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## **OLR Bill Analysis**

**sHB 6791**

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

#### **SUMMARY**

By law, employees who work in an instructional, research, or principal administrative capacity at an educational institution are ineligible to receive unemployment benefits for a school break (i.e., between two successive academic years, between two regular terms, or during a customary vacation or holiday recess) if they have a “reasonable assurance” to work for any educational institution once courses resume (i.e., in the subsequent academic year or term or period following the vacation or holiday recess).

This bill creates a process for determining whether those employees at certain higher education institutions have a reasonable assurance of returning to the institution that employed them once courses resume. It requires the labor commissioner to make these determinations on a case-by-case basis and specifies multiple factors that must all be present for the commissioner to find that reasonable assurance exists.

It also creates new reporting duties for these higher education institutions, requiring them to give the Department of Labor (DOL) lists of employees who have and don’t have reasonable assurance of returning at the end of an academic year or term.

The higher education institutions covered by the bill are (1) UConn, (2) the Connecticut State Colleges and Universities, and (3) any other non-profit institution established in Connecticut (a) that has degree-granting authority and its main campus in the state and (b) whose primary function is not preparing students for religious vocation.

EFFECTIVE DATE: October 1, 2023

## **REASONABLE ASSURANCE DETERMINATION**

The bill requires the labor commissioner to determine, on a case-by-case basis, that all of the following factors are present to establish that a higher education institution employee is ineligible for unemployment benefits because he or she has reasonable assurance to return once courses resume:

1. the institution 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 (a) services in the same capacity the employee performed before the break and (b) at least 90% of the wages or a salary that the institution paid for it;
4. the offer does not depend 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 work 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**

The bill requires higher education institutions to submit two employee lists to the DOL, in a way the labor commissioner sets, at least 10 days before the end of an academic year or term. The first must list employees 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. The list must also describe how the institution gave 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 the information on these lists when making reasonable assurance determinations, but unless it is accompanied by additional evidence, it cannot be conclusive evidence of reasonable assurance in any case.

If an institution gives someone a reasonable assurance of returning but does not honor it once courses resume, the bill specifies that the person's unemployment benefits must be retroactive to either the (1) date of the institution's attestation of reasonable assurance or (2) date the attestation of assurance is required (presumably, the deadline for submitting the lists required by the bill) if the person is otherwise eligible for unemployment benefits.

**COMMITTEE ACTION**

Labor and Public Employees Committee

Joint Favorable Substitute

Yea 8 Nay 4 (03/23/2023)