSE**

An employer's unemployment experience rate generally depends on the amount of unemployment benefits its former employees received during its "experience period," which is the three-year period preceding each June 30, when an employer's rate is calculated. The rate is determined by calculating the ratio between the amount charged to the employer's experience account (generally, the amount of benefits paid to its former employees) and the amount of the employer's taxable wages during the experience period. This ratio is converted to a percentage between 0.5% and 5.4%, which becomes the employer's experience rate.

To aid employers during the pandemic, the General Assembly passed Public Act 21-5, which requires that employers' benefit charges and taxable wages between July 1, 2019, and June 30, 2021, be disregarded when calculating the employer's unemployment tax experience rate for taxable years starting on or after January 1, 2022. In effect, this means that the unemployment benefits paid to an employer's former employees during that period, whether they were directly related to the pandemic or not, will not affect the employer's experience rate. Given that action, it's unlikely that any employer will see an increase in their unemployment experience rate for the 2022 taxable year.

Given the work that the General Assembly has already done on this issue, HB 5442 is an unnecessary use of the scarce resources provided to the Workers' Compensation Commission. It is also curious why HB 5442 charges the Workers' Compensation Commission from conducting a study when administering unemployment is a function of the Department of Labor.

We urge the Committee to reject this bill.

**SB 421 An Act Concerning Standard Wages - SUPPORT**

Connecticut's standard wage law requires employers that contract with the state or its agents to provide building or food services must pay their employees not less than standard rates determined by the state labor commissioner. The law requires the commissioner to determine

the wage rates for each class of hourly non-supervisory employees at the minimum hourly wage set in the federal Register of Wage Determinations plus 30% to cover the cost of any health, welfare, and retirement plans. If the employer does not offer any health, welfare, and retirement plan, the additional 30% must go to the employee in pay.

SB 421 makes improvements and clarifications to the standard wage law by:

- Adding security service to the definition of “building, property or equipment service” in the law;
- Defining employer “offense” as each pay period that an employer violates the standard wage law;
- Removing benefits already required by federal law from the calculation of the 30% employers must pay to cover fringe benefits;
- Requiring an employer to contact the Department of Labor annually each September to learn of the updated standard wage and implement it;
- Requiring the employer to display a poster in the workplace created by the Department of Labor announcing the standard wage and enforcement rights; and
- Clarifying that groups of employees or their designated representative may bring complaints of nonpayment of the standard wage to the Department of Labor.

We urge the Committee to support this bill.

### **SB 422 An Act Concerning the Essential Workers COVID-19 Assistance Program - SUPPORT**

Last session, the Connecticut AFL-CIO was deeply grateful that the General Assembly adopted legislation establishing the Connecticut Essential Workers COVID-19 Assistance Fund. It allows essential workers, who got sick with COVID-19 during March 10, 2020, and July 20, 2021, to apply for reimbursement for out-of-pocket medical expenses and lost wages. It also provides burial benefits for families of essential workers who died from COVID-19. The program launched in January of this year and is an important lifeline for essential workers who have lost economic ground because they got sick on the job. SB 422 would update and extend the program to acknowledge the harm COVID-19 continued to inflict after January 20, 2021.

When the General Assembly created the Connecticut Essential Workers COVID-19 Assistance Fund in June, transmission rates were down, and vaccines were becoming readily available. It could not have anticipated that two variants - Delta and Omicron - would have prolonged that pandemic and further devastated essential workers. In recognition of these developments, SB 422 expands eligibility under the Fund to essential workers falling into the CDC vaccination category 1c, and beginning July 1, 2021, provides up to eighty hours of paid sick leave to all essential workers who were unable to work because they got sick or had to quarantine because of exposure to COVID-19.

Essential workers have continued to work through various spikes in COVID-19 cases without access to paid sick leave that protects them and their families from losing their paycheck if they miss work. By the time the Omicron wave hit, many essential workers had either already exhausted all of their paid sick leave due to the ongoing nature of the pandemic, or did not have any time to begin with

SB 422 allows essential workers to apply to receive paid sick leave for time they have missed retroactively to July 21, 2021. This provides support for workers who were impacted by the Delta and Omicron variants who did not have access to paid sick leave and had to take time off from work unpaid or leave their job entirely.

The Families First Coronavirus Relief Act (FFCRA) provided paid sick leave to certain workers across the country in 2020; however, provisions were temporary and ended on December 31, 2021. In December 2020, Congress extended the existing tax credits (for both employers and self-

employed people) through March 31, 2021 but did not extend employees' rights to take paid leave from work under the law.

These workers were designated essential by Governor Lamont's executive order. It is therefore our responsibility to make sure that status doesn't create a financial hardship on top of the physical and emotional pain they have endured since March 2020.

We respectfully request that the Committee make the following changes to SB 422 to make the bill more accessible to and inclusive of essential workers who need the most immediate relief and who are most impacted by COVID-19 spikes:

- On lines 227-229: Clarify that the end date of eligibility will be when the public health emergency declared by the General Assembly, which is currently in effect, ends.
- On line 231: Change "employees" to "essential employees" to ensure that those who most likely got sick at work can access the resources of the Fund
- On lines 233-234: Add "or being directed not to report to work by their employer" to the reasons an essential employee can be eligible for COVID-19 sick leave through the Fund. There were occasions, especially during the Omicron surge, when essential workers were directed not to report to work, even if they may not have been directly exposed, to prevent spread. If they had no sick leave or had utilized all of their sick time at that point, they should not go unpaid because they followed an employer directive.
- On line 234: Clarify COVID-19 paid sick leave can only be obtained after July 21, 2021.
- On lines 234-235: Change "employees shall be eligible regardless of whether such employee has the ability to work from home" to "employees shall be eligible if they were required to report to work" to comport with lines 20-23.
- On lines 243-246: Should require essential workers to utilize any sick leave they have, if they have it, before applying to the fund. The language in the bill is confusing and suggests that essential workers cannot apply for assistance until an employer provides eighty hours of sick leave.

We urge the Committee to support this bill with the changes we have provided.

### **HB 5444 An Act Concerning Union Workers - SUPPORT**

We thank the Committee for raising this bill to enhance the State Labor Relations Act. Coverage of the (SLRA) is limited in scope as it generally does not cover any employer subject to the National Labor Relations Act (NLRA), municipal employees, members of religious orders, agricultural workers or domestic workers, but it should provide strong protections, nevertheless.

HB 5444 adds two employer actions to the list of unfair labor practices: (1) misrepresenting to an employee whether or not they are included in a bargaining unit; and (2) permanently replacing striking employees. These additions should further level the playing field for workers in bargaining units formed under the SLRA.

HB 5444 also adds a 30-day deadline by which employers must begin negotiations after workers form a union. This is an especially important provision as employers often attempt to delay negotiating a first contract, effectively ignoring election results and disenfranchising workers from their rights to bargain.

We urge the Committee to support this bill.

**SB 423 An Act Improving Indoor Air Quality in Public School Classrooms - SUPPORT**

The ramifications of the continued failure to invest in maintaining and improving the ventilation systems in schools throughout Connecticut have been placed on full display throughout the COVID-19 pandemic. Students, teachers, counselors, custodians, nurses, and other school staff have been forced to work in schools with excessive heat, cold, humidity, mold, dust, and other unhealthy factors. With no enforced air quality standards in place, there has been an increase in workers' compensation claims, lost school days due to closures, high numbers of sick days taken by students, and conditions that inhibit student learning and effective teaching. We must not ignore the lessons learned over the past two years and establish specific standards for indoor air quality and indoor air temperatures in our schools.

SB 423 will establish clear protocols to address these issues comprehensively. Clear guidance regarding acceptable indoor temperatures and air quality is provided, the use of school construction funds to support HVAC system repairs is enabled, and an oversight mechanism to ensure these standards are maintained is directed to the Department of Labor. Finally, measures will be implemented to ensure that the work is being performed by qualified licensed HVAC contractors and certified technicians.

We urge the committee to support SB 423 with a slight change to clarify that acceptable school temperatures and relative humidity ranges established by the Department of Labor should be consistent with the definitions laid out in this legislation. This can be achieved simply by adding "in accordance with the definitions in Section 1 (a)(12) and Section 1 (a)(13)" on line 63. This section should read as follows:

*"Section 2. (NEW) (Effective July 1, 2022) (a) On or before August 15, 2022, the Labor Department shall, in accordance with the definitions in Section 1 (a)(12) and Section 1 (a)(13), establish: A mandatory public school temperature range."*

**HB 5445 An Act Concerning State Staffing Levels**

Staffing levels within state agencies has been an issue for many years. As employees have left the state workforce, many positions have gone unfilled for various reasons. The staffing shortages have led to inefficiencies in the important services needed by so many and consequences for the workers who are left to carry the weight of meeting those needs. The COVID-19 pandemic highlighted the reality and the unfortunate effects of short staffing issues. Sadly, heightened mental health concerns of workers has underscored the tremendous pressure they face in providing the quality care and services they have been trained to deliver to some of the most vulnerable segments of our population.

HB 5445 addresses the problems associated with short staffing in state agencies by creating continuous recruitment and automatic refill policies that require open job postings year round to ensure a pool of candidates to choose from when positions need to be filled and requiring open positions to be automatically refilled. Both policies will ensure adequate staffing levels and alleviate the problems faced by state agencies, their work force and the clients they serve.

We urge the committee to support HB 5445. Thank you for the opportunity to testify.