

## **The Aftermath: Developments From The 2019 Session of The Connecticut General Assembly Affecting Employers (Part Two)**

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### **Working Together**

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In these pages, we recently wrote about the passage of several bills of great import from the recently concluded 2019 Regular Session of the Connecticut General Assembly addressing (paid) family and medical leave, sexual harassment, and remedies for employment discrimination claims, along with increasing the state's minimum wage. The following are concise descriptions of the remaining employment law-related bills passed by the General Assembly that may be of interest. **PLEASE NOTE:** unless otherwise indicated, these bills are awaiting the signature of (or veto from) the Governor.

**WORKERS' COMPENSATION AND PUBLIC SAFETY EMPLOYEES: Public Act 19-17** (“An Act Concerning Workers' Compensation Benefits For Certain Mental Or Emotional Impairments, Mental Health Care For Police Officers And Wellness Training For Police Officers, Parole Officers And Firefighters”), which was signed by the Governor on June 18, 2019 and takes effect on July 1, 2019, expands workers' compensation benefits to include post-traumatic stress disorder suffered by parole officers, police officers (whether state or municipal) and firefighters resulting directly from witnessing while in the line of duty a deceased minor, someone's death, or a traumatic physical injury that results in the loss of a vital body part. However, such benefits are more limited than “normal” workers' compensation claims. This concept has been bandied about by the legislature since the 2012 tragedy in Newtown. In addition, **Public Act 19-111** (“An Act Concerning Additional Compensation For Certain Retired Public Safety Employees”), which would take effect on October 1, 2019, authorizes a municipality by a 2/3's vote of its legislative body (or board of selectmen if the legislative body is a town meeting) to compensate any retired uniformed member of its paid fire department or retired regular member of its paid police department if he or she: 1) has a permanent and severe disability caused by a serious bodily injury that arose out of, and in the course of, his or her job and was suffered in the line of duty (and within the scope of his or her job); 2) retired from service as a result of such disability; and 3) is under the age of 65. Such compensation must equal the difference between 1) the amount the retired employee receives in workers' compensation and other benefits and 2) his or her regular pay at the time of retirement. Once it approves the compensation, the municipality must pay it annually until the employee reaches age 65. Participating municipalities must establish procedures for evaluating and determining a retired employee's compensation eligibility.

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**MUNICIPAL EMPLOYEES' RETIREMENT SYSTEM:** Public Act 19-124 (“An Act Concerning The Municipal Employees' Retirement System And Authorizing Bonding For The City Of Bridgeport's Pension Plan A Fund”) would increase the required employee contribution rate for participants in the Municipal Employee Retirement System [“MERS”] by 1% per year commencing on July 1, 2019 and continuing with subsequent increases on July 1, 2020, July 1, 2021, July 1, 2022, July 1, 2023, and July 1, 2024. As the title suggests, the Act would also authorize bonding for the City Of Bridgeport's “Pension Plan A” fund.

**MUNICIPAL ARBITRATIONS:** Public Act 19-107 (“An Act Concerning The Review Of Municipal Arbitration Awards”), which would take effect on October 1, 2019, would clarify the 25-day deadline for a municipal employer to reject an interest arbitration award under the Municipal Employee Relations Act; the bill provides that if the 25<sup>th</sup> day falls on a weekend or a holiday, the deadline will be extended through the next business day.

**WHISTLEBLOWER PROTECTIONS:** Public Act 19-69 (“An Act Extending Whistleblower Protections To Employees Of Businesses Receiving Financial Assistance From The State”), which was signed by the Governor on June 26, 2019 and takes effect on October 1, 2019, extends “whistleblower” protections to employees of entities receiving economic development financial assistance from the state who provide information to the Auditors of Public Accounts concerning corruption by any such entity “that has failed to meet its contractual obligations or satisfy any condition of the financial assistance agreement”.

**TASK FORCES AND STUDIES:** The General Assembly continues to have an affinity for task forces and “studies” of issues. **Special Act 19-16 (“An Act An Act Establishing A Workforce Pipeline And Job Creation Task Force”)**, which was signed by the Governor on June 13, 2019, establishes a workforce pipeline and job creation task force “to prepare the state's future workforce for well-paying manufacturing and technical jobs located in Connecticut”. The task force shall submit a report on its findings and recommendations to the General Assembly by January 1, 2020. **Special Act 19-11 (“An Act Establishing A Task Force To Study Debarment And Limitations On The Awarding Of State Contracts”)**, which was signed by the Governor on June 18, 2019, establishes a task force to study Connecticut’s debarment procedures (relating to employers who engage in “wage theft”) and how such procedures relate to other states and other Connecticut employment statutes. The task force shall submit a report on its findings and recommendations to the General Assembly by February 1, 2020. **Special Act 19-10 (“An Act Establishing A Task Force To Study Remedies And Potential Liability For Unreasonably Contested Or Delayed Workers' Compensation Claims”)** which was signed by the Governor on June 21, 2019, establishes a task force to 1) identify the extent of unreasonably contested or delayed workers' compensation claims, 2) study methods to expand remedies regarding potential liability for unreasonably contested or delayed workers' compensation claims, and 3) clarify the law regarding bad faith handling of workers' compensation claims. The task force shall submit a report on its findings and recommendations to the General Assembly by January 1, 2020. Finally, **Public Act 19-142 (“An Act Establishing A Council On The Collateral Consequences Of A Criminal**

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**Record**) as amended would establish a 20-member Council on the Collateral Consequences of a Criminal Record, which will 1) study discrimination faced by people in the state with a criminal record and 2) develop legislative recommendations to reduce or eliminate discrimination based on a person's criminal history. The council must submit a report on its legislative recommendations to the General Assembly by February 1, 2020. **PLEASE NOTE:** *the original version of this bill would have broadly prohibited discrimination based on a person's criminal arrest or conviction history.*

**OF COURSE-THE BUDGET IMPLEMENTER:** Whenever a budget is enacted, the General Assembly must pass a bill to "implement" the budget (i.e., so tastefully called "the Implementer"). The 2019 Implementer, which is **580** pages long and is officially entitled **Public Act 19-117 ("An Act Concerning The State Budget For The Biennium Ending June Thirtieth, 2021, And Making Appropriations Therefor, And Implementing Provisions Of The Budget")**, which was signed by the Governor on June 26, 2019, contains provisions with at least a tertiary effect on certain employers. The following is a cursory description of employment law related highlights contained in this year's Implementer.

**Retirement funding:** the Act would 1) remove statutory provisions that required the Connecticut Retirement Security Authority to offer retirement programs from multiple vendors, 2) create a Connecticut Teachers' Retirement Fund Special Capital Reserve Fund in order to provide further security to Fund bondholders, and 3) beginning in the 2019-2020 fiscal year, require the State via the Comptroller to pay 50% of the portion of the State Employees' Retirement System fringe recovery rate attributable to the unfunded liability of the System

**"Working papers":** the Act would exempt employers from the requirement to obtain a certificate showing the age of an employee under age 18 (i.e., "working papers") when they employ minors through a regional workforce development board's youth development program.

**"Partnership 2.0"/State Health Insurance Plan For Municipal Employees:** Among other things, this Act allows the State Comptroller to offer other types of health care plans to non-state public employers in addition to (or instead of) the state employee health plan. However, the Act specifically prohibits the Comptroller from offering high deductible plans (e.g., health savings account compatible plans). The Act requires the Comptroller to adjust premiums paid by non-state public employers who enroll in the plan on or after July 1, 2019, to reflect 1) the cost of health care in the county in which the majority of such employer's employees work and 2) differences from the benefits and networks provided to state employees. However, the Comptroller must phase-in the premium adjustment during a two-year period beginning July 1, 2020 (with one half of the adjustment in the first year and the other half in the second).

**Unemployment compensation:** the Act would require that when an unemployment compensation claimant is eligible to use a "special base period" for determining the benefit amount, the special base period quarters must be consecutive quarters. The Act would limit the unemployment compensation benefit eligibility

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penalty imposed on fraudulent claimants (which disqualifies such claimants from being able to collect up to 39 weeks of benefits when otherwise eligible) to claims that were deemed payable before October 1, 2019; the statutory repayment penalties will still remain in effect as is. The Act would authorize the Commissioner of Labor to enter into an unemployment compensation “consortium” with other states.

**Non-competition agreements:** the Act would (effective upon passage) prohibit contracts for the provision of homemaker, companion, or home health services from containing covenants not to compete (and would render any such covenants void and unenforceable).

**Yes-Taxes!:** while this post is not meant to discuss the many changes to various taxes and fees, it is worth noting that the Act would 1) reduce the tax credit for “pass-through” entities from 93.01% to 87.5% of a member’s share of taxes paid by a pass-through entity, which would obviously affect small businesses/ employers, 2) delay for two years the scheduled increase in the teacher pension income tax exemption from 25% to 50%, and 3) authorize the Department of Revenue Services to collect data and establish a commission with respect to the study of an employer payroll tax system (in lieu of our current income tax scheme), with this commission then issuing a report on its findings and recommendations to the General Assembly by January 15, 2020.

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