



General Assembly

Amendment

February Session, 2024

LCO No. 5421



Offered by:

REP. SANCHEZ E., 24th Dist.

REP. LINEHAN, 103rd Dist.

REP. WELANDER, 114th Dist.

To: House Bill No. 5266

File No. 59

Cal. No. 71

**"AN ACT AMENDING THE TIME TO PROTEST BENEFIT CHARGES
ON AN EMPLOYER'S UNEMPLOYMENT INSURANCE QUARTERLY
STATEMENT."**

1 After the last section, add the following and renumber sections and
2 internal references accordingly:

3 "Sec. 501. Section 31-293 of the general statutes is repealed and the
4 following is substituted in lieu thereof (*Effective October 1, 2024*):

5 (a) When any injury for which compensation is payable under the
6 provisions of this chapter has been sustained under circumstances
7 creating in a person other than an employer who has complied with the
8 requirements of subsection (b) of section 31-284, a legal liability to pay
9 damages for the injury, the injured employee may claim compensation
10 under the provisions of this chapter, but the payment or award of
11 compensation shall not affect the claim or right of action of the injured
12 employee against such person, but the injured employee may proceed

13 at law against such person to recover damages for the injury; and any
14 employer or the custodian of the Second Injury Fund, having paid, or
15 having become obligated to pay, compensation under the provisions of
16 this chapter may bring an action against such person to recover any
17 amount that he has paid or has become obligated to pay as
18 compensation to the injured employee. If the employee, the employer or
19 the custodian of the Second Injury Fund brings an action against such
20 person, he shall immediately notify the others, in writing, by personal
21 presentation or by registered or certified mail, of the action and of the
22 name of the court to which the writ is returnable, and the others may
23 join as parties plaintiff in the action within thirty days after such
24 notification, and, if the others fail to join as parties plaintiff, their right
25 of action against such person shall abate unless the employer, insurance
26 carrier or Second Injury Fund gives written notice of a lien in accordance
27 with this subsection. In any case in which an employee brings an action
28 against a party other than an employer who failed to comply with the
29 requirements of subsection (b) of section 31-284, in accordance with the
30 provisions of this section, and the employer is a party defendant in the
31 action, the employer may join as a party plaintiff in the action. The
32 bringing of any action against an employer shall not constitute notice to
33 the employer within the meaning of this section. If the employer and the
34 employee join as parties plaintiff in the action and any damages are
35 recovered, the damages shall be so apportioned that the claim of the
36 employer, as defined in this section, shall take precedence over that of
37 the injured employee in the proceeds of the recovery, after the deduction
38 of reasonable and necessary expenditures, including attorneys' fees,
39 incurred by the employee in effecting the recovery. If the action has been
40 brought by the employee, the claim of the employer shall be reduced by
41 one-third of the amount of the benefits to be reimbursed to the
42 employer, unless otherwise agreed upon by the parties, which reduction
43 shall inure solely to the benefit of the employee, except that such
44 reduction shall not apply if the reimbursement is to the state of
45 Connecticut or a political subdivision of the state including a local
46 public agency, as the employer, or the custodian of the Second Injury
47 Fund. The rendition of a judgment in favor of the employee or the

48 employer against the party shall not terminate the employer's obligation
49 to make further compensation which the administrative law judge
50 thereafter deems payable to the injured employee. If the damages, after
51 deducting the employee's expenses as provided in this subsection, are
52 more than sufficient to reimburse the employer, damages shall be
53 assessed in his favor in a sum sufficient to reimburse him for his claim,
54 and the excess shall be assessed in favor of the injured employee. No
55 compromise with the person by either the employer or the employee
56 shall be binding upon or affect the rights of the other, unless assented to
57 by him. For the purposes of this section, the claim of the employer shall
58 consist of (1) the amount of any compensation which he has paid on
59 account of the injury which is the subject of the suit, and (2) an amount
60 equal to the present worth of any probable future payments which he
61 has by award become obligated to pay on account of the injury. The
62 word "compensation", as used in this section, shall be construed to
63 include incapacity payments to an injured employee, payments to the
64 dependents of a deceased employee, sums paid out for surgical, medical
65 and hospital services to an injured employee, the burial fee provided by
66 subdivision (1) of subsection (a) of section 31-306, payments made under
67 the provisions of sections 31-312 and 31-313, and payments made under
68 the provisions of section 31-284b in the case of an action brought under
69 this section by the employer or an action brought under this section by
70 the employee in which the employee has alleged and been awarded
71 such payments as damages. Each employee who brings an action
72 against a party in accordance with the provisions of this subsection shall
73 include in his complaint (A) the amount of any compensation paid by
74 the employer or the Second Injury Fund on account of the injury which
75 is the subject of the suit, and (B) the amount equal to the present worth
76 of any probable future payments which the employer or the Second
77 Injury Fund has, by award, become obligated to pay on account of the
78 injury. Notwithstanding the provisions of this subsection, when any
79 injury for which compensation is payable under the provisions of this
80 chapter has been sustained under circumstances creating in a person
81 other than an employer who has complied with the requirements of
82 subsection (b) of section 31-284, a legal liability to pay damages for the

83 injury and the injured employee has received compensation for the
84 injury from such employer, its workers' compensation insurance carrier
85 or the Second Injury Fund pursuant to the provisions of this chapter, the
86 employer, insurance carrier or Second Injury Fund shall have a lien
87 upon any judgment received by the employee against the party or any
88 settlement received by the employee from the party, provided the
89 employer, insurance carrier or Second Injury Fund shall give written
90 notice of the lien to the party prior to such judgment or settlement.

91 (b) When an injury for which compensation is payable under the
92 provisions of this chapter is determined to be the result of a motor
93 vehicle accident or other accident or circumstance in which a third
94 person other than the employer was negligent and the claim is
95 subrogated by the employer or its workers' compensation insurance
96 carrier, the insurance carrier shall provide a rate adjustment to the
97 employer's workers' compensation policy to reflect the recovery of any
98 compensation paid by the insurance carrier prior to subrogation.

99 (c) Notwithstanding the provisions of subsection (a) of this section,
100 no construction design professional who is retained to perform
101 professional services on a construction project, or any employee of a
102 construction design professional who is assisting or representing the
103 construction design professional in the performance of professional
104 services on the site of the construction project, shall be liable for any
105 injury on the construction project for which compensation is payable
106 under the provisions of this chapter, unless responsibility for safety
107 practices is specifically assumed by contract. The immunity provided by
108 this subsection to any construction design professional shall not apply
109 to the negligent preparation of design plans or specifications. For the
110 purposes of this subsection "construction design professional" means (1)
111 any person licensed as an architect under the provisions of chapter 390,
112 (2) any person licensed, or exempted from licensure, as an engineer
113 under the provisions of chapter 391, or (3) any corporation organized to
114 render professional services through the practice of either or both of
115 such professions in this state.

116 (d) Notwithstanding the provisions of subsection (a) of this section,
 117 the furnishing of or the failure to furnish safety inspections or safety
 118 advisory services (1) by an insurer incident to providing workers'
 119 compensation insurance to an employer, (2) pursuant to a contract
 120 providing for safety inspections or safety advisory services between an
 121 employer and a self-insurance service organization incident to
 122 providing workers' compensation related services, or (3) by a union
 123 representing employees of the employer, shall not subject the insurer or
 124 self-insurance service organization or their agents or employees, or the
 125 union, its members or the members of its safety committee, to third
 126 party liability for damages for injury, death or loss resulting therefrom
 127 unless the liability arises from a breach of a duty of fair representation
 128 of its members by a union. The immunity from liability extended under
 129 this subsection shall not be extended to any insurer or self-insurance
 130 service organization other than where the immunity is incident to the
 131 provision of workers' compensation insurance or workers'
 132 compensation related services.

133 (e) Notwithstanding the provisions of subsection (b) of this section,
 134 no mutual association approved by the Insurance Commissioner
 135 pursuant to sections 31-328 to 31-339, inclusive, who has a membership
 136 composed exclusively of health care providers, and whose premium
 137 base is derived entirely from health care organizations, shall be required
 138 to recalculate prior year insurance premiums for a member as a result
 139 of subrogation recoveries."

This act shall take effect as follows and shall amend the following sections:		
Sec. 501	October 1, 2024	31-293