

Legislative History for Connecticut Act

PA 16-169

SB220

Senate	627-630, 649-650	6
Labor & Public Employees	460-462, 532, 534, 535, 689-691	9
House Transcripts have not been received. They are available on CGA website, but are not the Official copy. Contact House Clerk for assistance (860) 240-0400		15

**Transcripts from the Joint Standing Committee Public
Hearing(s) and/or Senate and House of Representatives
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**CONNECTICUT
GENERAL ASSEMBLY
SENATE**

**PROCEEDINGS
2016**

**VOL. 59
PART 2
356 - 678**

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SENATE

April 19, 2016

think that this is somewhat complicated but a good step forward, and I urge the Chamber to support it.

THE CHAIR:

Thank you very much. Will you remark further on the bill? Will you remark further on the bill? Senator Gerratana.

SENATOR GERRATANA (6TH):

Thank you, Madam President. If there is no objection, I would place this item on our Consent Calendar.

THE CHAIR:

Seeing no objection, so ordered, ma'am. Senator Looney. Never mind. Mr. Clerk, please call the next bill.

THE CLERK:

On page 9, Calendar 206, Substitute for Senate Bill number 220, AN ACT CONCERNING UNEMPLOYMENT COMPENSATION APPEALS AND HEARINGS, EMPLOYEE PAY PERIODS, AND MINOR AND TECHNICAL REVISIONS TO THE GENERAL STATUTES RELATING TO THE LABOR DEPARTMENT. There are amendments.

THE CHAIR:

Senator Gomes. Good afternoon, sir.

SENATOR GOMES (23RD):

Good afternoon, Madam President. This is a bill -- oh, no, I'm sorry -- I move acceptance of the Joint

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SENATE

April 19, 2016

Committee's favorable report and passage of the bill.

THE CHAIR:

The motion is on acceptance and passage. Will you remark, sir?

SENATOR GOMES (23RD):

Yes. Thank you, Madam President. This bill makes numerous changes to the unemployment compensation statutes that generally give the Department of Labor greater flexibility in processing unemployment claims and appeals among other things. It allows DOL to deliver certain unemployment notices and decisions by means other than the mail, by gmail, and it requires a period in which a party can appeal a decision to start when a decision is provided rather than mailed to the party. Three allows the Labor Commission to prescribe different ways other than a hearing for employers and claimants to present their evidence and testimony in certain unemployment proceedings. There are several other changes, but that is what we call the gist of the bill. If there be any questions, I will answer.

THE CHAIR:

Will you remark on the bill. Will you remark on the bill. Seeing none, Senator Gomes -- oh, sorry, Senator Hwang.

SEN. HWANG (28TH):

Thank you, Madam President. If you could bear with me a second. Yes, to the proponent of the bill. The impetus for the bill I know is procedural and

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SENATE

April 19, 2016

technical in nature, but could the good proponent share what some of the advocacy points of the Department of Labor is about the need for this bill. Thank you, Madam President.

THE CHAIR:

Senator Gomes.

SENATOR GOMES (23RD):

Well, there are many things that the bill does provide for. Even one conception is that it allows unemployment claimants to change their tax withholding status for tax deduction from their benefit more than once each year. It allows Department of Labor to share employment records under certain conditions with nonpublic entities that contract with other agencies, the Office of Policy and Management Secretary to request and obtain a wider range of unemployment records from DOL, and we could go on and on and on. What would you like to hear?

THE CHAIR:

Senator Hwang.

SEN. HWANG (28TH):

Through you, Madam President. I would like to hear Senator Gomes go on and on. I enjoy listening to him, but with that said, there is one additional substitute language that I thought was a very good contribution to this bill, is that the provision allows employers to pay the employees biweekly and get that waiver from the Department of Labor, is

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SENATE

April 19, 2016

that correct and verified? Through you, Madam President.

THE CHAIR:

Senator Gomes.

SENATOR GOMES (23RD):

Through you, Madam President. Yes, that is true.

THE CHAIR:

Senator Hwang.

SEN. HWANG (28TH):

Thank you, Madam President. I think that is an employer-friendly provision in which we can use technology in the Department of Labor to make their work within our state much easier, and I applaud that move. I urge support of this bill. Thank you, ma'am.

THE CHAIR:

Thank you. Will you remark further on the bill? Will you remark further on the bill? If not, Senator Gomes.

SENATOR GOMES (23RD):

Madam President, if there is no objection, I move to place this item on a Consent Calendar.

THE CHAIR:

Seeing no objection, so ordered, sir.

THE CLERK:

On page 1, Calendar 395, House Joint Resolution number 169.

Page 1 Calendar 396, House Joint Resolution number 170.

Page 2, Calendar 67, Senate Bill 181.

Page 3, Calendar 89, Senate Bill 135.

Also on page 3, Calendar 113, Senate Bill 189.

Page 3, Calendar 117, Senate Bill 273.

Also on page 3, Calendar 84, Senate Bill 185.

Page 6, Calendar 159, Senate Bill number 309.

Page 7, Calendar 166, Senate Bill 218.

On page 9, Calendar 206, Senate Bill 220.

Page 13, Calendar 273, Senate Bill 219.

On page 18, Calendar 321, Senate Bill 87.

Page 22, Calendar 366, Senate Bill 334.

Page 34, Calendar 93, Senate Bill 211.

On page 35, Calendar 142, Senate Bill 127.

Page 38, Calendar 241, Senate Bill number 249.

THE CHAIR:

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SENATE

April 19, 2016

The Consent Calendar is before the Chamber. The machine is open.

THE CLERK:

Immediate roll call has been ordered in the Senate.
Immediate roll call on the first Consent Calendar for today has been ordered in the Senate.

THE CHAIR:

Members please check the board to see that your vote has been properly recorded. If all members have voted and all votes have been properly recorded, the machine will be locked. Would the Clerk please take a tally.

THE CLERK:

On today's, the first Consent Calendar for today,

Total Number Voting	35
Those voting Yea	35
Those voting Nay	0
Absent and not voting	1

THE CHAIR:

The Consent Calendar is passed. Senator Duff.

SENATOR DUFF (25TH):

Thank you, Mr. President. If we could just stand at ease for a moment.

THE CHAIR:

**JOINT
STANDING
COMMITTEE
HEARINGS**

**LABOR AND
PUBLIC
EMPLOYEES
PART 2
440 – 1041**

2016

LABOR AND PUBLIC
EMPLOYEES COMMITTEE
PUBLIC HEARING

There are people who are going to testify with stories that are worth applauding, so thank you very much. Thank you folks. We appreciate it very much. Next up, is Commissioner Scott Jackson from the Department of Labor here? Yes? Okay. Just to let folks know, the first hour of the hearing is reserved for elected officials or state agency heads. After that, speakers are limited to three minutes of testimony. All public hearing testimony is public information. As such, it will be made available on the CGA website and indexed by internet search engines. Any testimony received after the designated time will not be distributed until after the hearing. Thank you very much. We are missing a couple of members; Senator Osten in district business and Representative Cuevas to legislative business out of state. I think that's all I was supposed to do to make us legal. Welcome Commissioner. It is good to see you again.

SB 220

SB 222

SB 223

HB 5372

HB 5369

HB 5367

SB 314

COMMISSIONER SCOTT JACKSON: Thank you and you as well, Mr. Chair. My name is Scott Jackson and I am the Commissioner of the Department of Labor for the state of Connecticut. I thank you for offering us the opportunity to provide this testimony. Also, I would like to thank you for bringing this to Career High. That is certainly not lost on me or our team. It is critical to our mission and of particular note from me is that there are so many hardworking women and men in the audience that it reminds us to speak in plain language and make sure that what we are talking about is easily accessible which is sometimes forgotten when you get into the nuts and bolts of some of this legislation.

11
dm/jh

LABOR AND PUBLIC
EMPLOYEES COMMITTEE
PUBLIC HEARING

March 3, 2016
4:00 P.M.

I am here tonight to speak on seven pieces of legislation. I believe you have written testimony on all of them, so I will certainly not read and chapter and verse there and instead will give you the highlights and offer the opportunity for any questions and answers that you may have of me and my team.

The seven bills that we are here to discuss today are SENATE BILL 220 which is a TECHNICAL REVISIONS BILL TO THE CONNECTICUT GENERAL STATUTES AT IT RELATES TO OUR DEPARTMENT, SENATE BILL 222 which is REPEAL OF OBSOLETE PROGRAMS AND REPORTS, SENATE BILL 223 which regards EMPLOYEE WAGES AND DISCIPLINARY SUSPENSIONS FOR HARRASSMENT OF WORKPLACE VIOLENCE, HOUSE BILL 5372 which is in regards to FIREFIGHTERS AND DISABILITY INSURANCE POLICIES, HOUSE BILL 5369 which addresses the METHOD FOR DETERMINING THE MAXIMUM WEEKLY BENEFIT RATE FOR UNEMPLOYMENT INSURANCE, and HOUSE BILL 5367 which makes OTHER CHANGES TO THE UNEMPLOYMENT INSURANCE SYSTEM.

I will start with SENATE BILL 220 AND 222. They are technical in nature. SENATE BILL 220 allows the department to move forward into the 21st century. A lot of the work that we do is not informed by technological advances and these technical rewrites allow us to use technology to a greater advantage, particularly in dealing with the unemployment system.

These changes are not about efficiencies driven by personnel, but by efficiencies driven by higher quality work, so when people see technology and efficiency, particularly employees, sometimes it certainly makes them nervous. This is about

LABOR AND PUBLIC
EMPLOYEES COMMITTEE
PUBLIC HEARING

allowing in a global economy for the electronic transmission of information so that all parties can get their fair shake and have their cases adjudicated by the professional staff of the Department of Labor.

SENATE BILL 222 is regarding THE REPEAL OF OBSOLETE PROGRAMS AND REPORTS. Some are obsolete. Some are duplicative and some simply do not provide the level of information and data available in other reports. So, these are sort of the laundry list of reports and programs that we believe we can eliminate without sacrificing the quality of data available to employees, to employers, to legislators and to other stakeholders.

SENATE BILL 223 has a couple of provisions. The department does oppose the provision that lengthens the time between the last day of the pay period and the date that the employee is paid for that. It is currently eight days. The legislation proposed is moving that to 15 days. We know that in our economy a lot of people live check to check and so that 15-day period, we believe, puts families in some jeopardy. With that being said, there is another provision that if you do not provide weekly paychecks, you need a waiver from the State Department of Labor. We believe that is not necessary and so if someone wants to move to a bi-weekly pay period, the additional step of seeking a waiver from DOL is strictly bureaucratic and is not necessary and we would like to eliminate that.

HOUSE BILL 5372 REGARDING FIREFIGHTERS AND DISABILITY INSURANCE POLICIES having been a mayor and living two doors down from a very busy fire

LABOR AND PUBLIC
EMPLOYEES COMMITTEE
PUBLIC HEARING

NADINE NEVINS: Hi.

REP. TERCYAK (26TH): Thank you very much for coming, start with your name and we're listening.

SB 220
HP 5237

NADINE NEVINS: Good evening Senator Gomes, Representative Tercyak and Senator Hwang from my hometown of Fairfield and the rest of the committee members. My name is Nadine Nevins. I am the managing attorney of the Bridgeport Office of Connecticut Legal Services. I am submitting my testimony on behalf of the state's legal services programs. I support the concepts of SB-314, AN ACT CONCERNING THE TEMPORARY FAMILY ASSISTANCE PROGRAM AND UNEMPLOYMENT COMPENSATION BENEFITS and would like to direct your attention to the comment submitted by Attorney Joanne Gibau for analysis of that bill.

Additionally, I am proposing that SB-314 be amended with substitute language that changes Connecticut General Statutes 31-273 and makes unemployment compensation overpayments of \$1300 or less a misdemeanor rather than a felony because right now, if you have an unemployment compensation overpayment of \$500 or more that is considered a felony.

This change is consistent with the Second Chance Society laws passed by the legislature last year. That initiative was aimed at turning non-violent offenders into productive members of our society who can attribute to our economy rather than drain it.

For workers collecting unemployment compensation, who finally found a new job, it could be as long as a month before they get their first paycheck. May

LABOR AND PUBLIC
EMPLOYEES COMMITTEE
PUBLIC HEARING

4:00 P.M.

their families and contributing to Connecticut's economic growth.

In addition, I would like to note that I have submitted comments regarding SB-220, AN ACT CONCERNING UNEMPLOYMENT TECHNICAL REVISIONS. Some of the changes are really more substantive than just technical, so I hope you read my testimony on that bill.

I also want to throw my support to HB-5237, WHICH WOULD EXTEND BAN THE BOX TO PRIVATE EMPLOYERS. This is enlightened policy that is consistent with the reforms already made in Connecticut. It is recognition that continuing to punish those who have already been punished serves no public interest. Giving the person with a conviction an opportunity for a job promotes public safety, economic growth and family stability.

SB314
REP. TERCYAK (26TH): Thank you very much.
Questions? Yes, Representative Rutigliano?

REP. RUTIGLIANO (123RD): Thank you Mr. Chairman. Thank you for your testimony. I am just curious how you got to \$1,300? What was the methodology?

NADINE NEVINS: So the maximum weekly benefit rate is \$598, so I doubled that and then added a little more because each year, it goes up a little.

REP. RUTIGLIANO (123RD): Oh I see. That was good. Because I did it myself and it was \$1,196 and I was like what was the significance of \$1,300.

NADINE NEVINS: Yes, so it was just...

85
dm/jh

LABOR AND PUBLIC
EMPLOYEES COMMITTEE
PUBLIC HEARING

March 3, 2016
4:00 P.M.

REP. RUTIGLIANO (123RD): Right. Thank you. Thank you Mr. Chairman.

REP. TERCYAK (26TH): Thank you very much. Yes, Senator Hwang please?

SENATOR HWANG (28TH): Thank you Mr. Chair. I just want to say welcome to New Haven. Thank you for your great work for Connecticut Legal Services. That is an incredible service to those in need, so I want to thank you.

NADINE NEVINS: Thank you.

SENATOR HWANG (28TH): Thank you Mr. Chair.

REP. TERCYAK (26TH): Thank you. I've caught the eye already while you were speaking of our hardworking legal people and we will have a discussion about whether it should ever be a felony at all. We appreciate your testimony. Thank you very much.

NADINE NEVINS: Goodnight.

REP. TERCYAK (26TH): Okay, now James Bhandary-Alexander followed by Amy Eppler-Epstein followed by George Wentworth. Welcome back, another person who served with us a long time on the Domestic Workers Taskforce. We thank you for your service there and ongoing discussions about it. Please begin.

JAMES BHANDARY-ALEXANDER: Thank you for coming to New Haven. It is great to be here with you in my hometown. My name is James Bhandary-Alexander. I

SB 223
HB 5370
SB 39


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Page 6
 June 17

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Written Testimony of Atty. Nadine Nevins, Connecticut Legal Services
**Regarding SB 220 AAC Unemployment Compensation Appeals
 and Hearings and Minor and Technical Revisions to the General Statutes
 Relating to the Labor Department**

March 3, 2016

My name is Nadine Nevins and I am the managing attorney of the Bridgeport office of Connecticut Legal Services, Inc. I am submitting this testimony on behalf of CT's Legal Services Programs. I would like to comment and propose substitute language for some of the proposals that have been raised by the Department of Labor in SB 220. We feel that the proposals in question would be detrimental to the low-income workers that we serve.

We would urge you to reject SB 220 until the following issues have been addressed.

The following are the issues we have identified and the changes that would resolve those issues:

Section 2: Changes CGS Section 31-227(i)(1)(E) to eliminate language that allows a claimant to change their tax withholding status once a benefit year.

This current statutory language should remain as is. For low-income claimants withholding makes little sense but that may not be readily apparent to them. If they do make this decision they should be able to withdraw their permission and request receipt of the full weekly benefit. Given unemployment compensation's remedial purpose of providing relief to jobless workers this is not too much to ask and it can mean the difference between a family having the money to pay the rent and feed their family. Any extra money helps when unemployed.

Section 5: Deletes language in CGS Section 31-240, that says that claims shall be made at the public employment bureau or branch most easily accessible either from the claimant's residence or from the place of his most recent employment. The new language says claims shall be made in accordance with regulations prescribed by the administrator. Most claims are made by telephone so this would be a problem for people without phones and those with disabilities who would have to be accommodated. **Language must be included in this section that protects people who cannot, for whatever reason, participate in the telephonic application process and may have to travel long distances to apply in-person.**

Section 6: Eliminates language in CGS Section 31-241, specifying the right to a hearing to determine eligibility at the examiner level. SB 220 states that the determination of eligibility by the examiner shall be based on evidence presented in a manner prescribed by the examiner including writing, telephone or other electronic means. **Current language says that determination of eligibility "shall be based upon**

evidence or testimony presented in such a manner as the administrator shall prescribe, including in writing, by telephone or other electronic means at a hearing called for such purpose." (emphasis added) SB 220 changes the language to say the administrator or examiner may prescribe a TELEPHONIC or in person hearing at his or her discretion.

The hearing at the examiner level is a claimant's first opportunity to tell their story, present evidence, confront their employer, hear the employer's side and see the employer's evidence. Claimants are also able to hear how the examiner characterizes what each side has said and the evidence they've presented. Having this hearing can prevent the need for a referee hearing and gives each side an idea of what the disputed issues are and the evidence they need to gather for the referee hearing. Low-income and less educated claimants are at a disadvantage if they cannot have an in-person hearing.

Claimants may not have the required electronics (computer, fax, iphone) to participate or a telephone with enough minutes to participate in a telephone hearing. It will be difficult for less educated claimants to put their testimony and evidence into writing, which seems to be the default method for producing evidence, and for them to see what evidence is being used against them.

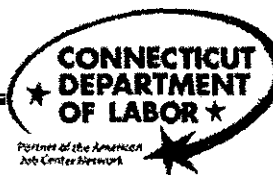
Eliminating the right to a hearing by an examiner creates a very real barrier to participation by low-income, less educated claimants. Unemployment compensation benefits are supposed to be a remedial program to support unemployed workers. Efforts should be focused on creating a process that is more easily accessible to claimants, not less. **The language in Section 6 of SB 220 should be rejected.**

Section 16: Changes Section 5 of CGS 31-273 regarding overpayments. The proposed language eliminates the right to a hearing before an examiner in both fraud and non-fraud cases. Instead there is a determination of eligibility by an examiner based on evidence or testimony presented in a manner the Administrator prescribes, including writing, telephonic or through electronic means. Telephone or in person hearings are held at the examiner's discretion. If an in person hearing is requested, it may not be unreasonably denied.

Low-income, less educated claimants denied an in-person hearing when charged with an overpayment, are disadvantaged in much the same way that claimants denied an in person hearing at the examiner level are. They too may not have access to telephone and other electronic means to participate and so their participation may be unfairly limited to the submission of written evidence. It is unclear how they will be able to ask questions about and object to evidence submitted against them. For example, in overpayment cases, the Benefits Payment Control Unit has presented printouts as evidence of overpayments; even attorneys have trouble understanding them. How will they be explained to claimants without a hearing? **Given the severe penalties that can result from a finding of fraud, eliminating the opportunity for an in-person hearing would be a denial of due process. Therefore the language proposed to in Section 16 should be rejected.**

Again, we would urge you to reject SB 220 until the issues outlined above have been addressed.

Connecticut Department of Labor



Scott D. Jackson, Commissioner

**Public Hearing Testimony of
Scott D. Jackson, Commissioner
Department of Labor
Labor and Public Employees Committee
March 3, 2016**

Good Afternoon Senator Gomes, Representative Tercyak, Senator Hwang, Representative Rutigliano and members of the Labor and Public Employees Committee. Thank you for the opportunity to provide you with testimony regarding Senate Bill No. 220, AAC Unemployment Compensation Appeals and Hearings and Minor and Technical Revisions to the General Statutes Relating to the Labor Department. My name is Scott Jackson and I am the Commissioner of the Department of Labor.

I am here to speak in favor of this bill proposed by the Department of Labor (DOL). The Department seeks to bring up to date certain provisions in the unemployment compensation statutes that will ready DOL for the eventual modernization of its information technology system. With our modernization efforts, DOL will be able to handle unemployment compensation hearings electronically. Although these changes will not affect DOL's current process of adjudicating each matter via hearings, future advanced technology and the ability of the parties to present their entire case in writing, electronically or otherwise, will obviate the need for a hearing for each issue, while ensuring full due process to the parties. If hearings are needed or requested by a claimant or employer, DOL will still be able to provide a telephonic hearing as it does now.

The proposed bill also amends the current law allowing an individual receiving unemployment benefits to select a tax withholding status only once per year. This proposed bill will permit that individual to change his or her tax withholding status more than once per year.

Finally, the proposed bill permits the Employment Security Appeals Division to prescribe the manner for filing documents for appeal. This change is necessary to acknowledge the issues surrounding electronic filing, including when an electronic appeal will be deemed to have been filed.

The proposed changes in this bill are technical and many are necessary to position DOL for the use of technology at the administrator and appeals division levels when our information technology system has been modernized.

Thank you for the opportunity to provide this testimony. I am available to answer any questions you may have.