

Testimony of an Interested Party regarding SB17
Michelle Wrona Fox, Attorney
Community Legal Aid Services
Government Oversight and Reform Committee
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Chairperson Kristina D. Roegner, Vice Chair Rob McColley, Ranking Member Hearcel F Craig, and members of the Government Oversight and Reform Committee, my name is Michelle Wrona Fox, and I am an attorney at Community Legal Aid Services (CLAS). CLAS is a non-profit law firm that advocates for low income workers who live in Northeast Ohio and who are living, working, and raising their children in poverty. Specifically, I have been representing claimants in their unemployment compensation matters for over 20 years including the recession in 2009 and this current pandemic. In addition, I am the Co-Chair of Ohio's Employment Law Task Force comprised of legal aid programs statewide where I track unemployment compensation issues.

Recovery of Overpayments Unrelated to Fault Harms Low Wage, Vulnerable Workers and the Economy.

In Mid-March 2020, after the stay at home order declared by Governor DeWine, many low wage workers lost their jobs abruptly with little to no notice and no ability to plan. As an advocate for low-wage workers, I have observed the difficult challenges most of our clients face raising their families when they only earn minimum wage and usually are not offered more than 30 hours a week by their employers. While many middle income people struggle to put a little money aside in savings, the low wage workers rarely are in a position to save money for a crisis. The only recourse they have is to file for unemployment compensation through the Ohio Department of Jobs and Family Services (ODJFS). To compound the issue, low income workers see very low weekly benefit amounts, which are usually not enough to meet their basic needs. ODJFS authorized and issued payments in error related to circumstances within the agency that were outside of the control of low-wage workers. Some errors were due to incorrect employer reports. Due to these agency and employer errors, many workers are innocent of the mistakes that resulted in overpayment of benefits. If workers who had no fault or misrepresentations are required to pay back overpayments, it would only perpetuate the financial harm low wage workers endured during the pandemic and make it even harder to become self-sufficient again. This is bad for low wage workers and bad for the economy.

Senate Bill 17 Does Not Recover Against the True Perpetrators of Fraud, but it will Harm Low Wage Workers.

Senate Bill 17 will not accomplish the recovery of money paid to bad actors as much as it will harm innocent low wage workers with overpayments. The vast majority of the fraud is in the Pandemic Unemployment Assistance (PUA) system which is a federal program for the self-employed, independent contractors and workers with earnings too low to qualify for state unemployment compensation. The PUA system has lower verification standards than the State

unemployment compensation system, and the fraud committed in the PUA system is perpetrated by sophisticated and organized crime that has affected many states, not the average Ohioan. Since Senate Bill 17 can only address the recovery of overpayments in the state system, not the fraud and overpayments in the PUA system, it will not address the vast majority of overpayments, nor punish the perpetrators of fraud. Instead, it would create hardship for hard working Ohioans who are trying to get back on their feet again. Collection of these overpayments where there was no fault or misrepresentation would harm the low wage workers with meager assets who are trying to keep their families housed, fed, and healthy.

Ohio Revised Code §4141.35 Provides for the Collection of Unemployment Compensation
Overpayment Due to Non fraud and Fraud.

O.R.C. 4141.35 details rules for collecting overpayments caused by fraud and non fraud. Absent from both O.R.C. 4141.35 and Senate Bill 17 is the ability for a claimant to waive an overpayment. According to the U.S. Department of Labor's Comparison of State UI laws, twenty-nine (29) states have legislation that provides for the waiver of overpayments that are against equity and good conscience. Our clients have lived on less than half of their normal income with sporadic and unpredictable supplements for almost a year now. Many face eviction, foreclosure, and collection actions. These problems would effectively push our clients off a financial cliff and any hope of self-sufficiency they are presently holding onto would disappear. From a strictly dollars and cents viewpoint, the financial impact for the State in pushing these workers over the cliff would be much more expansive and long-lasting than the short-term financial loss the State would incur as a result of waiving the overpayments because the additional financial instability would cause workers to become more dependant on benefits and for a longer period of time. Rather, our clients and other such low wage workers would benefit from waiver of these overpayments so they can more quickly rebound from the pandemic and reduce the financial impacts of the pandemic.

Again, thank you for this opportunity to provide testimony, as an interested party, regarding SB17 and listening to the experiences of vulnerable, low wage workers who have been financially devastated by this pandemic.

Sincerely,

Michelle Wrona Fox

Michelle Wrona Fox
Attorney at Law