

## Department of Labor 2013 Legislative Proposals

### New Policy Initiatives

<b>Proposed Bill Title</b>	<b>Priority Number</b>	<b>Other State Agency Approval Needed</b>
AAC Homemaker Services and Homemaker-Companion Agencies	1	Workers' Compensation Commission (approval pending)
AAC the Requirement for the Electronic Filing of Quarterly Unemployment Insurance Tax Returns	2	
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AA Improving the Timeliness and Efficiency of the Department of Labor's Unemployment Insurance Tax Operations	4	
AAC Disclosure of Performance Evaluations of Members of the State Board of Labor Relations and the State Board of Mediation and Arbitration	5	
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AAC the Definition of New Employee in the Unemployed Armed Forces Member Subsidized Training and Employment Program	1	
AAC Volunteer Fire Departments and Ambulance Companies and the Definition of Employer Under the Connecticut Occupational Safety and Health Act	2	
AAC Technical and Other Changes to Department of Labor Statutes	3	DOI & DCP re: JEC membership (approved)  AG, WCC, DRS, Chief State's Atty re: JEC report (approved)  DRS re: Hiring Incentive Tax Credit (approved)

(10/16/12)



## Agency Legislative Proposal - 2013 Session

**Document Name** (e.g. OPM1015Budget.doc; OTG1015Policy.doc):

(If submitting an electronically, please label with date, agency, and title of proposal – 092611\_SDE\_TechRevisions)

State Agency:

Department of Labor

Liaison: Marisa Morello

Phone: 860 263 6502

E-mail: Marisa.morello@ct.gov

Lead agency division requesting this proposal:

Executive Administration

Agency Analyst/Drafter of Proposal:

Heidi Lane

**Title of Proposal**

**AAC Homemaker Services and Homemaker Companion Agencies**

**Statutory Reference**

**Proposal Summary**

To designate a homemaker-companion agency, registry or homemaker-home health agency as the employer of individuals providing certain services to consumers for the purposes of unemployment compensation, wages and workers' compensation, and remove liability for such individual's personal injuries arising out of and in the course of employment from the consumer.

*Please attach a copy of fully drafted bill (required for review)*

### PROPOSAL BACKGROUND

- Reason for Proposal

*Please consider the following, if applicable:*

- (1) *Have there been changes in federal/state/local laws and regulations that make this legislation necessary? No*
- (2) *Has this proposal or something similar been implemented in other states? If yes, what is the outcome(s)?*
- (3) *Have certain constituencies called for this action? Chair of the Committee on Aging*
- (4) *What would happen if this was not enacted in law this session? The individual clients receiving the services of a companion or homemaker would be responsible for the wage payments, unemployment and workers' compensation payments.*

- Origin of Proposal

New Proposal

Resubmission



If this is a resubmission, please share:

- (1) What was the reason this proposal did not pass, or if applicable, was not included in the Administration's package? **This bill was introduced in the Senate SB 330) and in the House (HB 5439). There was a public hearing in the Senate and in the House, there was substitute language (File147) establishing a taskforce to look into the issue.**
- (2) Have there been negotiations/discussions during or after the previous legislative session to improve this proposal? **No**
- (3) Who were the major stakeholders/advocates/legislators involved in the previous work on this legislation? **Senator Edith Prague**
- (4) What was the last action taken during the past legislative session? **File 147 was proposed to establish a taskforce to look into this issue.**

### PROPOSAL IMPACT

- **Agencies Affected** (please list for each affected agency)

Agency Name: Workers' Compensation Commission  
 Agency Contact (name, title, phone): Connie Rue-Yatcko, Legislative Liaison (860) 493-1580  
 Date Contacted: 10/16/12

Approve of Proposal     YES     NO     Talks Ongoing

**Summary of Affected Agency's Comments**

Will there need to be further negotiation?     YES     NO

- **Fiscal Impact** (please include the proposal section that causes the fiscal impact and the anticipated impact)

**Municipal** (please include any municipal mandate that can be found within legislation)

**State**

**Federal**

Additional notes on fiscal impact

- **Policy and Programmatic Impacts** (Please specify the proposal section associated with the impact)



This proposal would ensure that the consumer receiving the services of a homemaker-companion would not be responsible for wage payments, unemployment tax and workers' compensation for the individuals who are providing services to the consumer.

Section 1. (NEW) (*Effective January 1, 2013*) For purposes of chapter 567 of the general statutes, a homemaker-companion agency, as defined in section 20-670 of the general statutes, registry, as defined in section 20-670 of the general statutes, or homemaker-home health aide agency, as defined in section 19a-490 of the general statutes, shall be deemed the employer of an individual such agency or registry supplied or referred to a consumer to provide (1) homemaker services, as defined in section 20-670 of the general statutes, (2) companion services, as defined in section 20-670 of the general statutes, or (3) homemaker-home health aide services, as defined in section 19a-490 of the general statutes, and such agency or registry shall be liable for the payment of unemployment contributions for such individual during the duration of time he or she provides said services to the consumer.

Sec. 2. (NEW) (*Effective January 1, 2013*) For purposes of chapter 558 of the general statutes, a homemaker-companion agency, as defined in section 20-670 of the general statutes, registry, as defined in section 20-670 of the general statutes, or homemaker-home health aide agency, as defined in section 19a-490 of the general statutes, shall be deemed the employer of an individual such agency or registry supplied or referred to a consumer to provide (1) homemaker services, as defined in section 20-670 of the general statutes, (2) companion services, as defined in section 20-670 of the general statutes, or (3) homemaker-home health aide services, as defined in section 19a-490 of the general statutes, and such agency or registry shall be responsible for the payment of wages to such individual during the duration of time he or she provides said services to the consumer.

Sec. 3. (NEW) (*Effective January 1, 2013*) (a) As used in this section:

- (1) "Homemaker-companion agency" means homemaker-companion agency, as defined in section 20-670 of the general statutes;
- (2) "Registry" means registry, as defined in section 20-670 of the general statutes;



- (3) "Homemaker-home health aide agency" means homemaker-home health aide agency, as defined in section 19a-490 of the general statutes;
- (4) "Homemaker services" means homemaker services, as defined in section 20-670 of the general statutes;
- (5) "Companion services" means companion services, as defined in section 20-670 of the general statutes;
- (6) "Homemaker-home health aide services" means homemaker-home health aide services, as defined in section 19a-490 of the general statutes;
- (7) "Consumer" means an individual receiving homemaker services, companion services or homemaker-home health aid services from a homemaker-companion agency, registry or homemaker-home health aide agency; and
- (8) "Covered provider" means a homemaker-companion agency, registry, or homemaker-home health aide agency providing homemaker services, companion services or homemaker-home health aid services.
- (b) For purposes of chapter 568 of the general statutes, an individual supplied or referred by a covered provider to a consumer to provide homemaker services, companion services or homemaker-home health aid services shall be deemed an employee of (1) except as provided in subdivision (2) of this subsection, such covered provider, regardless of the number of hours worked, and shall be liable for compensation under chapter 568 of the general statutes for such individual during the duration of time he or she provides said services to the consumer, and (2) such consumer solely for the purposes of subsection (a) of section 31-284 of the general statutes, and such consumer shall be deemed to be in compliance with subsection (b) of said section, except that the requirements of subsection (b) of said section 31-284 shall be the responsibility of the covered provider.
- (c) The consumer's exemption from liability under subsection (a) of section 31-284 of the general statutes, including any liability for third-party lawsuits commenced pursuant to subsection (a) of section 31-293 of the general statutes, shall be extended to (1) members of the consumer's immediate family or household, and (2) any individual acting as a conservator of the person, as defined in section 45a-644 of the general statutes or acting under other legal authority to make decisions for the consumer regarding their medical or personal care.



Sec. 4. Subdivision (9) of section 31-275 of the 2012 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective January 1, 2013*):

(9) (A) "Employee" means any person who:

(i) Has entered into or works under any contract of service or apprenticeship with an employer, whether the contract contemplated the performance of duties within or without the state;

(ii) Is a sole proprietor or business partner who accepts the provisions of this chapter in accordance with subdivision (10) of this section;

(iii) Is elected to serve as a member of the General Assembly of this state;

(iv) Is a salaried officer or paid member of any police department or fire department;

(v) Is a volunteer police officer, whether the officer is designated as special or auxiliary, upon vote of the legislative body of the town, city or borough in which the officer serves;

(vi) Is an elected or appointed official or agent of any town, city or borough in the state, upon vote of the proper authority of the town, city or borough, including the elected or appointed official or agent, irrespective of the manner in which he or she is appointed or employed. Nothing in this subdivision shall be construed as affecting any existing rights as to pensions which such persons or their dependents had on July 1, 1927, or as preventing any existing custom of paying the full salary of any such person during disability due to injury arising out of and in the course of his or her employment;

(vii) Is an officer or enlisted person of the National Guard or other armed forces of the state called to active duty by the Governor while performing his or her active duty service; or

(viii) Is elected to serve as a probate judge for a probate district established in section 45a-2.

(B) "Employee" shall not be construed to include:

(i) Any person to whom articles or material are given to be treated in any way on premises not under the control or management of the person who gave them out;



(ii) One whose employment is of a casual nature and who is employed otherwise than for the purposes of the employer's trade or business;

(iii) A member of the employer's family dwelling in his house; but, if, in any contract of insurance, the wages or salary of a member of the employer's family dwelling in his house is included in the payroll on which the premium is based, then that person shall, if he sustains an injury arising out of and in the course of his employment, be deemed an employee and compensated in accordance with the provisions of this chapter;

(iv) [Any] Except as provided in section 3 of this act, any person engaged in any type of service in or about a private dwelling provided he is not regularly employed by the owner or occupier over twenty-six hours per week;

(v) An employee of a corporation who is a corporate officer and who elects to be excluded from coverage under this chapter by notice in writing to his employer and to the commissioner; or

(vi) Any person who is not a resident of this state but is injured in this state during the course of his employment, unless such person (I) works for an employer who has a place of employment or a business facility located in this state at which such person spends at least fifty per cent of his employment time, or (II) works for an employer pursuant to an employment contract to be performed primarily in this state.

To designate a homemaker-companion agency, registry or homemaker-home health agency as the employer of individuals providing certain services to consumers for the purposes of unemployment compensation, wages and workers' compensation, and remove liability for such individual's personal injuries arising out of and in the course of employment from the consumer.



## Agency Legislative Proposal - 2013 Session

**Document Name** (e.g. OPM1015Budget.doc; OTG1015Policy.doc):

(If submitting an electronically, please label with date, agency, and title of proposal – 092611\_SDE\_TechRevisions)

State Agency: <b>Department of Labor</b>
Liaison: Marisa Morello Phone: 860 263 6502 E-mail: Marisa.morello@ct.gov
Lead agency division requesting this proposal: Tax Division
Agency Analyst/Drafter of Proposal: Heidi Lane

<b>Title of Proposal</b>  AAC the Requirement for the Electronic Filing of Quarterly Unemployment Tax Returns
<b>Statutory Reference</b> 31-225a of the general statutes
<b>Proposal Summary</b>  Currently, the Department mandates electronic filing and electronic payment for all employers with 250 or more employees and for agents who file/pay on behalf of 250 or more employees. We would like to require all employers/agents to file and pay electronically.
<i>Please attach a copy of fully drafted bill (required for review)</i>

### PROPOSAL BACKGROUND

- Reason for Proposal

This proposal will increase the efficiency of Tax and Benefit operations by improving the timeliness of the posting of tax and wage data and will minimize our banking and data entry costs by eliminating paper tax returns, wage reports and checks. Timely posting of tax and wage data will expedite the timely payment of unemployment insurance benefits and will expedite the timely posting of tax payments enabling the Department to produce accurate billing statements to employers. Approximately 35,000 to 40,000 employers file paper tax returns and wage reports per quarter. Data entry costs are approximately \$200,000 annually.

- Origin of Proposal       New Proposal       Resubmission



If this is a resubmission, please share:

- (1) What was the reason this proposal did not pass, or if applicable, was not included in the Administration's package?
- (2) Have there been negotiations/discussions during or after the previous legislative session to improve this proposal?
- (3) Who were the major stakeholders/advocates/legislators involved in the previous work on this legislation?
- (4) What was the last action taken during the past legislative session?

## PROPOSAL IMPACT

- **Agencies Affected** (please list for each affected agency)

Agency Name: N/A

Agency Contact (name, title, phone):

Date Contacted:

Approve of Proposal    \_\_\_ YES    \_\_\_ NO    \_\_\_ Talks Ongoing

### Summary of Affected Agency's Comments

Will there need to be further negotiation?    \_\_\_ YES    \_\_\_ NO

- **Fiscal Impact** (please include the proposal section that causes the fiscal impact and the anticipated impact)

**Municipal** (please include any municipal mandate that can be found within legislation)

None

**State**

None

**Federal**

None

Additional notes on fiscal impact

- **Policy and Programmatic Impacts** (Please specify the proposal section associated with the impact)



Timely posting of tax and wage data will expedite the timely payment of unemployment insurance benefits and will expedite the timely posting of tax payments enabling the Department to produce accurate billing statements to employers. Approximately 35,000 to 40,000 employers out of 98,000 employers file paper tax returns and wage reports per quarter. Data entry costs are approximately \$200,000 annually.

**Sec. 31-225a. Definitions; employers' experience accounts; noncharging provisions; benefit ratio; rates of contribution; assessments to pay interest due on federal loans and to reimburse advance fund; fund balance tax rate; notice to employers; multiple employers; employers' quarterly reports; inspection of records; electronic payments.** (a) As used in this chapter, "qualified employer" means each employer subject to this chapter whose experience record has been chargeable with benefits for at least one full experience year, with the exception of employers subject to a flat entry rate of contributions as provided under subsection (d) of this section, employers subject to the maximum contribution rate under subsection (c) of section 31-273, and reimbursing employers; "contributing employer" means an employer who is assigned a percentage rate of contribution under the provisions of this section; "reimbursing employer" means an employer liable for payments in lieu of contributions as provided under section 31-225; "benefit charges" means the amount of benefit payments charged to an employer's experience account under this section; "computation date" means June thirtieth of the year preceding the tax year for which the contribution rates are computed; "tax year" means the calendar year immediately following the computation date; "experience year" means the twelve consecutive months ending on June thirtieth; and "experience period" means the three consecutive experience years ending on the computation date, except that if the employer's account has been chargeable with benefits for less than three years, the experience period shall consist of the greater of one or two consecutive experience years ending on the computation date.

(b) (1) The administrator shall maintain for each employer, except reimbursing employers, an experience account in accordance with the provisions of this section. (2) With respect to each benefit year commencing on or after July 1, 1978, regular and additional benefits paid to an individual shall be allocated and charged to the accounts of the employers who paid him wages in his base period in accordance with the following provisions: The initial determination establishing a claimant's weekly benefit rate and maximum total benefits for his benefit year shall include, with respect to such claimant and such benefit year, a determination of the maximum liability for such benefits of each employer who paid wages to the claimant in his base period. An employer's maximum total liability for such benefits with respect to a claimant's benefit year shall bear the same ratio to the maximum total benefits payable to the claimant as the total wages paid by the employer to the claimant within his base period bears to the total wages paid by all employers to the claimant within his base period. This ratio shall also be applied to each benefit payment. The amount thus determined, rounded to the nearest dollar with



fractions of a dollar of exactly fifty cents rounded upward, shall be charged to the employer's account.

(c) (1) (A) Any week for which the employer has compensated the claimant in the form of wages in lieu of notice, dismissal payments or any similar payment for loss of wages shall be considered a week of employment for the purpose of determining employer chargeability. (B) No benefits shall be charged to any employer who paid wages of five hundred dollars or less to the claimant in his base period. (C) No dependency allowance paid to a claimant shall be charged to any employer. (D) In the event of a natural disaster declared by the President of the United States, no benefits paid on the basis of total or partial unemployment which is the result of physical damage to a place of employment caused by severe weather conditions including, but not limited to, hurricanes, snow storms, ice storms or flooding, or fire except where caused by the employer, shall be charged to any employer. (E) If the administrator finds that (i) an individual's most recent separation from a base period employer occurred under conditions which would result in disqualification by reason of subdivision (2), (6) or (9) of subsection (a) of section 31-236, or (ii) an individual was discharged for violating an employer's drug testing policy, provided the policy has been adopted and applied consistent with sections 31-51t to 31-51aa, inclusive, section 14-261b and any applicable federal law, no benefits paid thereafter to such individual with respect to any week of unemployment which is based upon wages paid by such employer with respect to employment prior to such separation shall be charged to such employer's account, provided such employer shall have filed a notice with the administrator within the time allowed for appeal in section 31-241. (F) No base period employer's account shall be charged with respect to benefits paid to a claimant if such employer continues to employ such claimant at the time the employer's account would otherwise have been charged to the same extent that he employed him during the individual's base period, provided the employer shall notify the administrator within the time allowed for appeal in section 31-241. (G) If a claimant has failed to accept suitable employment under the provisions of subdivision (1) of subsection (a) of section 31-236 and the disqualification has been imposed, the account of the employer who makes an offer of employment to a claimant who was a former employee shall not be charged with any benefit payments made to such claimant after such initial offer of reemployment until such time as such claimant resumes employment with such employer, provided such employer shall make application therefor in a form acceptable to the administrator. The administrator shall notify such employer whether or not his application is granted. Any decision of the administrator denying suspension of charges as herein provided may be appealed within the time allowed for appeal in section 31-241. (H) Fifty per cent of benefits paid to a claimant under the federal-state extended duration unemployment benefits program established by the federal Employment Security Act shall be charged to the experience accounts of the claimant's base period employers in the same manner as the regular benefits paid for such benefit year. (I) No base period employer's account shall be charged with respect to benefits paid to a claimant who voluntarily left suitable work with such employer (i) to care for a seriously ill spouse, parent or child or (ii) due to the discontinuance of the transportation used by the claimant to get to and from work, as provided in subparagraphs (A)(ii) and (A)(iii) of subdivision (2) of subsection (a) of section 31-236.



(2) All benefits paid which are not charged to any employer shall be pooled.

(3) The noncharging provisions of this chapter, except subdivisions (1)(D) and (1)(F) of this subsection, shall not apply to reimbursing employers.

(d) The standard rate of contributions shall be five and four-tenths per cent. Each employer who has not been chargeable with benefits, for a sufficient period of time to have his rate computed under this section shall pay contributions at a rate that is the higher of (1) one per cent, or (2) the state's five-year benefit cost rate. For purposes of this subsection, the state's five-year benefit cost rate shall be computed annually on or before June thirtieth and shall be derived by dividing the total dollar amount of benefits paid to claimants under this chapter during the five consecutive calendar years immediately preceding the computation date by the five-year payroll during the same period. If the resulting quotient is not an exact multiple of one-tenth of one per cent, the five-year benefit cost rate shall be the next higher such multiple.

(e) (1) As of each June thirtieth, the administrator shall determine the charged tax rate for each qualified employer. Said rate shall be obtained by calculating a benefit ratio for each qualified employer. The employer's benefit ratio shall be the quotient obtained by dividing the total amount chargeable to the employer's experience account during the experience period by the total of his taxable wages during such experience period which have been reported by the employer to the administrator on or before the following September thirtieth. The resulting quotient, expressed as a per cent, shall constitute the employer's charged tax rate. If the resulting quotient is not an exact multiple of one-tenth of one per cent, the charged rate shall be the next higher such multiple, except that if the resulting quotient is less than five-tenths of one per cent, the charged rate shall be five-tenths of one per cent and if the resulting quotient is greater than five and four-tenths per cent, the charged rate shall be five and four-tenths per cent. The employer's charged tax rate will be in accordance with the following table:

Employer's Charged Tax Rate Table	
Employer's Benefit Ratio	Employer's Charged Tax Rate
.005 or less	.5% minimum subject
.006	.6% to fund
.007	.7% solvency



.008	.8% adjustment
.009	.9%
.010	1.0%
.011	1.1%
.012	1.2%
.013	1.3%
.014	1.4%
.015	1.5%
.016	1.6%
.017	1.7%
.018	1.8%
.019	1.9%
.020	2.0%
.021	2.1%
.022	2.2%
.023	2.3%
.024	2.4%
.025	2.5%



.026	2.6%
.027	2.7%
.028	2.8%
.029	2.9%
.030	3.0%
.031	3.1%
.032	3.2%
.033	3.3%
.034	3.4%
.035	3.5%
.054 & higher	5.4% maximum subject to fund solvency adjustment

(2) (A) Each contributing employer subject to this chapter shall pay an assessment to the administrator at a rate established by the administrator sufficient to pay interest due on advances from the federal unemployment account under Title XII of the Social Security Act (42 U.S. Code Sections 1321 to 1324). The administrator shall establish the necessary procedures for payment of such assessments. The amounts received by the administrator based on such assessments shall be paid over to the State Treasurer and credited to the General Fund. Any amount remaining from such assessments, after all such federal interest charges have been paid, shall be transferred to the Employment Security Administration Fund or to the Unemployment Compensation Advance Fund established under section 31-264a, (i) to the extent that any federal interest charges have been paid from the Unemployment Compensation Advance Fund, (ii) to the extent that the administrator determines that reimbursement is appropriate, or (iii) otherwise to the extent that reimbursement of the advance fund is the appropriate



accounting principle governing the use of the assessments. Sections 31-265 to 31-274, inclusive, shall apply to the collection of such assessments.

(B) On and after January 1, 1994, and conditioned upon the issuance of any revenue bonds pursuant to section 31-264b, each contributing employer shall also pay an assessment to the administrator at a rate established by the administrator sufficient to pay the interest due on advances from the Unemployment Compensation Advance Fund and reimbursements required for advances from the Unemployment Compensation Advance Fund, computed in accordance with subsection (h) of section 31-264a. The administrator shall establish the assessments as a percentage of the charged tax rate for each employer pursuant to subdivision (1) of this subsection. The administrator shall establish the necessary procedures for billing, payment and collection of the assessments. Sections 31-265 to 31-274, inclusive, shall apply to the collection of such assessments by the administrator. The payments received by the administrator based on the assessments, excluding interest and penalties on past due assessments, are hereby pledged and shall be paid over to the State Treasurer for credit to the Unemployment Compensation Advance Fund.

(f) For each calendar year commencing with calendar year 1994, the administrator shall establish a fund balance tax rate sufficient to maintain a balance in the Unemployment Compensation Trust Fund equal to eight-tenths of one per cent of the total wages paid to workers covered under this chapter by contributing employers during the year ending the last preceding June thirtieth. If the fund balance tax rate established by the administrator results in a fund balance in excess of said per cent as of December thirtieth of any year, the administrator shall, in the year next following, establish a fund balance tax rate sufficient to eliminate the fund balance in excess of said per cent. The assessment levied by the administrator at any time (A) during a calendar year commencing on or after January 1, 1994, but prior to January 1, 1999, shall not exceed one and five-tenths per cent, (B) during a calendar year commencing on or after January 1, 1999, shall not exceed one and four-tenths per cent, and (C) shall not be calculated to result in a fund balance in excess of eight-tenths of one per cent of such total wages.

(g) Each qualified employer's contribution rate for each calendar year after 1973 shall be a percentage rate equal to the sum of his charged tax rate as of the June thirtieth preceding such calendar year and the fund balance tax rate as of December thirtieth preceding such calendar year.

(h) (1) With respect to each benefit year commencing on or after July 1, 1978, notice of determination of the claimant's benefit entitlement for such benefit year shall include notice of the allocation of benefit charges of the claimant's base period employers and each such employer shall be mailed a copy of such notice of determination and shall be an interested party thereto. Such determination shall be final unless the claimant or any of such employers files an appeal from such decision in accordance with the provisions of section 31-241. (2) The administrator shall, not less frequently than once each calendar quarter, mail a statement of charges to each employer to whose



experience record any charges have been made since the last previous such statement. Such statement shall show, with respect to each week for which benefits have been paid and charged, the name and Social Security account number of the claimant who was paid the benefit, the amount of the benefits charged for such week and the total amount charged in the quarter. (3) The statement of charges provided for in subdivision (2) of this subsection shall constitute notice to the employer that it has been determined that the benefits reported in such statement were properly payable under this chapter to the claimants for the weeks and in the amounts shown in such statements. If the employer contends that benefits have been improperly charged due to fraud or error, a written protest setting forth reasons therefor shall be filed with the administrator within sixty days of the mailing date of the quarterly statement. An eligibility issue shall not be reopened on the basis of such quarterly statement if notification of such eligibility issue had previously been given to the employer under the provisions of section 31-241, and he failed to file a timely appeal therefrom or had the issue finally resolved against him.

(i) (1) At the written request of any employer which holds at least eighty per cent controlling interest in another employer or employers, the administrator may mingle the experience rating records of such dominant and controlled employers as if they constituted a single employer, subject to such regulations as the administrator may make and publish concerning the establishment, conduct and dissolution of such joint experience rating records. (2) The executors, administrators, successors or assigns of any former employer shall acquire the experience rating records of the predecessor employer with the following exception: The experience of a predecessor employer, who leased premises and equipment from a third party and who has not transferred any assets to the successor, shall not be transferred if there is no common controlling interest in the predecessor and successor entities. (3) The administrator is authorized to establish such regulations governing joint accounts as may be necessary to comply with the requirements of the federal Unemployment Tax Act.

(j) (1) Each employer subject to this chapter shall submit quarterly, on forms supplied by the administrator, a listing of wage information, including the name of each employee receiving wages in employment subject to this chapter, such employee's Social Security account number and the amount of wages paid to such employee during such calendar quarter.

**(2) Commencing with the first calendar quarter of [1991] 2014, each employer subject to this chapter who reports wages for [two hundred fifty or more] employees receiving wages in employment subject to this chapter, and each person or organization that, as an agent, reports wages for [a total of two hundred fifty or more] employees receiving wages in employment subject to this chapter on behalf of one or more employers subject to this chapter shall submit quarterly the information required by subdivision (1) of this subsection on magnetic tape, diskette, or other similar electronic means which the administrator may prescribe, in a format prescribed by the administrator, unless such employer or agent demonstrates to the satisfaction of the administrator that it lacks the**



**technological capability to report such information in accordance with this subdivision.**

(3) Any employer that fails to submit the information required by subdivision (1) of this subsection in a timely manner, as determined by the administrator, shall be liable to the administrator for a late filing fee of twenty-five dollars. All fees collected by the administrator under this subdivision shall be deposited in the Employment Security Administration Fund.

**(4) Commencing with the first calendar quarter of [2009] 2014, each employer subject to this chapter who makes contributions or payments in lieu of contributions for [two hundred fifty or more] employees receiving wages in employment subject to this chapter, and each person or organization that, as an agent, makes contributions or payments in lieu of contributions for [a total of two hundred fifty or more] employees receiving wages in employment subject to this chapter on behalf of one or more employers subject to this chapter shall make such contributions or payments in lieu of contributions electronically.**

(k) The employer may inspect his account records in the office of the Employment Security Division at any reasonable time.



## Agency Legislative Proposal - 2013 Session

Document Name (e.g. OPM1015Budget.doc; OTG1015Policy.doc):

**DOL10112EmployerWilfulfailure.doc**

(If submitting an electronically, please label with date, agency, and title of proposal – 092611\_SDE\_TechRevisions)

State Agency: Department of Labor

Liaison: Marisa Morello

Phone: 860263 6502

E-mail: Marisa.morello@ct.gov

Lead agency division requesting this proposal:

UC Accounts – Tax Division

Agency Analyst/Drafter of Proposal:

Heidi Lane

### Title of Proposal

AAC An Increase in Penalties Due to False or Misleading Declarations, Statements or Representations

### Statutory Reference

31-273

### Proposal Summary

The proposal seeks to increase penalties assessed against employers who willfully fail to declare payment of wages in payroll records or who knowingly make a false statement or representation or fail to disclose a material fact in order to obtain, increase, prevent or decrease any benefit, contribution or other payment under this chapter.

*Please attach a copy of fully drafted bill (required for review)*

## PROPOSAL BACKGROUND

### • Reason for Proposal

*Please consider the following, if applicable:*

- (1) *Have there been changes in federal/state/local laws and regulations that make this legislation necessary? **No.***
- (2) *Has this proposal or something similar been implemented in other states? If yes, what is the outcome(s)? **Yes. All states impose penalties for fraudulent employer activities that lead to improper benefit or contribution payments. The amount of those penalties varies widely among states ranging to amounts as high as \$100,000. Other examples of penalties levied in fraud cases include but are not limited to \$1,000 per offense and 400% of the tax owed. In addition, prison time imposed varies widely ranging from as low as 30 days to as high as 15 years. In those states with stronger fraud deterrents, it is believed that improper benefit and contribution payments are reduced and program integrity is enhanced.***
- (3) *Have certain constituencies called for this action? **Yes. Due to the insolvency of the unemployment insurance trust fund, many constituencies from both labor and business have called for increased penalties for fraudulent activities. Also, the United States Department of Labor has charged states with improving the integrity of their unemployment insurance programs, including implementing stronger deterrents to fraud.***
- (4) *What would happen if this was not enacted in law this session? **Without stronger fraud deterrents, improper payments are trending upward. The United States Department of Labor has estimated that 11% of all payments made nationally within the unemployment insurance benefits programs are improper.***



[Empty box for additional information]

- **Origin of Proposal**       New Proposal       Resubmission (with slight modification)

*If this is a resubmission, please share:*

- (1) *What was the reason this proposal did not pass, or if applicable, was not included in the Administration's package? House did not take action due to lack of time.*
- (2) *Have there been negotiations/discussions during or after the previous legislative session to improve this proposal? Yes – CBIA had originally testified in opposition to this bill in the Labor Committee because they felt that a Class D Felony penalty was too harsh. Therefore, we negotiated new language with CBIA and the bill passed unanimously out of the Judiciary Committee. The compromise language is attached.*
- (3) *Who were the major stakeholders/advocates/legislators involved in the previous work on this legislation? CBIA, Labor & Judiciary Committee Co-Chairs*
- (4) *What was the last action taken during the past legislative session? Judiciary co-chairs & Ranking members agreed to JFS HB# 5234. Unanimous vote out of the Judiciary Committee. Died on the House Calendar.*

**PROPOSAL IMPACT**

- **Agencies Affected** (please list for each affected agency)

Agency Name: None  
 Agency Contact (name, title, phone):  
 Date Contacted:  
 Approve of Proposal     YES     NO     Talks Ongoing

**Summary of Affected Agency's Comments**  
**N/A**

Will there need to be further negotiation?     YES     NO

- **Fiscal Impact** (please include the proposal section that causes the fiscal impact and the anticipated impact)

**Municipal** (please include any municipal mandate that can be found within legislation)  
 There will be no fiscal impact for municipalities to implement this proposal. In addition, there should be no increase in penalties to the municipalities because it is assumed that municipalities are not committing program fraud.

**State**  
 There will be no fiscal impact for the state to implement this proposal. In addition, there should be no increase in penalties to the state because it is assumed that the state is not committing program fraud.



**Federal**

There will be no fiscal impact to the federal government to implement this proposal. In addition, there should be no increase in penalties to the federal government because it is assumed that the federal government is not committing program fraud.

Additional notes on fiscal impact

• **Policy and Programmatic Impacts** (Please specify the proposal section associated with the impact)

The policy and customer service impact is very positive in that the Agency and the State will be making substantial efforts to improve program integrity and deter program fraud; both universally recognized as shortcomings in the current unemployment insurance program. This proposal will level the playing field because it will penalize those employers who are willfully failing to report wages in its wage record. Therefore, this proposal will help to create jobs and grow Connecticut's economy.

**Please attach a copy of fully drafted bill (required for review)**

***AN ACT CONCERNING THE WILFUL FAILURE OF AN EMPLOYER TO DECLARE THE PAYMENT OF WAGES ON PAYROLL RECORDS FOR UNEMPLOYMENT COMPENSATION PURPOSES.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Subsection (e) of section 31-273 of the 2012 supplement to the general statutes is repealed and the following is substituted in lieu thereof:

(e) If the administrator determines that any person, firm or corporation has wilfully failed to declare the payment of wages on payroll records, the administrator may impose a penalty of [ten] fifteen per cent of the total contributions [past] due to the administrator during the entire period the person, firm or corporation wilfully failed to declare the payment of wages on payroll records, as determined pursuant to section 31-270. Such penalty shall be in addition to any other applicable penalty and interest under section 31-266. In addition, the administrator may require the person, firm or corporation to make contributions at the maximum rate provided in section 31-225a for a period of one year following the determination by the administrator concerning the



wilful nondeclaration. If the person, firm or corporation is paying or should have been paying, the maximum rate at the time of the determination, the administrator may require that such maximum rate continue for a period of three years following the determination.



## Agency Legislative Proposal - 2013 Session

**Document Name** (e.g. OPM1015Budget.doc; OTG1015Policy.doc):

(If submitting an electronically, please label with date, agency, and title of proposal – 092611\_SDE\_TechRevisions)

**State Agency:**

Department of Labor

Liaison: Marisa Morello

Phone: 860 263 6502

E-mail: Marisa.morello@ct.gov

**Lead agency division requesting this proposal:**

Tax Division

**Agency Analyst/Drafter of Proposal:**

Heidi Lane

**Title of Proposal**

AA Improving the Timeliness and Efficiency of the Department of Labor's Unemployment Insurance Tax Operations

**Statutory Reference**

31-223(f) (g) and (h) NEW and 31-225a(j)(3)

**Proposal Summary**

The Department seeks to improve its operating efficiency by requiring employers to; 1) pay a fee of \$50 if a tax and wage report is submitted by an entity that is not properly registered and 2) pay a \$100 penalty for failure to notify the department in writing within 15 days upon becoming an employer subject to the act or upon of acquiring any part of the assets, organization, trade or business of another employer.

*Please attach a copy of fully drafted bill (required for review)*

### PROPOSAL BACKGROUND

- Reason for Proposal**

All states are mandated by the US Department of Labor to report on various Tax Division activities as part of a national Tax Performance System. Two such activities are timeliness of registration of new employers and timeliness of registration of successor employers. While still at or above the national average, our statistical measures have declined where we are in danger of jeopardizing our potential funding by not exceeding these core measures. By instituting these notice requirements and fees/penalties for non-compliance, we expect to significantly improve the timeliness of employer registrations.

- Origin of Proposal**

New Proposal

Resubmission



If this is a resubmission, please share:

- (1) What was the reason this proposal did not pass, or if applicable, was not included in the Administration's package?
- (2) Have there been negotiations/discussions during or after the previous legislative session to improve this proposal?
- (3) Who were the major stakeholders/advocates/legislators involved in the previous work on this legislation?
- (4) What was the last action taken during the past legislative session?

## PROPOSAL IMPACT

- **Agencies Affected** (please list for each affected agency)

Agency Name: N/A

Agency Contact (name, title, phone):

Date Contacted:

Approve of Proposal     YES     NO     Talks Ongoing

### Summary of Affected Agency's Comments

Will there need to be further negotiation?     YES     NO

- **Fiscal Impact** (please include the proposal section that causes the fiscal impact and the anticipated impact)

### Municipal (please include any municipal mandate that can be found within legislation)

None. As long as municipalities continue to file tax and wage reports under properly registered entities (as they do now) no fees/penalties will apply. Further, if new municipal entities are formed, as long as proper notice is given, no fees/penalties will apply.

### State

None. As long as the state continue to file tax and wage reports under properly registered entities (as they do now) no fees/penalties will apply. Further, if new state entities are formed, as long as proper notice is given, no fees/penalties will apply.

### Federal

None

Additional notes on fiscal impact

- **Policy and Programmatic Impacts** (Please specify the proposal section associated with the impact)



By instituting these notice requirements and fees/penalties for non-compliance, we expect to significantly improve the timeliness of employer registrations. DOL reports to USDOL on timeliness issues. Failure to reach the mandated level of compliance could eventually lead to reduction in funding.

## SECTION 1.

**Sec. 31-223. Application of chapter to employers. (a) Nonvoluntary liability.** Every employer who was subject to this chapter immediately prior to January 1, 1980, shall continue to be so subject. An employer not previously subject to this chapter shall become subject to this chapter as follows: (1) An employer subject to the Federal Unemployment Tax Act for any year shall be subject to the provisions of this chapter from the beginning of such year if he had one or more employees in his employment in the state of Connecticut in such year; (2) an employer who acquires substantially all of the assets, organization, trade or business of another employer who at the time of such acquisition was subject to this chapter shall immediately become subject to this chapter as a successor employer; (3) an employer who, after December 31, 1973, (A) in any calendar quarter in either the current or preceding calendar year paid wages for services in employment of one thousand five hundred dollars or more, or (B) for some portion of a day in each of twenty different calendar weeks, whether or not such weeks were consecutive, in either the current or the preceding calendar year, had in employment at least one individual irrespective of whether the same individual was in employment in each such day; (4) an employer for which service in employment as defined in subdivision (1) (C) of subsection (a) of section 31-222 is performed after December 31, 1971; (5) an employer for which service in employment as defined in subdivision (1) (D) of said subsection (a) is performed after December 31, 1971; (6) an employer which, together with one or more other employers, is owned or controlled, by legally enforceable means or otherwise, directly or indirectly by the same interests, or which owns or controls, by legally enforceable means or otherwise, one or more other employers, and which, if treated as a single unit or entity with such other employers or interests, or both, would be an employer under subdivision (3) of this subsection and subparagraphs (H) and (J) of subdivision (1) of subsection (a) of section 31-222; (7) any employer, not defined as such by any other subdivision of this subsection, (A) for which, within either the current or preceding calendar year, service is or was performed with respect to which such employer is liable for any federal tax against which credit may be taken for contributions required to be paid into a state unemployment fund, or (B) which, as a condition for approval of this chapter for full tax credit against the tax imposed by the federal Unemployment Tax Act, is required, pursuant to such federal act, to be an "employer" under this chapter; (8) an employer which, having become an



employer under any of subdivisions (1) to (7), inclusive, of this subsection, has not, under subsection (c) ceased to be an employer subject to this chapter; (9) for the effective period of its election pursuant to subsection (b), an employer which has elected to become subject to this chapter. In determining whether an employer in question shall be considered, for the purposes of this section, as having had a particular number of employees in his employment at a given time, there shall be counted, in addition to his own employees, if any, (A) the employees of each employer whose business was at the given time owned or controlled, directly or indirectly, by the same interests which owned or controlled the business of the employer in question, and (B) the employees of each employer, substantially all of whose assets, organization, trade or business has, after the given time during the same calendar year, been acquired by the employer in question. If an employer shall contract with or shall have under him any contractor or subcontractor for any work which is part of said employer's usual trade, occupation, profession or business, and which is performed in, on or about the premises under such employer's control, and if such contractor or subcontractor shall not be subject to this chapter, such employer shall, for all the purposes of this chapter, be deemed to employ each individual in the employ of such contractor or subcontractor for each day during which such individual is engaged solely in performing such work; but this provision shall not prevent such employer from recovering from such contractor or subcontractor the amount of any contributions he may be required by this chapter to pay with respect to wages of such individuals for such work.

(b) **Voluntary liability.** Any employer not so subject to this chapter may accept the provisions of this chapter and become in all respects subject thereto by agreeing in writing filed with the administrator to pay the contributions required from employers subject to this chapter. Any employer with persons in his employ engaged in one or more of the types of service specified in subdivision (5) of subsection (a) of section 31-222, except the service described by subparagraph (A) thereof, may elect that the provisions of this chapter apply to such services by agreeing in writing filed with the administrator to pay the contributions on wages for such services. Any employer defined in subdivision (1) (D) or (E) of subsection (a) of section 31-222 or (5) (F) or (L) of said section may elect either to pay the contributions on wages for services or to finance benefits on a reimbursable basis, by paying into the Unemployment Compensation Fund an amount equivalent to the amount of benefits paid out to claimants who during the applicable period were paid wages by the employer concerned, said election to be made in writing to the administrator in accordance with the provisions of subsection (g) of section 31-225. Any employer may revoke acceptance of voluntary liability at the end of any calendar year following the calendar year in which he made such acceptance if he gives written notice to the administrator, accompanied by proof satisfactory to the administrator that he has paid all contributions due under the provisions of this chapter and that he has notified his employees of his intention to revoke such acceptance; such application to revoke acceptance shall be submitted within thirty days after the end of a calendar year and the administrator shall render his decision on such application within sixty days after submission thereof and such revocation of acceptance shall be effective on the thirty-first day of December next preceding the giving of written notice from the administrator to the employer that he is satisfied with such proofs.

(c) **Release from liability.** An employer may cease to be subject to this chapter at the end of



any calendar year following the calendar year in which he became subject to this chapter if he gives written notice to the administrator, accompanied by proof satisfactory to the administrator that he has not employed one employee for at least thirteen weeks during the next-preceding fifteen months, that he is not subject to the Federal Unemployment Tax Act, and that he has notified his employees of his intention to cease to be subject to this chapter; such application for release shall be submitted within thirty days after the end of a calendar year and the administrator shall render his decision on such application within sixty days after submission thereof and the employer shall cease to be subject to this chapter on the thirty-first day of December next preceding the giving of written notice from the administrator to the employer that he is satisfied with such proofs. The administrator shall waive the requirement for an application for release whenever it shall appear that the employer was unable to comply with such requirement for the reason that, at the time when he had qualified for release from liability under the provisions of this chapter, he was in good faith not aware of the fact that he was subject to the provisions of this chapter. An employer who discontinues his business and enters the armed forces of the United States shall cease immediately to be subject to this chapter.

**(d) Employment to include out-of-state service, when.** For the purposes of subdivisions (5) and (7) of subsection (a), employment shall include service which would constitute employment but for the fact that such service is deemed to be performed entirely within another state pursuant to an election under an arrangement entered into with such state by the administrator and an agency charged with the administration of any other state or federal unemployment compensation law.

**(e) Calendar week when December 31 and January 1 in same week.** For the purposes of subdivisions (3)(B) and (5) of subsection (a), in respect to any week including both December thirty-first and January first, the days of that week to and including December thirty-first shall be deemed one calendar week, and the days beginning and including January first another such week.

**(f) An employer, upon becoming subject to the unemployment compensation under the provision of this section of the general statutes, shall give written notice electronically to the administrator within fifteen days on a form prescribed by the administrator.**

**(g) An employer, upon acquiring any portion of the assets, organization, trade or business of another employer shall give written notice electronically to the administrator within fifteen days on a form prescribed by the administrator. For the purposes of this subsection, trade or business includes an employer's employees.**



**(h) Each employer who fails to provide the notice required by subsections (f) and (g) of this section of the general statutes shall be liable to the Administrator for a civil penalty of one hundred dollars for each violation.**

## SECTION 2.

**Sec. 31-225a. Definitions; employers' experience accounts; noncharging provisions; benefit ratio; rates of contribution; assessments to pay interest due on federal loans and to reimburse advance fund; fund balance tax rate; notice to employers; multiple employers; employers' quarterly reports; inspection of records; electronic payments.**

(a) As used in this chapter, "qualified employer" means each employer subject to this chapter whose experience record has been chargeable with benefits for at least one full experience year, with the exception of employers subject to a flat entry rate of contributions as provided under subsection (d) of this section, employers subject to the maximum contribution rate under subsection (c) of section 31-273, and reimbursing employers; "contributing employer" means an employer who is assigned a percentage rate of contribution under the provisions of this section; "reimbursing employer" means an employer liable for payments in lieu of contributions as provided under section 31-225; "benefit charges" means the amount of benefit payments charged to an employer's experience account under this section; "computation date" means June thirtieth of the year preceding the tax year for which the contribution rates are computed; "tax year" means the calendar year immediately following the computation date; "experience year" means the twelve consecutive months ending on June thirtieth; and "experience period" means the three consecutive experience years ending on the computation date, except that if the employer's account has been chargeable with benefits for less than three years, the experience period shall consist of the greater of one or two consecutive experience years ending on the computation date.

(b) (1) The administrator shall maintain for each employer, except reimbursing employers, an experience account in accordance with the provisions of this section. (2) With respect to each benefit year commencing on or after July 1, 1978, regular and additional benefits paid to an individual shall be allocated and charged to the accounts of the employers who paid him wages in his base period in accordance with the following provisions: The initial determination establishing a claimant's weekly benefit rate and maximum total benefits for his benefit year shall include, with respect to such claimant and such benefit year, a determination of the maximum liability for such benefits of each employer who paid wages to the claimant in his base period. An employer's maximum total liability for such benefits with respect to a claimant's benefit year shall bear the same ratio to the maximum total benefits payable to the claimant as the total wages paid by the employer to the claimant within his base period bears to the total wages paid by all employers to the claimant within his base period. This ratio shall also be applied to each benefit payment. The amount thus determined, rounded to the nearest dollar with fractions of a dollar of exactly fifty cents rounded upward, shall be charged to the employer's



account.

(c) (1) (A) Any week for which the employer has compensated the claimant in the form of wages in lieu of notice, dismissal payments or any similar payment for loss of wages shall be considered a week of employment for the purpose of determining employer chargeability. (B) No benefits shall be charged to any employer who paid wages of five hundred dollars or less to the claimant in his base period. (C) No dependency allowance paid to a claimant shall be charged to any employer. (D) In the event of a natural disaster declared by the President of the United States, no benefits paid on the basis of total or partial unemployment which is the result of physical damage to a place of employment caused by severe weather conditions including, but not limited to, hurricanes, snow storms, ice storms or flooding, or fire except where caused by the employer, shall be charged to any employer. (E) If the administrator finds that (i) an individual's most recent separation from a base period employer occurred under conditions which would result in disqualification by reason of subdivision (2), (6) or (9) of subsection (a) of section 31-236, or (ii) an individual was discharged for violating an employer's drug testing policy, provided the policy has been adopted and applied consistent with sections 31-51t to 31-51aa, inclusive, section 14-261b and any applicable federal law, no benefits paid thereafter to such individual with respect to any week of unemployment which is based upon wages paid by such employer with respect to employment prior to such separation shall be charged to such employer's account, provided such employer shall have filed a notice with the administrator within the time allowed for appeal in section 31-241. (F) No base period employer's account shall be charged with respect to benefits paid to a claimant if such employer continues to employ such claimant at the time the employer's account would otherwise have been charged to the same extent that he employed him during the individual's base period, provided the employer shall notify the administrator within the time allowed for appeal in section 31-241. (G) If a claimant has failed to accept suitable employment under the provisions of subdivision (1) of subsection (a) of section 31-236 and the disqualification has been imposed, the account of the employer who makes an offer of employment to a claimant who was a former employee shall not be charged with any benefit payments made to such claimant after such initial offer of reemployment until such time as such claimant resumes employment with such employer, provided such employer shall make application therefor in a form acceptable to the administrator. The administrator shall notify such employer whether or not his application is granted. Any decision of the administrator denying suspension of charges as herein provided may be appealed within the time allowed for appeal in section 31-241. (H) Fifty per cent of benefits paid to a claimant under the federal-state extended duration unemployment benefits program established by the federal Employment Security Act shall be charged to the experience accounts of the claimant's base period employers in the same manner as the regular benefits paid for such benefit year. (I) No base period employer's account shall be charged with respect to benefits paid to a claimant who voluntarily left suitable work with such employer (i) to care for a seriously ill spouse, parent or child or (ii) due to the discontinuance of the transportation used by the claimant to get to and from work, as provided in subparagraphs (A)(ii) and (A)(iii) of subdivision (2) of subsection (a) of section 31-236.

(2) All benefits paid which are not charged to any employer shall be pooled.



(3) The noncharging provisions of this chapter, except subdivisions (1)(D) and (1)(F) of this subsection, shall not apply to reimbursing employers.

(d) The standard rate of contributions shall be five and four-tenths per cent. Each employer who has not been chargeable with benefits, for a sufficient period of time to have his rate computed under this section shall pay contributions at a rate that is the higher of (1) one per cent, or (2) the state's five-year benefit cost rate. For purposes of this subsection, the state's five-year benefit cost rate shall be computed annually on or before June thirtieth and shall be derived by dividing the total dollar amount of benefits paid to claimants under this chapter during the five consecutive calendar years immediately preceding the computation date by the five-year payroll during the same period. If the resulting quotient is not an exact multiple of one-tenth of one per cent, the five-year benefit cost rate shall be the next higher such multiple.

(e) (1) As of each June thirtieth, the administrator shall determine the charged tax rate for each qualified employer. Said rate shall be obtained by calculating a benefit ratio for each qualified employer. The employer's benefit ratio shall be the quotient obtained by dividing the total amount chargeable to the employer's experience account during the experience period by the total of his taxable wages during such experience period which have been reported by the employer to the administrator on or before the following September thirtieth. The resulting quotient, expressed as a per cent, shall constitute the employer's charged tax rate. If the resulting quotient is not an exact multiple of one-tenth of one per cent, the charged rate shall be the next higher such multiple, except that if the resulting quotient is less than five-tenths of one per cent, the charged rate shall be five-tenths of one per cent and if the resulting quotient is greater than five and four-tenths per cent, the charged rate shall be five and four-tenths per cent. The employer's charged tax rate will be in accordance with the following table:

Employer's Charged Tax Rate Table	
Employer's Benefit Ratio	Employer's Charged Tax Rate
.005 or less	.5% minimum subject
.006	.6% to fund
.007	.7% solvency

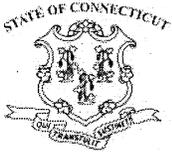


.008	.8% adjustment
.009	.9%
.010	1.0%
.011	1.1%
.012	1.2%
.013	1.3%
.014	1.4%
.015	1.5%
.016	1.6%
.017	1.7%
.018	1.8%
.019	1.9%
.020	2.0%
.021	2.1%
.022	2.2%
.023	2.3%
.024	2.4%
.025	2.5%



.026	2.6%
.027	2.7%
.028	2.8%
.029	2.9%
.030	3.0%
.031	3.1%
.032	3.2%
.033	3.3%
.034	3.4%
.035	3.5%
.054 & higher	5.4% maximum subject to fund solvency adjustment

(2) (A) Each contributing employer subject to this chapter shall pay an assessment to the administrator at a rate established by the administrator sufficient to pay interest due on advances from the federal unemployment account under Title XII of the Social Security Act (42 U.S. Code Sections 1321 to 1324). The administrator shall establish the necessary procedures for payment of such assessments. The amounts received by the administrator based on such assessments shall be paid over to the State Treasurer and credited to the General Fund. Any amount remaining from such assessments, after all such federal interest charges have been paid, shall be transferred to the Employment Security Administration Fund or to the Unemployment Compensation Advance Fund established under section 31-264a, (i) to the extent that any federal interest charges have been paid from the Unemployment Compensation Advance Fund, (ii) to the extent that the administrator determines that reimbursement is appropriate, or (iii) otherwise to the extent that reimbursement of the advance fund is the appropriate



accounting principle governing the use of the assessments. Sections 31-265 to 31-274, inclusive, shall apply to the collection of such assessments.

(B) On and after January 1, 1994, and conditioned upon the issuance of any revenue bonds pursuant to section 31-264b, each contributing employer shall also pay an assessment to the administrator at a rate established by the administrator sufficient to pay the interest due on advances from the Unemployment Compensation Advance Fund and reimbursements required for advances from the Unemployment Compensation Advance Fund, computed in accordance with subsection (h) of section 31-264a. The administrator shall establish the assessments as a percentage of the charged tax rate for each employer pursuant to subdivision (1) of this subsection. The administrator shall establish the necessary procedures for billing, payment and collection of the assessments. Sections 31-265 to 31-274, inclusive, shall apply to the collection of such assessments by the administrator. The payments received by the administrator based on the assessments, excluding interest and penalties on past due assessments, are hereby pledged and shall be paid over to the State Treasurer for credit to the Unemployment Compensation Advance Fund.

(f) For each calendar year commencing with calendar year 1994, the administrator shall establish a fund balance tax rate sufficient to maintain a balance in the Unemployment Compensation Trust Fund equal to eight-tenths of one per cent of the total wages paid to workers covered under this chapter by contributing employers during the year ending the last preceding June thirtieth. If the fund balance tax rate established by the administrator results in a fund balance in excess of said per cent as of December thirtieth of any year, the administrator shall, in the year next following, establish a fund balance tax rate sufficient to eliminate the fund balance in excess of said per cent. The assessment levied by the administrator at any time (A) during a calendar year commencing on or after January 1, 1994, but prior to January 1, 1999, shall not exceed one and five-tenths per cent, (B) during a calendar year commencing on or after January 1, 1999, shall not exceed one and four-tenths per cent, and (C) shall not be calculated to result in a fund balance in excess of eight-tenths of one per cent of such total wages.

(g) Each qualified employer's contribution rate for each calendar year after 1973 shall be a percentage rate equal to the sum of his charged tax rate as of the June thirtieth preceding such calendar year and the fund balance tax rate as of December thirtieth preceding such calendar year.

(h) (1) With respect to each benefit year commencing on or after July 1, 1978, notice of determination of the claimant's benefit entitlement for such benefit year shall include notice of the allocation of benefit charges of the claimant's base period employers and each such employer shall be mailed a copy of such notice of determination and shall be an interested party thereto. Such determination shall be final unless the claimant or any of such employers files an appeal from such decision in accordance with the provisions of section 31-241. (2) The administrator shall, not less frequently than once each calendar quarter, mail a statement of charges to each employer to whose



experience record any charges have been made since the last previous such statement. Such statement shall show, with respect to each week for which benefits have been paid and charged, the name and Social Security account number of the claimant who was paid the benefit, the amount of the benefits charged for such week and the total amount charged in the quarter. (3) The statement of charges provided for in subdivision (2) of this subsection shall constitute notice to the employer that it has been determined that the benefits reported in such statement were properly payable under this chapter to the claimants for the weeks and in the amounts shown in such statements. If the employer contends that benefits have been improperly charged due to fraud or error, a written protest setting forth reasons therefor shall be filed with the administrator within sixty days of the mailing date of the quarterly statement. An eligibility issue shall not be reopened on the basis of such quarterly statement if notification of such eligibility issue had previously been given to the employer under the provisions of section 31-241, and he failed to file a timely appeal therefrom or had the issue finally resolved against him.

(i) (1) At the written request of any employer which holds at least eighty per cent controlling interest in another employer or employers, the administrator may mingle the experience rating records of such dominant and controlled employers as if they constituted a single employer, subject to such regulations as the administrator may make and publish concerning the establishment, conduct and dissolution of such joint experience rating records. (2) The executors, administrators, successors or assigns of any former employer shall acquire the experience rating records of the predecessor employer with the following exception: The experience of a predecessor employer, who leased premises and equipment from a third party and who has not transferred any assets to the successor, shall not be transferred if there is no common controlling interest in the predecessor and successor entities. (3) The administrator is authorized to establish such regulations governing joint accounts as may be necessary to comply with the requirements of the federal Unemployment Tax Act.

(j) (1) Each employer subject to this chapter shall submit quarterly, on forms supplied by the administrator, a listing of wage information, including the name of each employee receiving wages in employment subject to this chapter, such employee's Social Security account number and the amount of wages paid to such employee during such calendar quarter.

(2) Commencing with the first calendar quarter of 1991, each employer subject to this chapter who reports wages for two hundred fifty or more employees receiving wages in employment subject to this chapter, and each person or organization that, as an agent, reports wages for a total of two hundred fifty or more employees receiving wages in employment subject to this chapter on behalf of one or more employers subject to this chapter shall submit quarterly the information required by subdivision (1) of this subsection on magnetic tape, diskette, or other similar electronic means which the administrator may prescribe, in a format prescribed by the administrator, unless such employer or agent demonstrates to the satisfaction of the administrator that it lacks the technological capability to report



such information in accordance with this subdivision.

(3) Any employer that fails to submit the information required by subdivision (1) of this subsection in a timely manner, as determined by the administrator, shall be liable to the administrator for a late filing fee of twenty-five dollars. **Any employer that fails to submit the information required by subdivision (1) of this subsection under a proper state unemployment compensation registration number shall be liable to the administrator for a fee of fifty dollars.** All fees collected by the administrator under this subdivision shall be deposited in the Employment Security Administration Fund.

(4) Commencing with the first calendar quarter of 2009, each employer subject to this chapter who makes contributions or payments in lieu of contributions for two hundred fifty or more employees receiving wages in employment subject to this chapter, and each person or organization that, as an agent, makes contributions or payments in lieu of contributions for a total of two hundred fifty or more employees receiving wages in employment subject to this chapter on behalf of one or more employers subject to this chapter shall make such contributions or payments in lieu of contributions electronically.

(k) The employer may inspect his account records in the office of the Employment Security Division at any reasonable time.



### Agency Legislative Proposal - 2013 Session

**Document Name** (e.g. OPM1015Budget.doc; OTG1015Policy.doc):  
DOL10112Evaluations.doc

(If submitting an electronically, please label with date, agency, and title of proposal –  
092611\_SDE\_TechRevisions)

State Agency:

Department of Labor

Liaison: **Marisa Morello**

Phone: **860 263 6502**

E-mail: **Marisa.morello@ct.gov**

Lead agency division requesting this proposal:

Executive Administration

Agency Analyst/Drafter of Proposal:

Heidi Lane

**Title of Proposal**

**AAC the Disclosure of Performance Evaluations of Members of the State Board of Labor Relations (SBLR) and the State Board of Mediation and Arbitration (SBMA)**

**Statutory Reference**

**Proposal Summary**

**In the court system, attorneys and others who appear before judges have the opportunity to fill out confidential evaluations of the judges for the Judicial Department. Pursuant to Section 2-40a of the Connecticut General Statutes, the performance evaluations of judges are made available solely to the members of the joint standing committee on judiciary prior to any public hearing on the nomination of any such judge and to the members of the Judicial Selection Commission in the performance of their duties. In this proposal, the evaluations will be provided to users of the services of the members of the SBLR and SBMA to evaluate the member's performance. The evaluations shall remain in confidence known only to the Commissioner and Deputy Commissioner of the Department of Labor, the Office of the Governor, the individual Board member evaluated and those assigned to present the information to and evaluate the member.**



Please attach a copy of fully drafted bill (required for review)

PROPOSAL BACKGROUND

Reason for Proposal

Please consider the following, if applicable:

(1) Have there been changes in federal/state/local laws and regulations that make this legislation necessary?

No.

(2) Has this proposal or something similar been implemented in other states? If yes, what is the outcome(s)?

Many states have confidential evaluations for judges and administrative law judges. Research did not reveal the outcomes but the evaluations in almost all circumstances are kept confidential.

(3) Have certain constituencies called for this action?

No

(4) What would happen if this was not enacted in law this session?

Department of Labor and the Office of the Governor would not have information that would be helpful in judging user satisfaction and making reappointments.

- Origin of Proposal New Proposal X Resubmission (with slight modification)

If this is a resubmission, please share:

- (1) What was the reason this proposal did not pass, or if applicable, was not included in the Administration's package? House did not take action due to lack of time.
(2) Have there been negotiations/discussions during or after the previous legislative session to improve this proposal? Yes - with various users of the system, Board staff with various Board members.
(3) Who were the major stakeholders/advocates/legislators involved in the previous work on this legislation? Representative Zeke Zalaski, Board members
(4) What was the last action taken during the past legislative session? The Labor Committee unanimously voted this bill out of Committee. However, the House did not take action due to lack of time.

PROPOSAL IMPACT



- **Agencies Affected** (please list for each affected agency)

Agency Name: None Agency Contact (name, title, phone): Date Contacted:  Approve of Proposal    ___ YES    ___ NO    ___ Talks Ongoing
<b>Summary of Affected Agency's Comments</b> N/A
Will there need to be further negotiation?    ___ YES    ___ NO

- **Fiscal Impact** (please include the proposal section that causes the fiscal impact and the anticipated impact)

<b>Municipal</b> (please include any municipal mandate that can be found within legislation) None
<b>State</b> None
<b>Federal</b> None
Additional notes on fiscal impact

- **Policy and Programmatic Impacts** (Please specify the proposal section associated with the impact)



**This proposed bill would enable the Executive Administration of the Department of Labor and the Office of the Governor to review the performance evaluations completed by individuals who appear before the members of the State Board of Labor Relations and the State Board of Mediation and Arbitration. The evaluations will be shared with the mediators and will improve their effectiveness. The proposal will also greatly streamline and improve the service delivery of the SBLR & the SBMA because the confidential performance evaluations will be used to ensure that the member's performance is at a level that best serves its constituency.**

**Please attach a copy of fully drafted bill (required for review)**

***AN ACT CONCERNING THE DISCLOSURE OF PERFORMANCE EVALUATIONS OF THE MEMBERS OF THE STATE BOARD OF LABOR RELATIONS AND THE STATE BOARD OF MEDIATION AND ARBITRATION.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. (NEW) Notwithstanding the provisions of chapter 55 of the general statutes and subsection (b) of section 1-210 of the general statutes, any performance evaluation of any member of the State Board of Labor Relations or the State Board of Mediation and Arbitration shall be made available to the member, Labor Commissioner, Governor and any individual responsible for evaluating the performance of such member. Any information disclosed shall be used only for the purpose of improving the service provided by said boards, evaluation of the member's performance, and for consideration of reappointment of the member by the Governor.



## Agency Legislative Proposal - 2013 Session

**Document Name** (e.g. OPM1015Budget.doc; OTG1015Policy.doc):

(If submitting an electronically, please label with date, agency, and title of proposal – 092611\_SDE\_TechRevisions)

**State Agency:**

Department of Labor

Liaison: Marisa Morello

Phone: 860 263 6502

E-mail: Marisa.morello@ct.gov

**Lead agency division requesting this proposal:**

Executive Administration

**Agency Analyst/Drafter of Proposal:**

Heidi Lane

**Title of Proposal**

**AAC the Filing Fee at the State Board of Mediation and Arbitration**

**Statutory Reference**

31-97

**Proposal Summary**

*This proposal will raise the filing fee for filing a complaint with the SBMA from \$25 to \$100.*

*Please attach a copy of fully drafted bill (required for review)*

### PROPOSAL BACKGROUND

- **Reason for Proposal**

*Please consider the following, if applicable:*

- (1) *Have there been changes in federal/state/local laws and regulations that make this legislation necessary? **No***
- (2) *Has this proposal or something similar been implemented in other states? If yes, what is the outcome(s)?*
- (3) *Have certain constituencies called for this action? **A PRI study 1997 reported that since at least 1979, the \$25 filing fee has remained n unchanged. Therefore at the present, the filing fee has remained unchanged for 33 years.***
- (4) *What would happen if this was not enacted in law this session? **The filing fee would remain as it was in 1979.***

- **Origin of Proposal**       **New Proposal**       **Resubmission**

*If this is a resubmission, please share:*

- (1) *What was the reason this proposal did not pass, or if applicable, was not included in the Administration's package?*
- (2) *Have there been negotiations/discussions during or after the previous legislative session to improve this proposal?*
- (3) *Who were the major stakeholders/advocates/legislators involved in the previous work on this legislation?*
- (4) *What was the last action taken during the past legislative session?*



## PROPOSAL IMPACT

- **Agencies Affected** (please list for each affected agency)

Agency Name: Agency Contact (name, title, phone): Date Contacted:  Approve of Proposal    ___ YES    ___ NO    ___ Talks Ongoing
<b>Summary of Affected Agency's Comments</b>
Will there need to be further negotiation?    ___ YES    ___ NO

- **Fiscal Impact** (please include the proposal section that causes the fiscal impact and the anticipated impact)

<b>Municipal</b> (please include any municipal mandate that can be found within legislation) The cost for filing a complaint with SBMA will be higher, however, this may be offset by the reduction in what may be seen as frivolous complaints.
<b>State</b> In 2010-2011 there were 906 grievances filed with a filing fee for each party of \$25.00 for a total income of \$42,250.00. In 2011-2012 there were 718 grievances filed at a total income of \$37,925.00 collected.  If the fee were to be raised to \$100 and 812 grievances were filed (an average of the 2 years above), there would be a total of \$162,400. This proposed legislation would also provide for 50% of the \$162,400 (\$81,200) going to the general fund and 50% remaining with the agency.
<b>Federal</b>
Additional notes on fiscal impact

- **Policy and Programmatic Impacts** (Please specify the proposal section associated with the impact)



*Raising the filing fee will help to ensure that anyone filing a complaint will be filing in good faith. Further, the proposal provides that half of the fees collected be deposited in the general fund and half be deposited in a DOL fund for the efficiency and administration of the SBMA, including training.*

**Sec. 31-97. Submission of grievance or dispute; procedure. Claim of nonarbitrability of issue.** (a) Whenever a grievance or dispute arises between an employer and his employees, the parties may submit the same directly to said board and notify said board or its clerk in writing and upon payment by each party of a filing fee of **[twenty-five] one hundred** dollars. Whenever a single public member of the board is chosen to arbitrate a grievance or dispute, as provided in section 31-93, the parties shall each be refunded the filing fee. Whenever such notification is given, a panel of said board, as directed by its chairman, shall proceed with as little delay as possible to the locality of such grievance or dispute and inquire into the causes thereof. The parties shall thereupon submit to said panel in writing, succinctly, clearly and in detail, their grievances and complaints and the causes thereof, and severally promise and agree to continue in business or at work without a strike or lockout until the decision of the panel is rendered; but such agreement shall not be binding unless such decision is rendered within ten days after the completion of the investigation. The panel shall fully investigate and inquire into the matters in controversy, take testimony under oath in relation thereto and may administer oaths and issue subpoenas for the attendance of witnesses and for the production of books and papers. (b) No panel of said board may consider any claim that one or more of the issues before the panel are improper subjects for arbitration unless the party making such claim has notified the opposing party and the chairman of the panel of such claim, in writing, at least ten days prior to the date of hearing, except that the panel may consider such claim if it determines there was reasonable cause for the failure of such party to comply with said notice requirement.

**(b) Fifty per cent of any amount collected by the State Board of Mediation and Arbitration pursuant to this section shall be deposited in the General Fund and fifty per cent of such amount shall be credited to a separate nonlapsing appropriation to the Labor Department, for training purposes and to improve the efficiency of the State Board of Mediation and Arbitration.**



## Agency Legislative Proposal - 2013 Session

**Document Name** (e.g. OPM1015Budget.doc; OTG1015Policy.doc):

(If submitting an electronically, please label with date, agency, and title of proposal – 092611\_SDE\_TechRevisions)

**State Agency:**

**Department of Labor**

Liaison: Marisa Morello

Phone: 860 263 6502

E-mail: Marisa.morello@ct.gov

**Lead agency division requesting this proposal:**

Executive Administration

**Agency Analyst/Drafter of Proposal:**

Heidi Lane

**Title of Proposal**

**AAC Unemployment Compensation Conformity**

**Statutory Reference**

31-273, 31-241

**Proposal Summary**

Imposes a monetary penalty (an amount not less than 15 percent of the erroneous payment) on claimants whose fraudulent acts resulted in overpayments and prohibits relief from charges to an employer's UC account when a UC overpayment results from an employer failing to respond timely or adequately to a request for information by the state agency.

*Please attach a copy of fully drafted bill (required for review)*

## PROPOSAL BACKGROUND

- **Reason for Proposal**

*Please consider the following, if applicable:*

- (1) *Have there been changes in federal/state/local laws and regulations that make this legislation necessary? Yes.* To help maintain the integrity of the Unemployment Compensation (UC) program, the federal Trade Adjustment Assistance Extension Act of 2011 (TAAEA), enacted on October 21, 2011, (1) requires states to impose a monetary penalty (an amount not less than 15 percent of the erroneous payment) on claimants whose fraudulent acts resulted in overpayments and (2) prohibits states from providing relief from charges to an employer's UC account when a UC overpayment results from an employer (or an employer's agent) failing to respond timely or adequately to a request for information by the state agency (ie., employer or agent at fault), and, at a minimum, the employer (or its agent) has established a pattern of failing to respond to such requests.
- (2) *Has this proposal or something similar been implemented in other states? If yes, what is the outcome(s)?* Every state must conform its laws to comply with the integrity provisions of TAAEA.
- (3) *Have certain constituencies called for this action? Federal government*
- (4) *What would happen if this was not enacted in law this session?* State provisions implementing these two federal amendments must apply to overpayments established after October 21, 2013. Failure to do so, could result in loss of UI grant monies to the Department which would be debilitating, since



approximately half of the Department's operations is funded through the UI Grants. Further, loss of FUTA credit for Connecticut employers amount to approximately \$500 million annually based upon current payroll data.

- **Origin of Proposal**       **New Proposal**       **Resubmission**

If this is a resubmission, please share:  
(1) What was the reason this proposal did not pass, or if applicable, was not included in the Administration's package?  
(2) Have there been negotiations/discussions during or after the previous legislative session to improve this proposal?  
(3) Who were the major stakeholders/advocates/legislators involved in the previous work on this legislation?  
(4) What was the last action taken during the past legislative session?

**PROPOSAL IMPACT**

- **Agencies Affected** (please list for each affected agency)

Agency Name: N/A  
Agency Contact (name, title, phone):  
Date Contacted:  
  
Approve of Proposal     YES     NO     Talks Ongoing

**Summary of Affected Agency's Comments**

Will there need to be further negotiation?     YES     NO

- **Fiscal Impact** (please include the proposal section that causes the fiscal impact and the anticipated impact)

**Municipal** (please include any municipal mandate that can be found within legislation)  
N/A

**State**  
N/A

**Federal**  
N/A

Additional notes on fiscal impact



- **Policy and Programmatic Impacts** (Please specify the proposal section associated with the impact)

- The attached bill proposes the imposition of monetary penalty which constitutes a monetary penalty of 50% of the erroneous payment on claimants whose fraudulent acts resulted in overpayments.
- Additionally, the bill modifies the non-fraud provisions to provide the Administrator with the option, after a finding of non-compliance, of requesting the Commissioner of Administrative Services to intercept the individual's State Income Tax refund.
- Finally, the bill provides that, for combined wage claims paid under the unemployment law of other states, the Administrator will provide a statement of charges that reflect benefits paid and charges made to an employer's experience record on a quarterly basis, as opposed to a weekly basis, to ensure conformity and compliance with federal law.
- According to the federal law and the guidance provided by USDOL, once a state determines that an employer account will not be relieved from charges because of the employer's or its agent's failure to respond timely or adequately to information request, this prohibition will apply to each week of UC that is an overpayment until the state agency makes a determination the individual is no longer eligible for UC and stops making UC payments. The attached bill removes the grace period built into the statute pertaining to the employer's relief from charges to ensure compliance with USDOL guidance and conformity with federal law.

**Section One. Section 31-273 of the general statutes is repealed and the following is substituted in lieu thereof (Effective October 1, 2013):**

(a) (1) Any person who, through error, has received any sum as benefits under this chapter while any condition for the receipt of benefits imposed by this chapter was not fulfilled in his case, or has received a greater amount of benefits than was due him under this chapter, shall be charged with an overpayment of a sum equal to the amount so overpaid to him, provided such error has been discovered and brought to his attention within one year of the date of receipt of such benefits. A person whose receipt of such a sum was not due to fraud, wilful misrepresentation or wilful nondisclosure by himself or another shall be entitled to a hearing before an examiner designated by the administrator. Such examiner shall determine whether: (A) Such person shall repay such sum to the administrator for the Unemployment Compensation Fund, (B) such sum shall be recouped by offset from such person's unemployment benefits, or (C) repayment or recoupment of such sum would defeat the purpose of the benefits or be against equity and good conscience and should be waived. In any case where the examiner determines that such sum shall be recouped by offset from a person's unemployment benefits, the deduction from benefits shall not exceed fifty per cent of the person's weekly benefit amount. Where such offset is insufficient to recoup the full amount of the overpayment, the claimant shall repay the remaining amount in accordance with a repayment schedule as determined by the examiner. If the claimant fails to repay according to the schedule, the administrator may recover such overpayment through a wage execution against the claimant's earnings upon his return to work in accordance with the provisions of section 52-361a, and, in addition, the administrator may request the Commissioner of Administrative Services to seek reimbursement for such amount pursuant to section 12-742 of the Connecticut General Statutes. Any person with respect to whom a determination of overpayment has been made, according to the provisions of this subsection, shall be given notice of such determination and the



provisions for repayment or recoupment of the amount overpaid. No repayment shall be required and no deduction from benefits shall be made until the determination of overpayment has become final.

(2) The determination of overpayment shall be final unless the claimant, within twenty-one days after notice of such determination was mailed to him at his last-known address, files an appeal from such determination to a referee, except that any such appeal that is filed after such twenty-one-day period may be considered to be timely filed if the filing party shows good cause, as defined in regulations adopted pursuant to section 31-249h, for the late filing. If the last day for filing an appeal falls on any day when the offices of the Employment Security Division are not open for business, such last day shall be extended to the next business day. If any such appeal is filed by mail, the appeal shall be considered timely filed if the appeal was received within such twenty-one-day period or bears a legible United States postal service postmark that indicates that within such twenty-one-day period the appeal was placed in the possession of postal authorities for delivery to the appropriate office. Posting dates attributable to private postage meters shall not be considered in determining the timeliness of appeals filed by mail.

(3) The appeal shall be heard in the same manner provided in section 31-242 for an appeal from the decision of an examiner on a claim for benefits. Any party aggrieved by the decision of the referee, including the administrator, may appeal to the Employment Security Board of Review in the manner provided in section 31-249. Decisions of the board may be appealed to the Superior Court in the manner provided in section 31-249b. The administrator is authorized, eight years after the payment of any benefits described in this subsection, to cancel any claim for such repayment or recoupment which in his opinion is uncollectible. Effective January 1, 1996, and annually thereafter, the administrator shall report to the joint standing committee of the General Assembly having cognizance of matters relating to finance, revenue and bonding and the joint standing committee of the General Assembly having cognizance of matters relating to labor and public employees, the aggregate number and value of all such claims deemed uncollectible and therefore cancelled during the previous calendar year. Any determination of overpayment made under this section which becomes final may be enforced by a wage execution in the same manner as a judgment of the Superior Court when the claimant fails to pay according to his repayment schedule. The court may issue a wage execution upon any final determination of overpayment in the same manner as in cases of judgments rendered in the Superior Court, and upon the filing of an application to the court for an execution, the administrator shall send to the clerk of the court a certified copy of such determination.

(b) (1) Any person who, by reason of fraud, wilful misrepresentation or wilful nondisclosure by such person or by another of a material fact, has received any sum as benefits under this chapter while any condition for the receipt of benefits imposed by this chapter was not fulfilled in such person's case, or has received a greater amount of benefits than was due such person under this chapter, shall be charged with an overpayment and shall be liable to repay to the administrator for the Unemployment Compensation Fund a sum equal to the amount so overpaid to such person. If such person does not make repayment in full of the sum overpaid, the administrator shall recoup such sum by offset from such person's unemployment benefits. The deduction from benefits shall be one hundred per cent of the person's weekly benefit entitlement until the full amount of the overpayment has been recouped. Where such offset is insufficient to recoup the full amount of the overpayment, the claimant shall repay the remaining amount plus, for any determination of an overpayment made on or after July 1, 2005, interest at the rate of one per cent of the amount so overpaid per



month, in accordance with a repayment schedule as determined by the examiner. In addition, the administrator may request the Commissioner of Administrative Services to seek reimbursement for such amount pursuant to section 12-742 of the Connecticut General Statutes. If the claimant fails to repay according to the schedule, the administrator may recover such overpayment plus interest through a wage execution against the claimant's earnings upon the claimant's return to work in accordance with the provisions of section 52-361a. [In addition, the administrator may request the Commissioner of Administrative Services to seek reimbursement for such amount pursuant to section 12-742.] Also, after a finding of non-compliance, the Administrator may submit the outstanding overpayment balance to the Internal Revenue Service (IRS) for the offsetting of the claimant's federal tax refund pursuant to 26 U.S.C. § 6402(d) (collection of debts owed to federal agencies), 31 U.S.C. § 3720A (reduction of tax refund by amount of the debts), and other applicable federal laws. The administrator is authorized, eight years after the payment of any benefits described in this subsection, to cancel any claim for such repayment or recoupment which in the administrator's opinion is uncollectible. Effective January 1, 1996, and annually thereafter, the administrator shall report to the joint standing committee of the General Assembly having cognizance of matters relating to finance, revenue and bonding and the joint standing committee of the General Assembly having cognizance of matters relating to labor and public employees, the aggregate number and value of all such claims deemed uncollectible and therefore cancelled during the previous calendar year.

(2) For any determination of an overpayment made prior to October 1, 2013, any [Any] person who has made a claim for benefits under this chapter and has knowingly made a false statement or representation or has knowingly failed to disclose a material fact in order to obtain benefits or to increase the amount of benefits to which such person may be entitled under this chapter shall forfeit benefits for not less than one or more than thirty-nine compensable weeks following determination of such offense or offenses, during which weeks such person would otherwise have been eligible to receive benefits. For the purposes of section 31-231b, such person shall be deemed to have received benefits for such forfeited weeks. This penalty shall be in addition to any other applicable penalty under this section and in addition to the liability to repay any moneys so received by such person and shall not be confined to a single benefit year. For any determination of an overpayment made on or after October 1, 2013, any person who has made a claim for benefits under this chapter and has knowingly made a false statement or representation or has knowingly failed to disclose a material fact in order to obtain benefits or to increase the amount of benefits to which such person may be entitled under this chapter shall bear a penalty of fifty percent of the amount of the overpayment. This penalty shall be in addition to the liability to repay any moneys so received by such person and interest accrued on such moneys and shall not be confined to a single benefit year. Thirty-five percent of such penalty shall be paid into the Unemployment Compensation Trust Fund. The remaining portion of such penalty shall be paid into the Employment Security Administrative Fund. The penalty amounts computed in this subsection shall be rounded to the nearest dollar with fractions of a dollar of exactly fifty cents rounded upward.

(3) Any person charged with the fraudulent receipt of benefits or the making of a fraudulent claim, as provided in this subsection, shall be entitled to a hearing before the administrator, or a deputy or representative designated by the administrator. Notice of the time and place of such hearing, and the reasons for such hearing, shall be given to the person not less than five days prior to the date appointed for such hearing. The administrator shall determine, on the basis of facts found by the administrator, whether or not a



fraudulent act subject to the penalties of this subsection has been committed and, upon such finding, shall fix the penalty for any such offense according to the provisions of this subsection. Any person determined by the administrator to have committed fraud under the provisions of this section shall be liable for repayment to the administrator of the Unemployment Compensation Fund for any benefits determined by the administrator to have been collected fraudulently, as well as any other penalties and interest assessed by the administrator in accordance with the provisions of this subsection. Until such liabilities have been met to the satisfaction of the administrator, such person shall forfeit any right to receive benefits under the provisions of this chapter. Notification of such decision and penalty shall be mailed to such person's last known address and shall be final unless such person files an appeal not later than twenty-one days after the mailing date of such notification, except that (A) any such appeal that is filed after such twenty-one-day period may be considered to be timely filed if the filing party shows good cause, as defined in regulations adopted pursuant to section 31-249h, for the late filing, (B) if the last day for filing an appeal falls on any day when the offices of the Employment Security Division are not open for business, such last day shall be extended to the next business day, and (C) if any such appeal is filed by mail, the appeal shall be considered timely filed if the appeal was received within such twenty-one-day period or bears a legible United States postal service postmark that indicates that within such twenty-one-day period the appeal was placed in the possession of postal authorities for delivery to the appropriate office. Posting dates attributable to private postage meters shall not be considered in determining the timeliness of appeals filed by mail. Such appeal shall be heard by a referee in the same manner provided in section 31-242 for an appeal from the decision of an examiner on a claim for benefits. The manner in which such appeals shall be heard and appeals taken therefrom to the board of review and then to the Superior Court, either by the administrator or the claimant, shall be in accordance with the provisions set forth in section 31-249 or 31-249b, as the case may be. Any determination of overpayment made under this subsection which becomes final on or after October 1, 1995, may be enforced in the same manner as a judgment of the Superior Court when the claimant fails to pay according to the claimant's repayment schedule. The court may issue execution upon any final determination of overpayment in the same manner as in cases of judgments rendered in the Superior Court; and upon the filing of an application to the court for an execution, the administrator shall send to the clerk of the court a certified copy of such determination.

(c) Any person, firm or corporation who knowingly employs a person and pays such employee without declaring such payment in the payroll records shall be guilty of a class A misdemeanor.

(d) If, after investigation, the administrator determines that there is probable cause to believe that the person, firm or corporation has wilfully failed to declare payment of wages in the payroll record, the administrator shall provide an opportunity for a hearing on the matter. If a hearing is requested, it shall be conducted by the administrator, or a deputy or representative designated by him. Notice of the time and place of such hearing, and the reasons therefor, shall be given to the person, firm, or corporation not less than five days prior to the date appointed for such hearing. If the administrator determines, on the basis of the facts found by him, that such nondeclaration occurred and was wilful, the administrator shall fix the payments and penalties in accordance with the provisions of subsection (e) of this section. Such person, firm or corporation may appeal to the superior court for the judicial district of Hartford or for the judicial district in which the employer's principal place of business is located. Such court shall give notice of a time and place of hearing to the administrator. At such hearing the court may confirm or correct the administrator's determination. If the



administrator's determination is confirmed, the cost of such proceedings, as in civil actions, shall be assessed against such person, firm or corporation. No costs shall be assessed against the state on such appeal.

(e) If the administrator determines that any person, firm or corporation has wilfully failed to declare the payment of wages on payroll records, the administrator may impose a penalty of ten per cent of the total contributions past due to the administrator, as determined pursuant to section 31-270. Such penalty shall be in addition to any other applicable penalty and interest under section 31-266. In addition, the administrator may require the person, firm or corporation to make contributions at the maximum rate provided in section 31-225a for a period of one year following the determination by the administrator concerning the wilful nondeclaration. If the person, firm or corporation is paying or should have been paying, the maximum rate at the time of the determination, the administrator may require that such maximum rate continue for a period of three years following the determination.

(f) Any person who knowingly makes a false statement or representation or fails to disclose a material fact in order to obtain, increase, prevent or decrease any benefit, contribution or other payment under this chapter, or under any similar law of another state or of the United States in regard to which this state acted as agent pursuant to an agreement authorized by section 31-225, whether to be made to or by himself or any other person, and who receives any such benefit, pays any such contribution or alters any such payment to his advantage by such fraudulent means (1) shall be guilty of a class A misdemeanor if such benefit, contribution or payment amounts to five hundred dollars or less or (2) shall be guilty of a class B [D] felony if such benefit, contribution or payment amounts to more than five hundred dollars. Notwithstanding the provisions of section 54-193, no person shall be prosecuted for a violation of the provisions of this subsection committed on or after October 1, 1977, except within five years next after such violation has been committed.

(g) Any person, firm or corporation who knowingly fails to pay contributions or other payments due under this chapter shall be guilty of a class A misdemeanor. Notwithstanding the provisions of section 54-193, no person shall be prosecuted for a violation of the provisions of this subsection committed on or after October 1, 1987, except within five years after such violation has been committed.

(h) Any person who knowingly violates any provision of this chapter for which no other penalty is provided by law shall be fined not more than two hundred dollars or imprisoned not more than six months or both.

(i) Any person who wilfully violates any regulation made by the administrator or the board under the authority of this chapter, for which no penalty is specifically provided, shall be fined not more than two hundred dollars.

(j) All interest payments collected by the administrator under subsection (b) of this section shall be deposited in the Employment Security Administration Fund.

(k) For any determination of an overpayment made on or after October 1, 2013, whenever the administrator determines that an overpayment is established due to an employer's failure to respond timely or adequately to a request of the administrator for information relating to a claim in a manner prescribed by the administrator, such employer shall not be relieved of its proportionate share of charges for each week determined to be



overpaid.

**Section Two.** Section 31-241 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(a) The administrator, or a deputy or representative designated by him and hereinafter referred to as an examiner, shall promptly examine the initiating claim and, on the basis of the facts found by him, shall determine whether or not such claim is valid and, if valid, the weekly amount of benefits payable and the maximum possible duration thereof. He shall promptly notify the claimant of the decision and the reasons therefor, which notification shall set forth the provision of this section for appeal. The administrator or an examiner shall promptly examine each claim for a benefit payment for a week of unemployment and, on the basis of the facts found by him, shall determine whether or not the claimant is eligible to receive such benefit payment for such week and the amount of benefits payable for such week. The determination of eligibility by the administrator or an examiner shall be based upon evidence or testimony presented in such a manner as the administrator shall prescribe, including in person, in writing, by telephone or by other electronic means at a hearing called for such purpose. Notice of the decision and the reasons therefor shall be given to the claimant. The employers against whose accounts charges may be made due to any benefits awarded by the decision shall be notified of the initial determination of the claimant's benefit entitlement at the time notice is given to the claimant, which notification shall set forth the provisions of this section for appeal, provided any employer who claims that the claimant is ineligible for benefits because his unemployment is due to the existence of a labor dispute at such employer's factory, establishment or other premises, shall be notified of the decision and the reasons therefor, whether or not benefits awarded by the decision might be charged against such employer's account. The employer's appeal rights shall be limited to the first notice he is given in connection with a claim which sets forth his appeal rights, and no issue may be appealed if notice of such issue and the right to appeal such issue had previously been given. For any determination of an overpayment made prior to October, 1, 2013, notwithstanding [Notwithstanding] any provisions of this chapter to the contrary, whenever the employer, after receiving notice of such hearing, fails to appear at the hearing or fails to timely submit a written response in a manner prescribed by the administrator, such employer's proportionate share of benefits paid to the claimant prior to the issuance of a decision by a referee under section 31-242 for any week beginning prior to the forty-second day after the end of the calendar week in which the employer's appeal was filed shall be charged against such employer's account and the claimant shall not be charged with an overpayment with respect to such benefits pursuant to subsection (a) of section 31-273. For any determination of an overpayment made on or after October 1, 2013, notwithstanding any provisions of this chapter to the contrary, whenever the employer, after receiving notice of such hearing, fails to appear at the hearing or fails to submit a timely and adequate written response in a manner prescribed by the administrator, such employer's proportionate share of benefits paid to the claimant prior to the issuance of a decision by a referee under section 31-242 of the general statutes or the Employment Security Appeals Division Board of Review under section 31-244 of the general statutes shall be charged against such employer's account [and the claimant shall not be charged with an overpayment with respect to such benefits pursuant to subsection (a) of section 31-273]. The decision of the administrator shall be final and benefits shall be paid or denied in accordance therewith unless the claimant or any of such employers, within twenty-one calendar days after such notification was mailed to his last-known address, files an appeal from such decision and applies for a hearing, provided (1) any such appeal which is filed after such twenty-one-day



period may be considered to be timely filed if the filing party shows good cause, as defined in regulations adopted pursuant to section 31-249h, for the late filing, (2) if the last day for filing an appeal falls on any day when the offices of the Employment Security Division are not open for business, such last day shall be extended to the next business day, and (3) if any such appeal is filed by mail, such appeal shall be considered timely filed if it was received within such twenty-one-day period or bears a legible United States postal service postmark which indicates that within such twenty-one-day period it was placed in the possession of such postal authorities for delivery to the appropriate office. Posting dates attributable to private postage meters shall not be considered in determining the timeliness of appeals filed by mail. Where the administrator or examiner has determined that the claimant is eligible for benefits, benefits shall be paid promptly in accordance with the determination regardless of the pendency of the period to file an appeal or the pendency of such appeal. No examiner shall participate in any case in which he is an interested party. Any person who has filed a claim for benefits pursuant to an agreement entered into by the administrator with the proper agency under the laws of the United States, whereby the administrator makes payment of unemployment compensation out of funds supplied by the United States, may in like manner file an appeal from the decision of such claim and apply for a hearing, and the United States or the agency thereof which had employed such person may in like manner appeal from the decision on such claim and apply for a hearing.

(b) The administrator shall adopt regulations, in accordance with the provisions of section 31-244 and chapter 54, effective July 1, 1992, establishing procedures and guidelines necessary to implement the provisions of this section. Such regulations shall prescribe a minimum number of days of advance notice to be afforded parties prior to a hearing and standards for determining the timeliness of written responses to hearing notices.

**Section Three. Subsection (h) of section 31-225a of the general statutes is repealed and the following is substituted in lieu thereof (Effective October 1, 2013):**

(h) (1) With respect to each benefit year commencing on or after July 1, 1978, notice of determination of the claimant's benefit entitlement for such benefit year shall include notice of the allocation of benefit charges of the claimant's base period employers and each such employer shall be mailed a copy of such notice of determination and shall be an interested party thereto. Such determination shall be final unless the claimant or any of such employers files an appeal from such decision in accordance with the provisions of section 31-241. (2) The administrator shall, not less frequently than once each calendar quarter, mail a statement of charges to each employer to whose experience record any charges have been made since the last previous such statement. Such statement shall show, with respect to each week for which benefits have been paid and charged, the name and Social Security account number of the claimant who was paid the benefit, the amount of the benefits charged for such week and the total amount charged in the quarter. (3) The statement of charges provided for in subdivision (2) of this subsection shall constitute notice to the employer that it has been determined that the benefits reported in such statement were properly payable under this chapter to the claimants for the weeks and in the amounts shown in such statements. If the employer contends that benefits have been improperly charged due to fraud or error, a written protest setting forth reasons therefor shall be filed with the administrator within sixty days of the mailing date of the quarterly statement. An eligibility issue shall not be reopened on the basis of such quarterly statement if notification of such eligibility issue had



previously been given to the employer under the provisions of section 31-241, and he failed to file a timely appeal therefrom or had the issue finally resolved against him. (4) The provisions of subdivisions (2) and (3) of this subsection shall not apply to combined wage claims paid under section 31-255(b) of the Connecticut General Statutes. For such combined wage claims paid under the unemployment law of other states, the administrator shall, each calendar quarter, mail a statement of charges to each employer to whose experience record any charges have been made since the last previous such statement. Such statement shall show the name and social security number of the claimant who was paid the benefits and the total amount of the benefits charged in the quarter.

9/25/12



## Agency Legislative Proposal - 2013 Session

**Document Name** (e.g. OPM1015Budget.doc; OTG1015Policy.doc):

(If submitting an electronically, please label with date, agency, and title of proposal – 092611\_SDE\_TechRevisions)

State Agency:

Department of Labor

Liaison: Marisa Morello

Phone: 860 263 6502

E-mail: Marisa.morello@ct.gov

Lead agency division requesting this proposal:

Veterans Workforce Development

Agency Analyst/Drafter of Proposal:

Heidi Lane

### Title of Proposal

**AAC the Definition of New Employee in the Unemployed Armed Forces Member Subsidized Training and Employment Program**

### Statutory Reference

P.A. 12-1, June Spec. Sess – Section 204

### Proposal Summary

The proposal would eliminate the requirement that the Armed Services member have served in a "combat zone." "Combat zone" is a zone in which there is hostile fire or imminent danger and the member is serving an area in direct support of military operations in the combat zone. Certain members of the Armed Services who do not serve in direct support of a military operation would not be eligible to participate in the STEP UP program but would be eligible under this proposal. The proposal also allows pre-9/11 veterans to be eligible to participate in the program.

*Please attach a copy of fully drafted bill (required for review)*

## PROPOSAL BACKGROUND

### • Reason for Proposal

*Please consider the following, if applicable:*

(1) *Have there been changes in federal/state/local laws and regulations that make this legislation necessary?* **No**

(2) *Has this proposal or something similar been implemented in other states? If yes, what is the outcome(s)?* **No**

(3) *Have certain constituencies called for this action?*

**Veterans and the Department of Veteran Affairs.**

(4) *What would happen if this was not enacted in law this session?* **The current definition incorporates a very small pool of veterans entitled to participate in the STEP program. Fewer veterans would have the opportunity to participate in the program if the statute remains as it currently reads. DOL would not be able to assist all of the unemployed veterans who need assistance.**



- **Origin of Proposal**       **New Proposal**       **Resubmission**

*If this is a resubmission, please share:*

- (1) *What was the reason this proposal did not pass, or if applicable, was not included in the Administration's package?*
- (2) *Have there been negotiations/discussions during or after the previous legislative session to improve this proposal?*
- (3) *Who were the major stakeholders/advocates/legislators involved in the previous work on this legislation?*
- (4) *What was the last action taken during the past legislative session?*

**PROPOSAL IMPACT**

- **Agencies Affected** (please list for each affected agency)

Agency Name: None  
 Agency Contact (name, title, phone):  
 Date Contacted:

Approve of Proposal     YES     NO     Talks Ongoing

**Summary of Affected Agency's Comments**

**N/A**

Will there need to be further negotiation?     YES     NO

- **Fiscal Impact** (please include the proposal section that causes the fiscal impact and the anticipated impact)

**Municipal** (please include any municipal mandate that can be found within legislation)  
 None

**State**  
 None

**Federal**  
 None

Additional notes on fiscal impact

- **Policy and Programmatic Impacts** (Please specify the proposal section associated with the impact)



The purpose of the passage of the Unemployed Armed Forces Member Subsidized Training and Employment Program was to assist Connecticut's veterans find employment. Unfortunately, the Department of Labor anticipates that we would only serve 500-600 veterans in this program under the narrow definition of armed service member in the current law. For that reason, DOL seeks to amend the law in two ways so more veterans can be eligible for the Unemployed Armed Forces Member Subsidized Training and Employment Program.

- 1) Eliminate the requirement that a veteran served in a "combat zone" to be eligible
- 2) Allow pre-9/11 veterans to be eligible

Combat zones are designated by an Executive Order from the President as areas in which the U.S. Armed Forces are engaging or have engaged in combat and are limited to specific geographic areas. The use of the word "combat" in the current law excludes certain members of the Armed Forces who do not provide direct service in a combat zone. In addition, Pre-9/11 veterans are in need of assistance in obtaining jobs as well as the post-9/11 veterans. It is anticipated that thousands of additional veterans will be eligible for the program with the passage of this proposal. Special federal programs and benefits already exist for combat veterans and disabled veterans wounded in action such as enhanced educational benefits, special training programs and one-on-one service providers. Therefore, we would be simply duplicating what already exists for combat veterans without serving the remaining veteran population.

DOL provided services to over 7,600 veterans in the past year for all of our services. It is anticipated that there will be another 6,000 veterans over the next two years who will be leaving the military and who will need services. Not all of these veterans will need the Unemployed Armed Forces Member Subsidized Training and Employment Program because many will use the GI Bill to attend college or receive other training or educational services. Therefore, broadening the definition of "veteran" will enable DOL to reach more veterans than we would be able to serve under the law as it is currently written. This proposal will not only assist our deserving veterans but will also help create jobs and grow Connecticut's economy.

### **Public Act 12-1 June Spec. Sess. (NEW) Section 204. Not codified at this time.**

(a) For purposes of this section:

- (1) "Department" means the Labor Department;
- (2) "Eligible business" means a business that (A) has operations in Connecticut, (B) has been registered to conduct business for not less than twelve months, and (C) is in good standing with the payment of all state and local taxes;
- (3) "Control", with respect to a corporation, means ownership, directly or indirectly, of stock possessing fifty per cent or more of the total combined voting power of all classes of the stock of such corporation entitled to vote. "Control", with respect to a trust, means ownership, directly or indirectly, of fifty per cent or more of the beneficial interest in the principal or income of such trust. The ownership of stock in a corporation, of a capital or profits interest in a partnership, limited liability company or association or of a beneficial interest in a trust shall be determined in accordance with the rules for constructive ownership of stock provided in Section 267(c) of the Internal Revenue Code of 1986, or any subsequent corresponding internal revenue code of the United States, as from time to time amended, other than paragraph (3) of said Section 267(c);



(4) "Related person" means (A) a corporation, limited liability company, partnership, association or trust controlled by an eligible business, (B) an individual, corporation, limited liability company, partnership, association or trust that is in control of an eligible business, (C) a corporation, limited liability company, partnership, association or trust controlled by an individual, corporation, limited liability company, partnership, association or trust that is in control of an eligible business, or (D) a member of the same controlled group as an eligible business;

**(5) "New employee" means a person who (A) was unemployed prior to employment with an eligible business, regardless of whether such person collected unemployment compensation benefits as a result of such unemployment, (B) was a member of the armed forces and was [called to active service in support of (i) Operation Enduring Freedom, or (ii) military operations that were authorized by the President of the United States that entail military action against Iraq, and (C) was] honorably discharged after not less than ninety days of service [in an area designated by the President of the United States by executive order as a combat zone, as indicated on a military discharge document, as defined in section 1-219 of the general statutes], unless separated from service earlier because of a service-connected disability rated by the Veterans' Administration. "New employee" does not include a person who was employed in this state by a related person of such eligible business during any of the twelve months prior to employment with the eligible business;**

(6) "On-the-job training" means training provided by an eligible business on such business' premise; and

(7) "Armed Forces" means the United States Army, Navy, Marine Corps, Coast Guard and Air Force and any reserve component thereof, including a state National Guard performing duty as provided in Title 32 of the United States Code.

(b) (1) There is established within the Labor Department an Unemployed Armed Forces Member Subsidized Training and Employment program for eligible businesses. Said program shall provide grants to eligible businesses to subsidize, for the first one hundred eighty calendar days after a new employee is hired, part of the cost of on-the-job training and compensation for such new employee, in accordance with subsection (c) of this section. No business receiving a grant under this section with respect to a new employee may receive a second grant under this section or a grant under section 31-3pp of the general statutes, as amended by this act, with respect to the same new employee.

(2) At the discretion of the Labor Commissioner, the department may use up to four per cent of any funds allocated pursuant to section 205 of this act, for the purpose of retaining outside consultants or the Workforce Investment Boards to operate the Unemployed Armed Forces Member Subsidized Training and Employment program.



(3) In fiscal year 2013, the department may use up to four per cent of any funds allocated pursuant to section 205 of this act in said fiscal year for the purpose of the marketing and operation of the Unemployed Armed Forces Member Subsidized Training and Employment program.

(c) (1) An eligible business may apply to the department for a grant to subsidize on-the-job training and compensation for a new employee hired by such business. The Labor Commissioner, or said commissioner's designee, shall review and approve such business' description of the proposed on-the-job training as part of the grant application.

(2) A grant awarded to an eligible business pursuant to this subsection shall be in the following amount: (A) For the first thirty calendar days a new employee is employed, one hundred per cent of the wage of such new employee, exclusive of any benefits, not to exceed twenty dollars per hour; (B) for the thirty-first to ninetieth, inclusive, calendar days, seventy-five per cent of such amount; (C) for the ninety-first to one hundred fiftieth, inclusive, calendar days, fifty per cent of such amount; and (D) for the one hundred fifty-first to one hundred eightieth, inclusive, calendar days, twenty-five per cent of such amount. A grant shall be cancelled as of the date the new employee leaves employment with the eligible business.

(d) Not later than July 15, 2013, and annually thereafter, and January 15, 2014, and annually thereafter, the Labor Commissioner shall provide a report, in accordance with the provisions of section 11-4a of the general statutes, to the joint standing committees of the General Assembly having cognizance of matters relating to finance, revenue and bonding, appropriations, commerce, veterans and labor. Said report shall include available data, for the six-month period ending on the last day of the calendar month preceding such report, on (1) the number of businesses that participated in the Unemployed Armed Forces Member Subsidized Training and Employment program established pursuant to subsection (b) of this section, and the general categories of such businesses, and (2) the number of individuals that received employment under said program.

(e) The Labor Commissioner may adopt regulations in accordance with the provisions of chapter 54 of the general statutes to carry out the provisions of this section.



## Agency Legislative Proposal - 2013 Session

<b>Document Name</b> (e.g. OPM1015Budget.doc; OTG1015Policy.doc): <b>DOL10112CONNOSHA.doc</b>
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(If submitting an electronically, please label with date, agency, and title of proposal – 092611\_SDE\_TechRevisions)

State Agency: Connecticut Department of Labor
Liaison: Marisa Morello Phone: (860) 263-6502 E-mail: marisa.morello@ct.gov
Lead agency division requesting this proposal: CONN-OSHA
Agency Analyst/Drafter of Proposal: Anne Rugens

<b>Title of Proposal</b>  AAC VOLUNTEER FIRE DEPARTMENTS AND AMBULANCE COMPANIES AND THE DEFINITION OF EMPLOYER UNDER THE STATE OCCUPATIONAL SAFETY AND HEALTH ACT
<b>Statutory Reference</b> CGS § 31-367
<b>Proposal Summary</b>  <i>This proposal incorporates the Department’s long-standing position and modifies the definition of “employer” in the Department of Labor’s Connecticut Occupational Safety and Health Act to specifically include “volunteer fire departments” and “volunteer ambulance companies.” This proposal is technical in nature and clarifies the Connecticut Department of Labor’s jurisdiction over volunteer fire departments and volunteer ambulance companies in the wake of <u>Mayfield v. Goshen Volunteer Fire Company, Inc.</u>, 301 Conn. 739 (2011).</i>
<i>Please attach a copy of fully drafted bill (required for review)</i>

### PROPOSAL BACKGROUND

- Reason for Proposal

<p>Please consider the following, if applicable:</p> <p>(1) Have there been changes in federal/state/local laws and regulations that make this legislation necessary? <b>No.</b></p> <p>(2) Has this proposal or something similar been implemented in other states? If yes, what is the outcome(s)?</p> <p>(3) Have certain constituencies called for this action?</p> <p>(4) What would happen if this was not enacted in law this session? <b>CONN-OSHA would not be able to protect certain volunteer fire departments and volunteer ambulance companies.</b></p>
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- **Origin of Proposal**       New Proposal       Resubmission (with modifications)

*If this is a resubmission, please share:*

- (1) *What was the reason this proposal did not pass, or if applicable, was not included in the Administration's package?*  
**Died on the Senate Calendar due to an unrelated amendment that was holding it hostage.**
- (2) *Have there been negotiations/discussions during or after the previous legislative session to improve this proposal?*  
**DOL negotiated the revised language during the end of session to address concerns which is represented here.**
- (3) *Who were the major stakeholders/advocates/legislators involved in the previous work on this legislation?*  
**Representatives Craig Miner, Roberta Willis and Vince Candelora assisted in drafting a bi-partisan compromise. Senator Andrew Roraback still had some concerns in the State Senate because he represented the Town of Goshen.**
- (4) *What was the last action taken during the past legislative session? The proposal passed the House unanimously after a bi-partisan amendment was negotiated.*

**PROPOSAL IMPACT**

- **Agencies Affected** (please list for each affected agency)

Agency Name: None  
 Agency Contact (name, title, phone):  
 Date Contacted:

Approve of Proposal     YES     NO     Talks Ongoing

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**Summary of Affected Agency's Comments**  
**N/A**

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Will there need to be further negotiation?     YES     NO

- **Fiscal Impact** (please include the proposal section that causes the fiscal impact and the anticipated impact)

**Municipal** (please include any municipal mandate that can be found within legislation)  
 None

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**State**  
 None

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**Federal**  
 None

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Additional notes on fiscal impact



- **Policy and Programmatic Impacts** (Please specify the proposal section associated with the impact)

**CONN-OSHA** enforces state occupational safety and health regulations as they apply to state and municipal employees. This proposal incorporates the Department’s long-standing position and modifies the definition of “employer” in the Department of Labor’s Connecticut Occupational Safety and Health Act to specifically include “volunteer fire departments” and “volunteer ambulance companies.” Although this proposal is technical in nature in that it clarifies the Connecticut Department of Labor’s jurisdiction over volunteer fire departments and volunteer ambulance companies in the wake of Mayfield v. Goshen Volunteer Fire Company, Inc., 301 Conn. 739 (2011), it does have a major policy impact. Specifically, Federal OSHA has determined that it does not have jurisdiction over volunteer fire departments or volunteer ambulance companies because of the volunteer departments’ affiliation with municipalities. Federal OSHA only has jurisdiction over private entities and does not have jurisdiction over volunteer fire departments or volunteer ambulance companies because of its determination that there is no employer/employee relationship. Without passage of this legislation, certain volunteer fire departments and volunteer ambulance companies would not be protected under either state or federal law. Therefore, leaving the safety and health of many volunteer firefighters and ambulance workers unprotected.

**Insert fully drafted bill here**

***AN ACT CONCERNING VOLUNTEER FIRE DEPARTMENTS AND  
AMBULANCE COMPANIES AND THE DEFINITION OF EMPLOYER UNDER  
THE STATE OCCUPATIONAL SAFETY AND HEALTH ACT.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Subsection (d) of section 31-367 of the general statutes is repealed and the following is substituted in lieu thereof:

(d) "Employer" means the state and any political subdivision thereof, and, except as provided in section 31-369, any volunteer fire department and any volunteer ambulance company;

Sec. 2. Section 31-369 of the general statutes is repealed and the following is substituted in lieu thereof:



(a) This chapter applies to all employers, employees and places of employment in the state except the following: (1) Employees of the United States government; [and] (2) working conditions of employees over which federal agencies other than the United States Department of Labor exercise statutory authority to prescribe or enforce standards or regulations affecting occupational safety and health; and (3) any volunteer fire department or volunteer ambulance company that can demonstrate such department or company is regulated by the Occupational Safety and Health Act of 1970 (15 USC 651 et seq.).

(b) Nothing in this chapter shall be construed to supersede or in any manner affect any workers' compensation law or to enlarge, diminish or affect in any manner common law or statutory rights, duties or liabilities of employers or employees, under any law with respect to injuries, diseases or death of employees arising out of and in the course of employment.



### Agency Legislative Proposal - 2013 Session

**Document Name** (e.g. OPM1015Budget.doc; OTG1015Policy.doc):

DOL10112Technical.doc

(If submitting an electronically, please label with date, agency, and title of proposal – 092611\_SDE\_TechRevisions)

**State Agency:**

Department of Labor

Liaison: Marisa Morello

Phone: 860-263-6502

E-mail: Marisa.morello@ct.gov

**Lead agency division requesting this proposal:**

Office of Program Policy

**Agency Analyst/Drafter of Proposal:**

Heidi Lane

**Title of Proposal**

**AAC Technical and Other Changes to the Labor Department Statutes**

**Statutory Reference**

4-124, 4-124y(c), 4-124aa(c), 4-124ee, 4-124hh(c)(3), 31-3a(b), 31-3bb, 31-3g(d); 31-3ll, 31-11aa, 31-11s(b), 31-11s(c), 31-22; 31-51qq; 31-51xx; 31-51aaa; 31-57a; 31-57c; 31-57d; 31-57h; 31-61; 31-232b; 31-254; 31-274h; 53-303e(b)(d); 12-217y

**Proposal Summary**

Among other things, these technical changes delete obsolete reports, streamline the administration of certain DOL programs and make federal conforming changes which will enhance program delivery, improve client outcomes and improve customer satisfaction. One section adds the DOI and DCP Commissioners to the Joint Enforcement Commission on Misclassification of Employees.

*Please attach a copy of fully drafted bill (required for review)*

### PROPOSAL BACKGROUND

- Reason for Proposal**

*Please consider the following, if applicable:*

- (1) Have there been changes in federal/state/local laws and regulations that make this legislation necessary?*
- (2) Has this proposal or something similar been implemented in other states? If yes, what is the outcome(s)?*
- (3) Have certain constituencies called for this action?*
- (4) What would happen if this was not enacted in law this session?*

**This proposed bill makes technical changes to certain Department of Labor statutes to correct inconsistencies, delete obsolete reports, and update statutes to reflect current procedures.**

- Origin of Proposal**       New Proposal       Resubmission (with 6 new sections & obsolete reports repeal – see attached summary below)



If this is a resubmission, please share:

- (1) What was the reason this proposal did not pass, or if applicable, was not included in the Administration's package? **The proposal died on the Senate Calendar as a disagreeing action because the House placed a non-controversial amendment on it which sent it back to the Senate on the last day of session.**
- (2) Have there been negotiations/discussions during or after the previous legislative session to improve this proposal? **The bill passed unanimously in Committee and in both chambers.**
- (3) Who were the major stakeholders/advocates/legislators involved in the previous work on this legislation?
- (4) What was the last action taken during the past legislative session? **The House unanimously sent the bill back to the Senate with a non-controversial amendment on the last day of session.**

## PROPOSAL IMPACT

- **Agencies Affected** (please list for each affected agency)

Agency Name: Department of Revenue Services

Agency Contact (name, title, phone): Sue Sherman, Legislative Program Manager (860) 297-5693

Date Contacted: 10/4/12

Approve of Proposal  YES  NO  Talks Ongoing

### Summary of Affected Agency's Comments

DRS supports the repeal of the obsolete Hiring Incentive Tax Credit (CGS 12-217)

DRS, as a current Joint Enforcement Commission on Employee Misclassification member, also supports allowing the Joint Enforcement Commission to file its annual legislative report biennially, rather than annually.

Will there need to be further negotiation?  YES  NO

Agency Name: Department of Consumer Protection

Agency Contact (name, title, phone): Gary Berner, Legislative Program Manager (860) 713-6208

Date Contacted: 10/4/12

Approve of Proposal  YES  NO  Talks Ongoing

### Summary of Affected Agency's Comments

DCP Commissioner supports being added to the membership of the Joint Enforcement Commission on Employee Misclassification

Will there need to be further negotiation?  YES  NO

Agency Name: Workers' Compensation Commission

Agency Contact (name, title, phone): Connie Rue-Yatcko, Legislative Liaison (860) 493-1580

Date Contacted: 10/4/12

Approve of Proposal  YES  NO  Talks Ongoing



**Summary of Affected Agency's Comments**  
WCC, as a current Joint Enforcement Commission on Employee Misclassification member, supports allowing the Joint Enforcement Commission to file its annual legislative report biennially, rather than annually.

Will there need to be further negotiation?  YES  NO

Agency Name: Attorney General's Office  
Agency Contact (name, title, phone): Bob Clark, Special Counsel and Legislative Liaison (860) 808-5320  
Date Contacted: 10/4/12  
Approve of Proposal  YES  NO  Talks Ongoing

**Summary of Affected Agency's Comments**  
AG's Office, as a current Joint Enforcement Commission on Employee Misclassification member, supports allowing the Joint Enforcement Commission to file its annual legislative report biennially, rather than annually.

Will there need to be further negotiation?  YES  NO

Agency Name: Chief State's Attorney  
Agency Contact (name, title, phone): Wil Blanchette, Jr., Legislative Liaison (860) 214-9301  
Date Contacted: 10/4/12  
Approve of Proposal  YES  NO  Talks Ongoing

**Summary of Affected Agency's Comments**  
Chief State's Attorney's Office, as a current Joint Enforcement Commission on Employee Misclassification member, also supports allowing the Joint Enforcement Commission to file its annual legislative report biennially, rather than annually.

Will there need to be further negotiation?  YES  NO

Agency Name: Department of Insurance  
Agency Contact (name, title, phone): Deb Korta, Legislative Program Manager (860) 297-3864  
Date Contacted: 10/4/12  
Approve of Proposal  YES  NO  Talks Ongoing

**Summary of Affected Agency's Comments**  
DOI Commissioner supports being added to the membership of the Joint Enforcement Commission on Employee Misclassification



Will there need to be further negotiation? \_\_\_ YES \_\_\_x\_\_\_ NO

• **Fiscal Impact** (please include the proposal section that causes the fiscal impact and the anticipated impact)

**Municipal** (please include any municipal mandate that can be found within legislation)

None

**State**

None

**Federal**

None

Additional notes on fiscal impact

• **Policy and Programmatic Impacts** (Please specify the proposal section associated with the impact)

This technical bill seeks the repeal of obsolete reports which will free up staff time to perform other projects. In addition, the proposal improves funding opportunities for Department of Labor's Individual Development Account customers and reflects our current practice. One of the new proposed provisions would add the ability to use 10% of Incumbent Worker Training funds to pay support services for the incumbent worker (ie. Transportation or childcare). The ability to pay for these additional expenses associated with training that occurs after work hours is a barrier for many. For childcare workers who are required by CT law to obtain a degree in the coming years, support service costs are a major barrier to their ability to upgrade their credentials and skills. In this situation, if they do not upgrade their credentials their job will be at risk. Other changes make federal conforming changes which will enhance program delivery, improve client outcomes and improve customer satisfaction. One section adds the DOI and DCP Commissioners to the Joint Enforcement Commission on Misclassification of Employees.

**Insert fully drafted bill here**

***AN ACT CONCERNING TECHNICAL AND OTHER CHANGES TO THE  
LABOR DEPARTMENT STATUTES.***

Be it enacted by the Senate and House of Representatives in General Assembly  
convened:



Section 1. Subdivision (3) of subsection (a) of section 31-232b of the 2012 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(3) With respect to benefits for weeks of unemployment beginning after June 23, 1993, there is a state "on" indicator for a week if the average rate of total unemployment in the state, as determined by the United States Secretary of Labor, for the period consisting of the most recent [three months] thirteen weeks for which data for all states are published before the close of such week (A) equals or exceeds six and one-half per cent, and (B) equals or exceeds one hundred ten per cent of such average for either or both of the corresponding three-month periods ending in the two preceding calendar years.

Sec. 2. Subdivision (5) of subsection (a) of section 31-232b of the 2012 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(5) Notwithstanding the provisions of subdivision (3) of this subsection, with respect to benefits for weeks of unemployment (A) beginning after December 17, 2010, and ending on or before December 31, 2011, or (B) beginning after the date established in federal law permitting this subdivision for which there is one hundred per cent federal sharing authorized by federal law, there is a state "on" indicator for a week if the average rate of total unemployment in the state, as determined by the United States Secretary of Labor, for the period consisting of the most recent [three months] thirteen weeks for which data for all states are published before the close of such week (i) equals or exceeds six and one-half per cent, and (ii) equals or exceeds one hundred ten per cent of such average for any or all of the corresponding three-month periods ending in the three preceding calendar years.

Sec. 3. Subsection (a) of section 31-51xx of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) There is established the "Connecticut IDA Initiative". The initiative shall be administered by the Labor Department. The initiative shall provide an eligible individual as provided in section 31-51yy with an opportunity, through a certified state IDA program, to establish an individual development account from which funds may be used by the account holder for [one of] the following purposes as specified in the approved plan: (1) The costs of education or job training; (2) the purchase of a home as a primary residence; (3) the participation in or development of a new or existing entrepreneurial activity; (4) the purchase



of an automobile for the purpose of obtaining or maintaining employment; (5) the making of a lease deposit on a primary residence; or (6) the costs of education or job training for a dependent child of the account holder.

Sec. 4. Section 31-51aaa of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) Funds from the Individual Development Account Reserve Fund shall be used to provide grants to community-based organizations that are operating certified state IDA programs for the purpose of providing matching funds for the individual development accounts in their programs, to assist the organizations to provide training, counseling and case management for program participants and for program administration purposes. Funds may also be used to pay for the evaluation required pursuant to section 31-51ccc, the operation of the clearinghouse, and the department's administrative expenses for the Connecticut IDA Initiative. The department shall determine what proportion of the funds in the Individual Development Account Reserve Fund shall be used for each of these purposes.

(b) The Individual Development Account Reserve Fund shall be administered as follows:

(1) No new grant shall be approved by the department unless there is sufficient funding in the Individual Development Account Reserve Fund, as determined by the department, to meet all existing funding obligations including the maximum amount of state matching funds that would be required if each account holder in these certified programs met the savings [goal] goals in such account holder's approved plan.

(2) Any funds remaining in the Individual Development Account Reserve Fund at the end of each fiscal year, and the interest thereon, shall be retained in said fund and used in the next succeeding fiscal year for expenditures set forth in subsection (a) of this section.

(c) Grants received by the community-based organization from the Individual Development Account Reserve Fund for matching funds shall be held in the organization's local reserve fund. This fund shall be an account separate from account holders' individual development accounts, and its funds shall be disbursed in accordance with subsections (e) and (f) of this section pursuant to regulations adopted pursuant to section 31-51ddd. Grants from the Individual Development Account Reserve Fund for matching funds to certified state IDA programs shall be made on



behalf of each individual account holder in the maximum amount of two dollars for every one dollar deposited in the individual development account by the account holder, not to exceed [one thousand dollars of such matching funds per account holder for any calendar year and] three thousand dollars per account holder for the duration of the account holder's participation in the program.

(d) The department and the community-based organizations, separately or cooperatively, may solicit grants and private contributions for the Individual Development Account Reserve Fund and for the local reserve funds of community-based organizations operating certified state IDA programs.

(e) If moneys are withdrawn from an individual development account by an account holder due to the account holder's decision to leave the certified state IDA program, all matching funds designated for said moneys shall be forfeited by the account holder and [not later than December thirty-first of each year, the matching funds from the Individual Development Account Reserve Fund] shall be retained in the local reserve fund to match the funds of a new account holder, or if not used shall be returned by the community-based organization to the department for redeposit into the Individual Development Account Reserve Fund at the close of the grant. [; except that, if] If the withdrawal is an emergency withdrawal, as defined in regulations adopted pursuant to section 31-51ddd, or is a withdrawal due to circumstances other than an account holder's decision to leave the certified state IDA program, the community-based organization may retain the matching funds for the account holder in its local reserve fund until such account holder redeposits the withdrawn funds. [or leaves the certified state IDA program, in accordance with such regulations.]

(f) When the account holder has made sufficient deposits to such account holder's individual development account to achieve the savings [goal] goals set forth in such account holder's approved plan, the community-based organization shall pay such sum together with the matching funds from the organization's local reserve account that are attributed to this individual development account, directly to the person or entity providing the goods or services. Where matching funds from the Individual Development Account Reserve Fund have not been paid out by the community-based organization for an eligible purpose within five years after the [opening] establishment of an individual development account [due to an account holder not making contributions as provided in the approved plan] grant, the matching funds from the Individual Development Account Reserve Fund shall be returned to the department for deposit in the Individual Development Account Reserve Fund, except that the community-



based organization may grant a leave of absence or extension of time to an account holder for a period not to exceed two years, within such five-year period in accordance with regulations adopted pursuant to section 31-51ddd.

Sec. 5. Section 31-3g of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) The Labor Commissioner shall provide assistance within existing resources to displaced homemakers and access to programs specific to the job training and placement needs of displaced homemakers. The commissioner shall, through the job service office of the Employment Security Division, provide such access to all existing programs and services suitable to the skill development of the applying displaced homemaker. The commissioner shall establish the position of state-wide coordinator of services for displaced homemakers in the Labor Department. For the purposes of this section, a displaced homemaker is an individual who (1) has worked in the home providing unpaid household services for family members, (2) has been dependent on the income of another family member but is no longer supported by that income or is receiving public assistance, and (3) has had or would have difficulty in securing employment sufficient to provide for economic independence.

(b) Such assistance and program access services shall include, but not be limited to: (1) Vocational counseling and education, (2) assessment of skills, (3) job training for various occupations, including skilled craft and technical vocations for which there is a demand in industry, (4) job placement, (5) assistance with child care and transportation, (6) personal counseling, (7) information and referral, and (8) financial management counseling.

(c) In providing the appropriate assistance and access to all existing programs deemed suitable, the commissioner shall consider the applicants, with an emphasis on women over the age of thirty-five years, and their need for services based on their: (1) Financial resources, (2) level of marketable skills, (3) ability to speak the English language and (4) area of residence. The commissioner shall refer applicants to the appropriate support services necessary for employment and training.

[(d) The Labor Commissioner shall establish an Advisory Council on Displaced Homemakers and appoint not less than ten nor more than fifteen members, including representatives from the Labor Department, the Departments of Education, Higher Education and Social Services, the Permanent Commission on the Status of Women and providers of assistance and program access services,



and such other members as the commissioner deems necessary. The advisory council shall consult with and advise the Labor Commissioner and the state-wide coordinator of services for displaced homemakers as to criteria which shall be used to identify displaced homemakers and determine programs and services appropriate to the skills development of the applying displaced homemaker. The advisory council shall develop specific recommendations for funding multiservice programs which meet the training and job placement needs of displaced homemakers.]

[(e)] (d) The Labor Commissioner shall adopt regulations in accordance with chapter 54 to implement the provisions of this section. The commissioner shall consider the recommendations of the advisory council in the adoption of such regulations and in further funding requests necessary to provide services for the displaced homemaker population.

Sec. 6. Section 31-51qq of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

On or before January 1, 1997, the Labor Commissioner shall adopt regulations, in accordance with the provisions of chapter 54, to establish procedures and guidelines necessary to implement the provisions of sections 5-248a and 31-51kk to 31-51qq, inclusive, as amended by this act, including, but not limited to, procedures for hearings and redress, including restoration and restitution, for an employee who believes that there is a violation by the employer of such employee of any provision of said sections, [ and procedures for the periodic reporting by employers to the commissioner of their current experience with leaves of absence taken pursuant to said sections.] In adopting such regulations, the commissioner shall make reasonable efforts to ensure compatibility of state regulatory provisions with similar provisions of the federal Family and Medical Leave Act of 1993 and the regulations promulgated pursuant to said act.

Sec. 7. Subdivision (5) of subsection (b) of section 4a-100 of the 2012 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(5) A statement of whether (A) the applicant has been disqualified pursuant to section 4b-95, this section or section 31-57c, as amended by this act, or 31-57d, as amended by this act, (B) [the applicant is on the list distributed by the Labor Commissioner pursuant to section 31-57a, (C)] the applicant is disqualified or prohibited from being awarded a contract pursuant to section 31-57b, [(D)] (C) the applicant has been disqualified by another state, [(E)] (D) the applicant has



been disqualified by a federal agency or pursuant to federal law, [(F)] (E) the applicant's registration has been suspended or revoked by the Department of Consumer Protection pursuant to section 20-341gg, [(G)] (F) the applicant has been disqualified by a municipality, and [(H)] (G) the matters that gave rise to any such disqualification, suspension or revocation have been eliminated or remedied; and

Sec. 8. Subsection (b) of section 31-57c of the 2012 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(b) Disqualification of a contractor is a serious action that shall be used only in the public interest and for the state government's protection and not for purposes of punishment or in lieu of other applicable enforcement or compliance procedures. The causes for and consequences of disqualification under this section shall be separate from and in addition to causes for and consequences of disqualification under sections 4b-95, 31-53a [, 31-57a] and 31-57b.

Sec. 9. Subsection (b) of section 31-57d of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(b) Disqualification of a contractor is a serious action that shall be used only in the public interest and for the state government's protection and not for purposes of punishment or in lieu of other applicable enforcement or compliance procedures. The causes for and consequences of disqualification under this section shall be separate from and in addition to causes for and consequences of disqualification under sections 4b-95, 31-53a [, 31-57a] and 31-57b.

Sec. 10. § 31-57h. Joint enforcement commission on employee misclassification.  
Members. Duties. Report

(a) There is established a joint enforcement commission on employee misclassification. The commission shall consist of the Labor Commissioner, the Commissioner of Revenue Services, the Commissioner of the Department of Insurance, the Commissioner of the Department of Consumer Protection, the chairperson of the Workers' Compensation Commission, the Attorney General and the Chief State's Attorney, or their designees.

(b) The joint enforcement commission on employee misclassification shall meet not less than four times each year. The task force shall review the problem of employee misclassification by employers for the purposes of avoiding their obligations under state and federal labor, employment and tax laws. The commission shall coordinate the civil



prosecution of violations of state and federal laws as a result of employee misclassification and shall report any suspected violation of state criminal statutes to the Chief State's Attorney or the State's Attorney serving the district in which the violation is alleged to have occurred.

(c) On or before February 1, 2010, and **biennially** thereafter, the commission shall report, in accordance with section 11-4a, to the Governor and the joint standing committee of the General Assembly having cognizance of matters relating to labor. The report shall summarize the commission's actions for the preceding calendar year and include any recommendations for administrative or legislative action.

Sec. 11. Section 31-58 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

As used in this part:

(a) "Commissioner" means the Labor Commissioner;

[(b) "Wage board" means a board created as provided in section 31-61;]

[(c)] (b) "Fair wage" means a wage fairly and reasonably commensurate with the value of a particular service or class of service rendered, and, in establishing a minimum fair wage for such service or class of service under this part, the commissioner and the wage board, without being bound by any technical rules of evidence or procedure, (1) may take into account all relevant circumstances affecting the value of the services rendered, including hours and conditions of employment affecting the health, safety and general well-being of the workers, and (2) may be guided by such considerations as would guide a court in a suit for the reasonable value of services rendered where services are rendered at the request of an employer without contract as to the amount of the wage to be paid and (3) may consider the wages, including overtime or premium rates, paid in the state for work of like or comparable character by employers who voluntarily maintain minimum fair wage standards;

[(d)] (c) "Department" means the Labor Department;

[(e)] (d) "Employer" means any owner or any person, partnership, corporation, limited liability company or association of persons acting directly as, or on behalf of, or in the interest of an employer in relation to employees, including the state and any political subdivision thereof;



[(f)] (e) "Employee" means any individual employed or permitted to work by an employer but shall not include any individual employed in camps or resorts which are open no more than six months of the year or in domestic service in or about a private home, except any individual in domestic service employment as defined in the regulations of the federal Fair Labor Standards Act, or an individual employed in a bona fide executive, administrative or professional capacity as defined in the regulations of the Labor Commissioner or an individual employed by the federal government, or any individual engaged in the activities of an educational, charitable, religious, scientific, historical, literary or nonprofit organization where the employer-employee relationship does not, in fact, exist or where the services rendered to such organizations are on a voluntary basis, or any individual employed as a head resident or resident assistant by a college or university, or any individual engaged in baby sitting, or an outside salesman as defined in the regulations of the federal Fair Labor Standards Act; or any individual employed by a nonprofit theater, provided such theater does not operate for more than seven months in any calendar year;

[(g)] (f) A resort is defined as an establishment under one management whose principal function it is to offer lodging by the day, week, month or season, or part thereof, to vacationers or those in search of recreation;

[(h)] (g) "Employ" means to employ or suffer to work;

[(i)] (h) "Wage" means compensation due to an employee by reason of his employment;

[(j)] (i) "Minimum fair wage" in any industry or occupation in this state means a wage of not less than six dollars and seventy cents per hour, and effective January 1, 2003, not less than six dollars and ninety cents per hour, and effective January 1, 2004, not less than seven dollars and ten cents per hour, and effective January 1, 2006, not less than seven dollars and forty cents per hour, and effective January 1, 2007, not less than seven dollars and sixty-five cents per hour, and effective January 1, 2009, not less than eight dollars per hour, and effective January 1, 2010, not less than eight dollars and twenty-five cents per hour or one-half of one per cent rounded to the nearest whole cent more than the highest federal minimum wage, whichever is greater, except as may otherwise be established in accordance with the provisions of this part. All wage orders in effect on October 1, 1971, wherein a lower minimum fair wage has been established, are amended to provide for the payment of the minimum fair wage herein established except as hereinafter provided. Whenever the highest federal minimum wage is increased, the minimum fair wage established under this part



shall be increased to the amount of said federal minimum wage plus one-half of one per cent more than said federal rate, rounded to the nearest whole cent, effective on the same date as the increase in the highest federal minimum wage, and shall apply to all wage orders and administrative regulations then in force. The rates for learners, beginners, and persons under the age of eighteen years shall be not less than eighty-five per cent of the minimum fair wage for the first two hundred hours of such employment and equal to the minimum fair wage thereafter, except institutional training programs specifically exempted by the commissioner.

Sec. 12. Section 31-58a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

Notwithstanding the provisions of subsection [(j)] (i) of section 31-58, as amended by this act, minors between the ages of sixteen and eighteen years who are employees of the state or any political subdivision thereof shall be paid a minimum wage of not less than eighty-five per cent of the minimum fair wage as defined in said subsection, and notwithstanding the provisions of said subsection, minors between the ages of fourteen and eighteen who are agricultural employees shall be paid a minimum wage of not less than eighty-five per cent of the minimum fair wage as defined in said section except agricultural employees between the ages of fourteen and eighteen who are employed by employers who did not, during the preceding calendar year, employ eight or more workers at the same time shall be paid a minimum wage of not less than seventy per cent of the minimum wage, as defined in said section 31-58.

Sec. 13. Section 31-76e of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

No employer shall be deemed to have violated section 31-76c by employing any employee for a workweek in excess of the maximum workweek applicable to such employee if such employee is employed pursuant to a bona fide individual contract, or pursuant to an agreement made as a result of collective bargaining by representatives of employees, if the duties of such employee necessitate irregular hours of work, and the contract or agreement (1) specifies a regular rate of pay of not less than the minimum hourly rate provided in subsection [(j)] (i) of section 31-58, as amended by this act, and compensation at not less than one and one-half times such rate for all hours worked in excess of such maximum workweek, and (2) provides a weekly guaranty of pay for not more than sixty hours based on the rates so specified.



Sec. 14. Subsection (f) of section 52-361a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(f) The maximum part of the aggregate weekly earnings of an individual which may be subject under this section to levy or other withholding for payment of a judgment is the lesser of (1) twenty-five per cent of his disposable earnings for that week, or (2) the amount by which his disposable earnings for that week exceed forty times the higher of (A) the minimum hourly wage prescribed by Section 6(a)(1) of the Fair Labor Standards Act of 1938, USC Title 29, Section 206(a)(1), or (B) the full minimum fair wage established by subsection [(j)] (i) of section 31-58, as amended by this act, in effect at the time the earnings are payable. Unless the court provides otherwise pursuant to a motion for modification, the execution and levy shall be for the maximum earnings subject to levy and shall not be limited by the amount of the installment payment order. Only one execution under this section shall be satisfied at one time. Priority of executions under this section shall be determined by the order of their presentation to the employer.

Sec. 15. Section 31-59 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

The commissioner or any authorized representative of the commissioner shall have authority: (a) To investigate and ascertain the wages of persons employed in any occupation in the state; (b) to enter the place of business or employment of any employer of persons in any occupation for the purpose of examining and inspecting any and all books, registers, payrolls and other records of any such employer that in any way appertain to or have a bearing upon the question of wages of any such persons and for the purpose of ascertaining whether the provisions of this part and the orders of the commissioner have been and are being complied with; and (c) to require from such employer full and correct statements in writing, when the commissioner or any authorized representative of the commissioner deems necessary, of the wages paid to all persons in his employment. The commissioner may, on his own motion, and shall, on the petition of fifty or more residents of the state, cause an investigation to be made of the wages being paid to persons in any occupation to ascertain whether any substantial number of persons in such occupation is receiving less than a fair wage. [If the commissioner is of the opinion that any substantial number of persons in any occupation or occupations is receiving less than a fair wage, he shall appoint a wage board as provided in section 31-61 to report upon the establishment of minimum fair wage rates of not less than the minimum fair



wage as defined in section 31-58 for such persons in such occupation or occupations.]

Sec. 16. Subsection (b) of section 31-60 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(b) The Labor Commissioner shall adopt such regulations, in accordance with the provisions of chapter 54, as may be appropriate to carry out the purposes of this part. Such regulations may include, but are not limited to, regulations defining and governing an executive, administrative or professional employee and outside salesperson; learners and apprentices, their number, proportion and length of service; and piece rates in relation to time rates; and shall recognize, as part of the minimum fair wage, gratuities in an amount (1) equal to twenty-nine and three-tenths per cent, and effective January 1, 2009, equal to thirty-one per cent of the minimum fair wage per hour for persons, other than bartenders, who are employed in the hotel and restaurant industry, including a hotel restaurant, who customarily and regularly receive gratuities, (2) equal to eight and two-tenths per cent, and effective January 1, 2009, equal to eleven per cent of the minimum fair wage per hour for persons employed as bartenders who customarily and regularly receive gratuities, and (3) not to exceed thirty-five cents per hour in any other industry, and shall also recognize deductions and allowances for the value of board, in the amount of eighty-five cents for a full meal and forty-five cents for a light meal, lodging, apparel or other items or services supplied by the employer; and other special conditions or circumstances which may be usual in a particular employer-employee relationship. The commissioner may provide, in such regulations, modifications of the minimum fair wage herein established for learners and apprentices; persons under the age of eighteen years; and for such special cases or classes of cases as the commissioner finds appropriate to prevent curtailment of employment opportunities, avoid undue hardship and safeguard the minimum fair wage herein established. Regulations in effect on July 1, 1973, providing for a board deduction and allowance in an amount differing from that provided in this section shall be construed to be amended consistent with this section. [without the necessity of convening a wage board or amending such regulations.]

Sec. 17. Subsection (a) of section 31-69 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) Any employer or his agent, or the officer or agent of any corporation, who discharges or in any other manner discriminates against any employee because such employee has [served or is about to serve on a wage board or has] testified



or is about to testify [before any wage board or] in any [other] investigation or proceeding under or related to this part, or because such employer believes that such employee may [serve on any wage board or may] testify [before any wage board or] in any investigation or proceeding under this part, shall be fined not less than one hundred dollars nor more than four hundred dollars.

Sec. 18. Section 31-31l of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) The Labor Commissioner [, in consultation with the Commissioner of Economic and Community Development and the Commissioner of Education,] shall, within available appropriations, establish and operate the [Twenty-First Century Skills] Incumbent Worker Training Program, the purposes of which shall be to: (1) Sustain high growth occupation and economically vital industries identified by such commissioners; and (2) assist workers in obtaining skills to start or move up their career ladders. Such job training program may include training designed to increase the basic skills of employees, including, but not limited to, training in written and oral communication, mathematics or science, or training in technical and technological skills and such other training as such commissioners determine is necessary to meet the needs of the employer. No more than five per cent of the appropriation for the program may be used for administrative purposes.

(b) Not less than fifty per cent of the cost of such training shall be borne by the employer requesting the training.

(c) Fifty per cent of any funds appropriated for the Incumbent Worker Training Program in a fiscal year shall be used for companies that have not received Incumbent Worker Training Program funding in the previous three fiscal years.

(d) The Labor Commissioner shall allocate funds for the Incumbent Worker Training Program on a regional basis and may designate an entity to administer such program in each region.

(e) Ten per cent of funds appropriated for the Incumbent Worker Training Program in a fiscal year may be used for the funding of support services for the incumbent worker, including, but not limited to, transportation and childcare.

(f) The application for the Incumbent Worker Training Program shall be on a form prescribed by the Labor Commissioner.



[(c)] (g) The Labor Commissioner is authorized to adopt, pursuant to chapter 54, any regulations required to carry out this section.

**Sec. 19. Sec. 53-303e. More than six days employment in calendar week prohibited.**

**[Employee observance of Sabbath.] Employee remedies.** (a) No employer shall compel any employee engaged in any commercial occupation or in the work of any industrial process to work more than six days in any calendar week. An employee's refusal to work more than six days in any calendar week shall not constitute grounds for his dismissal.

[(b) No person who states that a particular day of the week is observed as his Sabbath may be required by his employer to work on such day. An employee's refusal to work on his Sabbath shall not constitute grounds for his dismissal.]

(b) [(c)] Any employee, who believes that his discharge was in violation of subsection (a) [or (b)] of this section may appeal such discharge to the State Board of Mediation and Arbitration. If said board finds that the employee was discharged in violation of said subsection (a) [or (b)], it may order whatever remedy will make the employee whole, including but not limited to reinstatement to his former or a comparable position.

[(d) No employer may, as a prerequisite to employment, inquire whether the applicant observes any Sabbath.]

(c)[(e)] Any person who violates any provision of this section shall be fined not more than two hundred dollars.

Section 19 Section 31-254 (g) (1) Notwithstanding any of the information disclosure provisions of this section, the administrator shall disclose information obtained pursuant to subsection (a) of this section to: (A) A regional workforce development board, established pursuant to section 31-3k, to the extent necessary for the effective administration of the federal Trade Adjustment Assistance Program of the Trade Act of 1974, as amended from time to time, the federal Workforce Investment Act, as amended from time to time, and the state employment services program established pursuant to section 17b-688c for recipients of temporary family assistance, provided a regional workforce development board, enters into a written agreement with the administrator, pursuant to subdivision (2) of this subsection, concerning protection of the confidentiality of such information prior to the receipt of any such information; (B) a nonpublic entity that is under contract with the Administrator where necessary for the effective administration of this chapter or with the United States Department of Labor to administer grants which are beneficial to the interests of the administrator, provided such nonpublic entity enters into a written agreement with the administrator, pursuant to subdivision (2) of this subsection, concerning protection of the confidentiality of such information prior to the receipt of any such information; [or] (C) the president of the Board of Regents for Higher Education, appointed under section 10a-1a, for use in the performance of such president's official duties to the



extent necessary for evaluating programs at institutions of higher education governed by said board pursuant to section 10a-1a, provided such president enters into a written agreement with the administrator, pursuant to subdivision (2) of this subsection, concerning protection of the confidentiality of such information prior to the receipt of any such information; or (D) a third party pursuant to the written, informed consent of the individual or employer to whom the information pertains.

Sec. 20. Sections 4-124, 4-124y(c), 4-124aa(c), 4-124ee, 4-124hh(c)(3), 31-3a(b), 31-3bb, 31-3kk, 31-11aa, 31-11s(b), 31-11s(c), 31-22, 31-57a, 31-61, 31-62, 31-64, 31-65, 31-274h, 12-217y of the general statutes are repealed.

## Summary

### AAC Technical and Other Changes to the Labor Department Statutes

- Repeal **CGS 31-22** DOL report regarding the employment of minors. DOL has never filed such reports concerning data for the employment of minors. Cases are not reported to a prosecutor unless we are seeking to go criminally.
- Amend **CGS 31-3II** providing for the merger of the Twenty-First Century Skill Training program into the Incumbent Worker Training Program. It is a streamlining move to make the programs easy to understand for employers and workers. Under the current construct, there are 6 different applications in CT for Incumbent Worker Training funds. By merging, it creates one application and program that can be used throughout the state. Each region will use the same application and criteria. What exists now is confusing and cumbersome. It is difficult to measure impact with 6 different processes. Further, it appropriates 10% of funds for the program for the funding of support services for the incumbent worker.
- Repeal **CGS 31-57a** DOL report regarding the awarding of contracts to National Labor Relations Act violators. The CT DOL does not have any jurisdiction over the National Labor Relations Act and we do not compile such a list.
- Repeal **CGS 31-51qq** DOL report regarding the aggregate usage of FMLA by employees. It was an extra burden on employers to report the aggregate usage of FMLA by its employees so DOL tried to collect the data electronically in order to avoid the printing and mailing costs. However, the response by employers was very low so the data collected was not helpful because it was not a true representation of the aggregate usage of FMLA by Connecticut employees.
- Repeal **CGS 31-3g(d)** which is the DOL displaced homemaker program. This program has been de-funded by the Legislature and no longer exists.
- Amend **CGS 31-51xx** and **CGS 31-51aaa** which improves funding opportunities for DOL's Individual Development Account (IDA) customers and reflects current practice.
- Repeal **CGS 31-61** which is the DOL wage board because it no longer exists. These duties are now performed by DOL's Wage and Workplace Standards investigators.
- Makes a technical change to **CGS 31-232b** which is our Extended Benefits (EB) law. The EB Program provides 13 to 20 weeks of extended unemployment benefits to states



experiencing high levels of unemployment. Although our current EB statute correctly conforms with the federal 13 week definition of this program, an inconsistency exists in two minor sections of the law that incorrectly states the time period of "three months" instead of "thirteen weeks". This technical change corrects that oversight by simply deleting "three months" in those two minor sections and inserting "thirteen weeks".

### **New 2013 Technical Sections**

- Technical Modification so we can share state wage data with vendor to conform to federal law and it reflects our current practice.. (CGS 31-254)
- As the law currently stands, a participant in the Connecticut Individual Development Account (IDA) Program can receive a maximum of \$3,000 in matching funds if they save the required amount of money in their IDA. However, they can only receive \$1,000 in match per calendar year. Propose to eliminate the \$1,000 per year cap for matching funds while leaving in place the existing \$3,000 maximum cap for matching funds over the life of the program (CGS 31-51aaa)
- Allow 10% of the Incumbent Worker Training funds to pay for support services for the incumbent worker (i.e. transportation & childcare) (CGS 31-3ll)
- Repeal the obsolete Hiring Incentive Tax Credit (CGS 12-217y)
- Repeal publication of UC information (CGS 31-274h)
- Repeal obsolete statute sections on religious discrimination in CT (CGS 53-303e (b)(d))
- Repeal obsolete reports in Sections 4-124, 4-124y(c), 4-124aa(c), 4-124ee, 4-124hh(c)(3), 31-3a(b), 31-3bb, 31-3kk, 31-11aa, 31-11s(b), 31-11s(c)