

TESTIMONY

In Support of

LD 839: An Act To Address Unemployment Issues Facing School Employees

John Kosinski, Government Relations Director, Maine Education Association

Before the Joint Standing Committee on Labor and Housing

April 2nd, 2021

Senator Hickman, Representative Sylvester and other members of the Labor and Housing Committee,

My name is John Kosinski, and I am here on behalf of the Maine Education Association (MEA) to testify in support of LD 839, An Act To Address Unemployment Issues Facing School Employees. The MEA represents hourly school employees in nearly every public school in the state including bus drivers, ed techs, custodians, school secretaries, cafeteria workers, and many others.

LD 839 we believe was intended to address widespread unemployment issues for school employees but in recent discussions with the bill sponsor and the Department of Labor it has come to our attention that this bill, in its current form, may not be needed.

LD 839, as written, is focused on removing deferred compensation in the calculation of eligibility and benefits under the federal Pandemic Unemployment Assistance Program or PUA. Many school employees “pay average” – meaning they have their pay averaged over the course of an entire year although they may only work for 10 months. It is important to remind the Committee of the low wages for many in these job classes, including bus drivers and ed techs. The wages are so low that some may choose not to average their pay over the full year because their weekly earnings would be so minimal.

We have learned the Maine Department of Labor believes LD 839 is unnecessary because school employees, including hourly school employees, receiving unemployment benefits under the Federal PUA program due to an eligible Covid-related reason between school terms, should not see a reduction in their weekly benefits due to receiving deferred compensation of educational wages that were earned during the regular school year. Wages *earned* during the regular school year are only reportable for unemployment benefit purposes during the week in which they are earned, not when they are paid.

However, this was not the interpretation of the Department of Labor last summer when school employees, particularly hourly employees, were denied UI benefits because of the Department’s interpretation that deferred

compensation counted against an employee's benefits. We believe potentially hundreds of school employees who may have been eligible did not apply for benefits, benefits they were entitled to, due to this erroneous interpretation. In addition, we believe other school employees were denied benefits due to this mistake and we look forward to working with the Department to make sure those employees are made whole.

But while the current version of the bill may not be needed, we feel compelled to shine a light once again on the current unemployment system and the way it disadvantages school employees, particularly hourly employees such as ed techs and bus drivers.

Under current law, if a public-school employee receives a "reasonable assurance" letter by the end of a school year that they are likely to have a job next semester they are disqualified from receiving unemployment benefits (Title 26, §1192. Eligibility conditions). Never mind that these reasonable assurance letters can come and do come very late in the school year, or that these letters do not guarantee a job in the following school year for the employee. Instead, the letter provides just what it is called – a reasonable assurance.

This letter alone disqualifies a school employee from receiving UI benefits over the summer. However, no such prohibition applies to private contractors, such as privately contracted bus services. Some school districts decide to subcontract bus services and those bus drivers are eligible for UI benefits over the summer months, just not the school bus drivers working for the public schools. We have brought up this inequity many times in the past, but a solution has eluded us.

This current process severely disadvantages hourly school employees. First, they are often unable to begin work at summer jobs until late June, leaving them at a disadvantage compared to other temporary employees such as college students who are home from college earlier and can get a jump start on the job search and can often begin working before hourly school employees are finished with their duties at school. Second, many hourly school employees must return to work in mid-August, thus leaving them less than two months where they must find work. This short window of availability is not ideal for most employers. But our current system disadvantages the hourly school employees because every summer they must find new work to sustain themselves and their families. The wages for many of these school employees are already very low and most cannot afford going without pay of some kind during the summer months.

We believe the only solution is to allow hourly school employees to receive UI over the summer months. This issue has been debated in the past, but legislators have not found agreement, due in large part to the fiscal note. Many school districts are self-insured for unemployment insurance and therefore must pay the earned benefits for employees directly to the state.

But we know finding qualified ed techs and bus drivers in the current job market is very challenging for many districts, and action must be taken to help make these positions better jobs for the people who work in them. The lack of income over the summer is one of the major concerns of hourly employees and we implore the Labor Committee to take some action to help the hourly employees of our schools.

Thank you in advance for your time and attention and I am happy to answer any questions you may have.