
EMPLOYMENT LAW — STATE LEGISLATION — CONNECTICUT
ENACTS PAID SICK LEAVE ACT. — 2011 Conn. Legis. Serv. P.A. 11-
52 (S.B. 913) (West).

Legislative innovations, especially those recognizing new rights for workers, are often born of a long series of compromises. The drafters of the federal Family and Medical Leave Act of 1993¹ (FMLA), for instance, reluctantly opted to propose unpaid rather than paid leave in the interest of political viability.² Eighteen years later, Connecticut remedied that shortcoming for certain workers within the state. On July 1, 2011, Governor Dannel Malloy signed into law An Act Mandating Employers Provide Paid Sick Leave to Employees³ (PSLA), which, as of January 1, 2012, requires certain employers to offer workers up to five paid sick days per year.⁴ While this provision is undoubtedly groundbreaking, the law is also notable for the variety of concessions its drafters had to make to ensure its passage. The drafters of the PSLA narrowed the bill's coverage through both affirmative exemptions and implicit exclusions. Because history suggests that the Act's implicit exclusions may be more conducive to future expansions in coverage than the affirmative exemptions will be, proponents of workplace reform should take note of this distinction.

The history of the PSLA is a testament both to its proponents' persistence and to a legislative process that systematically chips away at proposals for reform. The Labor and Public Employees Committee of the Connecticut General Assembly first introduced a paid sick leave bill in 2007.⁵ This first attempt was the most ambitious: the law was to apply to any employer of twenty-five or more individuals in any sector and allow workers to take up to fifty-two hours of sick leave per year.⁶ The legislature considered a similar proposal in 2008,⁷ and again in 2009, when it confined the initiative's coverage to employers of fifty or more individuals.⁸ In 2010, it reduced the annual sick leave

¹ 29 U.S.C. §§ 2601–2654 (2006).

² See RONALD D. ELVING, CONFLICT AND COMPROMISE 30, 38–42 (1995).

³ 2011 Conn. Legis. Serv. P.A. 11-52 (S.B. 913) (West).

⁴ See *id.* § 2.

⁵ See An Act Mandating Employers to Provide Paid Sick Leave to Employees, Substitute Bill No. 601, 2007 Gen. Assemb., Reg. Sess. (Conn.), <http://www.cga.ct.gov/2007/TOB/S/2007SB-00601-R04-SB.htm>.

⁶ See *id.* §§ 1(2), 2(b).

⁷ See An Act Mandating Employers Provide Paid Sick Leave to Employees, Substitute Bill No. 217, 2008 Gen. Assemb., Reg. Sess. (Conn.), <http://www.cga.ct.gov/2008/TOB/S/2008SB-00217-R03-SB.htm>.

⁸ See An Act Mandating Employers Provide Paid Sick Leave to Employees, Substitute Bill No. 6187 § 1(4), 2009 Gen. Assemb., Reg. Sess. (Conn.), <http://www.cga.ct.gov/2009/TOB/H/2009HB-06187-R03-HB.htm>.

limit to forty hours.⁹ Meanwhile, although the Ohio legislature had considered a paid sick leave initiative¹⁰ and the municipal governments of San Francisco, Milwaukee, and the District of Columbia had enacted similar ordinances,¹¹ no state had yet mandated paid sick days.

Finally, last February, Connecticut's Labor and Public Employees Committee introduced a new bill¹² that, after a series of amendments, scaled back its earlier ambitions considerably. This new bill enumerated specific classes of employees, all in service industries,¹³ who would be entitled to up to forty hours of sick leave per year.¹⁴ As in earlier versions, employees would accrue sick leave at a rate of one hour per forty hours worked.¹⁵ These workers would be eligible for paid time off to attend to their own or a family member's health condition¹⁶ or to their own needs related to an incidence of family violence or sexual assault.¹⁷ The 2011 bill kept the exemption for employers of fewer than fifty individuals, and it added exemptions for employers in the manufacturing industry¹⁸ and for nationally chartered 501(c)(3) organizations that provide daycare, recreation, and educational services.¹⁹ This more modest version of the original proposal passed the

⁹ See An Act Mandating Employers Provide Paid Sick Leave to Employees, Substitute Bill No. 63 § 2(a), 2010 Gen. Assemb., Reg. Sess. (Conn.), <http://www.cga.ct.gov/2010/TOB/S/2010SB-00063-R02-SB.htm>.

¹⁰ See Jeremy Smerd, *Backers of Ohio Sick-Leave Initiative Pull Issue from Ballot*, WORKFORCE (Sept. 4, 2008), <http://www.workforce.com/article/20080904/NEWS01/309049991>.

¹¹ See Rebecca Golubock Watson, Note, *Defending Paid Sick Leave in New York City*, 19 J.L. & POL'Y 973, 974 (2011). The Milwaukee ordinance has since been abrogated by the State of Wisconsin. See *Wisconsin Governor Signs Sick Leave Bill*, BLOOMBERG BUSINESSWEEK (May 5, 2011, 1:40 PM), <http://www.businessweek.com/ap/financialnews/D9N1E2001.htm>.

¹² See An Act Mandating Employers Provide Paid Sick Leave to Employees, Raised Bill No. 913, 2011 Gen. Assemb., Reg. Sess. (Conn.), <http://www.cga.ct.gov/2011/TOB/S/2011SB-00913-R00-SB.htm>. Information on the PSLA's legislative history, such as floor debates and votes, can be found at *Raised S.B. No. 913: Session Year 2011*, CONN. GEN. ASSEMBLY, http://www.cga.ct.gov/asp/cgabillstatus/cgabillstatus.asp?selBillType=Bill&bill_num=913&which_year=2011 (last visited Jan. 29, 2012).

¹³ See PSLA § 1(7). The categories come from the federal Standard Occupational Classification system of the Bureau of Labor Statistics, *id.*, which classifies all workers into 840 categories in order to collect statistics. See *Standard Occupational Classification*, BUREAU OF LABOR STATISTICS, <http://www.bls.gov/soc/> (last visited Jan. 29, 2012).

¹⁴ PSLA § 2(a).

¹⁵ *Id.*

¹⁶ *Id.* § 3(a)(1)–(2).

¹⁷ *Id.* § 3(a)(3).

¹⁸ See *id.* § 1(4)(A). The Act exempts any business falling under section 31, 32, or 33 of the federal North American Industry Classification System. *Id.* This system provides that “[t]he Manufacturing sector comprises establishments engaged in the mechanical, physical, or chemical transformation of materials, substances, or components into new products.” 2007 NAICS Definitions, U.S. CENSUS BUREAU, at 64, http://www.census.gov/eos/www/naics/2007NAICS/2007_Definition_File.pdf (last visited Jan. 29, 2012).

¹⁹ See PSLA § 1(4)(B).

Senate on May 25, 2011, by a vote of eighteen to seventeen, and the House on June 4, 2011, by a vote of seventy-six to sixty-five.²⁰

During debate in both chambers, the bill's proponents emphasized its potential benefits to working-class families²¹ along with its implications for public health. They reasoned that allowing service employees to go to work sick puts the public at risk.²² Meanwhile, many opponents argued that imposing greater costs on businesses would drive them away from Connecticut.²³ They further argued that a recession was an especially bad time to introduce such costs.²⁴

While many legislators resisted imposing a new burden on *any* employers — perhaps predictably²⁵ — others were more concerned about where the lines would be drawn. In particular, several legislators challenged the fifty-employee cutoff,²⁶ sometimes worrying that the restriction would discourage employers from expanding their payrolls beyond forty-nine.²⁷ Some also contended that this exclusion undermined the bill's public health goals, since many restaurants employ fewer than fifty people.²⁸ Much discussion also centered on the bill's exemptions for employers in the manufacturing sector and for certain nonprofit organizations. The drafters offered somewhat inconsistent rationales for these carve-outs, justifying the manufacturing exemption sometimes as a gesture of deference to union contracts,²⁹ and at other

²⁰ See *Vote for S.B. 913 Sequence Number 267*, CONN. GEN. ASSEMBLY, <http://www.cga.ct.gov/2011/VOTE/S/2011SV-00267-RooSB00913-SV.htm> (last visited Jan. 29, 2012) (Senate vote); *Vote for S.B. 913 Roll Call Number 273*, CONN. GEN. ASSEMBLY, <http://www.cga.ct.gov/2011/VOTE/H/2011HV-00273-RooSB00913-HV.htm> (last visited Jan. 29, 2012) (House vote).

²¹ See Conn. Gen. Assemb., S. Sess. Transcript for May 25, 2011, <http://www.cga.ct.gov/2011/trn/S/2011STR00525-Roo-TRN.htm> (last visited Jan. 29, 2012) [hereinafter Senate Transcript] (statement of Sen. Gary LeBeau); *id.* (statement of Sen. Edwin Gomes).

²² See, e.g., *id.* (statement of Sen. Edith Prague).

²³ See, e.g., *id.* (statement of Sen. John McKinney).

²⁴ See, e.g., *id.* (statement of Sen. Michael McLachlan) (“The timing couldn’t be worse.”).

²⁵ When a paid sick leave bill was introduced in Ohio, for instance, opponents launched a campaign called “Play Sick Ohio” that attacked the proposal as a “job killer” and “socialism.” *Sick Days Ohio: A Job Killer*, SAVE JOBS OHIO, <http://www.playsickohio.com/jobkiller.cfm> (last visited Jan. 29, 2012); *Socialism Has Never Been Good for Business or Families*, SAVE JOBS OHIO, <http://www.playsickohio.com/socialism.cfm> (last visited Jan. 29, 2012).

²⁶ Representative Bruce Zalaski, chair of the Labor and Public Employees Committee, responded that fifty is a “nice, plain half of 100.” Conn. Gen. Assemb., H. Sess. Transcript for June 3, 2011, <http://www.cga.ct.gov/2011/trn/H/2011HTR00603-Roo-TRN.htm> (last visited Jan. 29, 2012) [hereinafter House Transcript] (statement of Rep. Bruce Zalaski). At another point, he explained the cutoff differently: “[We] wanted to see how the bill would work with 50 employees.” *Id.*

²⁷ See, e.g., Senate Transcript, *supra* note 21 (statement of Sen. John Kissel).

²⁸ See *id.* (statement of Sen. Andrew Roraback); House Transcript, *supra* note 26 (statement of Rep. Vincent Candelora).

²⁹ See Senate Transcript, *supra* note 21 (statement of Sen. Edith Prague) (explaining that manufacturing companies “felt that they were being additionally mandated even though they have negotiated contracts”).

times as a response to economic circumstances.³⁰ The bill's proponents indicated that the nonprofit exemption was intended specifically to apply to the YMCA³¹ but conceded that other organizations might also fall within the definition.³²

The General Assembly debates also featured some self-conscious reflection on the bill's importance, its scope, and the possible repercussions of excluding so many workers from its coverage. Several legislators mentioned that the PSLA was unprecedented³³ and expressed hope that other states or even the national government would follow suit.³⁴ Others, though, questioned whether the Act as written would benefit so few workers that it would not in reality be the revolutionary achievement its proponents anticipated.³⁵

Legislation typically involves compromise, and laws with humanitarian purposes are some of the most difficult to enact without major concessions. As many drafters of workplace reform laws must do, the PSLA's proponents struck compromises that narrowed the bill's coverage, excluding many workers from its purview in order to soften industry opposition. Some of these exclusions take the form of affirmative, employer-specific exemptions, whereas others are implicit, leaving out employees not enumerated for coverage. Proponents of workplace and other humanitarian initiatives should consider the effects of these particular concessions on the possibilities for future enhancements. In particular, they should note that the PSLA's implicit exclusions may be more conducive to future expansions of coverage than are its affirmative exemptions.

Progressive statutes — especially those imposing new workplace standards — have historically gained passage only through perseverance and compromise.³⁶ Since the costs of such standards are concen-

³⁰ See *id.* (statement of Sen. Beth Bye) (attributing the exemption to a desire “to do anything we can to jumpstart that particular part of our economy”).

³¹ See *id.* (statement of Sen. Edith Prague); House Transcript, *supra* note 26 (statement of Rep. Bruce Zalaski).

³² See House Transcript, *supra* note 26 (statement of Rep. Bruce Zalaski) (suggesting that Boys and Girls Clubs of America and the Red Cross might be exempt under this provision).

³³ See, e.g., Senate Transcript, *supra* note 21 (statement of Sen. Gary LeBeau) (“[W]e’d be the first state in the nation to do this.”).

³⁴ See, e.g., *id.* (statement of Sen. Martin Looney) (noting that a state can serve as a “laboratory of democracy,” experimenting with progressive policies that may eventually be replicated at the national level).

³⁵ See, e.g., *id.* (statement of Sen. Andrew Roraback) (“[W]e’re going to have . . . a lot of fanfare when at the end of the day . . . for most people who work in Connecticut restaurants, nothing’s changing.”).

³⁶ See, e.g., John S. Forsythe, *Legislative History of the Fair Labor Standards Act*, LAW & CONTEMP. PROBS., Summer 1939, at 464, 466 (“[The bill] under[went] amendment after amendment until practically the only point in common with the original bill was the legislative number.”). See generally ELVING, *supra* note 2 (using the FMLA as an illustration of the perseverance and compromise necessary for a bill’s passage).

trated on employers, the business community generally mounts fierce opposition to them.³⁷ The benefits of workplace standards, meanwhile, are diffuse,³⁸ and the intended beneficiaries frequently lack political influence.³⁹ Enactment therefore requires creative methods of broadening support⁴⁰ while dividing opposing parties, such as by narrowing the breadth of the proposal.⁴¹ It is thus understandable that the PSLA's sponsors, in an effort to pass their bill, were willing to cut so many workers from its coverage. The ostensibly equality-driven goals of workplace reformers⁴² must often cede ground to the realities of the political process.

The compromises that sponsors of workplace bills strike to gain passage can be roughly divided into three categories. First, affirmative exemptions, like the PSLA's exclusion of manufacturing companies and certain nonprofits, name specific employers or industries excluded from the requirements. For instance, the Fair Labor Standards Act of 1938⁴³ (FLSA) might never have passed had its supporters not agreed to exclude agricultural workers from the wage and hour provisions.⁴⁴ Second, implicit exclusions, like those created by the PSLA's enumeration of categories of service workers who are covered, simply leave out those not specified. The first state minimum wage laws, for example, applied only to women and minors,⁴⁵ in a concession to both industry and judicial opposition to wage regulation.⁴⁶ Finally, substantive

³⁷ See David Weil, *Mighty Monolith or Fractured Federation? Business Opposition and the Enactment of Workplace Legislation*, in *THE GLOVES-OFF ECONOMY* 287, 288–91 (Annette Bernhardt et al. eds., 2008).

³⁸ See *id.* at 290–91. For an economic theory on the political involvement and influence of interest groups, upon which much of Professor David Weil's analysis is based, see Gary S. Becker, *A Theory of Competition Among Pressure Groups for Political Influence*, 98 Q.J. ECON. 371 (1983).

³⁹ See, e.g., LARRY M. BARTELS, *UNEQUAL DEMOCRACY* 253–54 (2008) (using data on Senate voting patterns in the late 1980s and early 1990s to demonstrate that elected officers are far more responsive to wealthy constituents than to those of "modest means").

⁴⁰ See Weil, *supra* note 37, at 304–05. The sponsors of the FMLA, for instance, worked to garner centrist support by branding the proposal as a "family values" issue. See ELVING, *supra* note 2, at 244. Similarly, the PSLA's proponents emphasized its public health implications, see Senate Transcript, *supra* note 21 (statement of Sen. Edith Prague), and included a domestic violence provision, PSLA § 3(a)(3).

⁴¹ See Weil, *supra* note 37, at 299–304.

⁴² See, e.g., Senate Transcript, *supra* note 21 (statement of Sen. Gary LeBeau) (stating that the bill would extend a benefit that many workers already enjoy to those in "low wage and service industries").

⁴³ Ch. 676, 52 Stat. 1060 (codified as amended at 29 U.S.C. §§ 201–219 (2006)).

⁴⁴ See Jacob Wedemeyer, Note, *Of Policies, Procedures, and Packing Sheds: Agricultural Incidents of Employer Abuse of the H-2B Nonagricultural Guestworker Visa*, 10 J. GENDER RACE & JUST. 143, 173 (2006).

⁴⁵ See, e.g., An Act to Establish the Minimum Wage Commission and to Provide for the Determination of Minimum Wages for Women and Minors, 1912 Mass. Acts 780.

⁴⁶ See VIVIEN HART, *BOUND BY OUR CONSTITUTION* 83–84 (1994); Florence Kelley, *Minimum-Wage Laws*, 20 J. POL. ECON. 999, 1002–04 (1912).

compromises, like the decision of the PSLA's sponsors to reduce the sick leave limit from fifty-two hours per year to forty, change an initiative's benefits and corresponding burdens. The drafters of the FMLA, for instance, originally wanted to offer workers eighteen weeks of parental leave and twenty-six weeks of medical leave but eventually settled on only twelve weeks across the board.⁴⁷

Given the inevitability of concessions, drafters of progressive bills should consider how they might structure compromises to maximize possibilities for later improvements. After all, proponents of progressive legislation often justify initially modest results on the theory that their work lays the groundwork for future developments.⁴⁸ The PSLA's sponsors themselves alluded to such a strategy during the floor debates.⁴⁹ Yet this idea of long-term legislative forethought stands in stark contrast to typical accounts of myopic lawmaking.⁵⁰ To the extent that proponents of progressive initiatives are in fact concerned with long-term outcomes, an understanding of factors that affect these outcomes might serve to offset some of labor reformers' disadvantages in the bargaining process.

The modern American legal regime has been described as a "one-way ratchet," in that legislators are much more likely to enact new laws than to repeal existing provisions.⁵¹ Commentators have observed this phenomenon in criminal,⁵² tax,⁵³ and administrative law.⁵⁴ If the model applies to workplace legislation as well, it would suggest that, from a reformer's perspective, implicit exclusions and substantive compromises are more conducive to future improvements than are affirmative exemptions. This conclusion follows from the one-way ratchet model: Implicit exclusions and substantive compromises can be remedied through additive, incremental changes to the law. Affirmative exemptions, meanwhile, are binary, and attempts to repeal them

⁴⁷ Compare ELVING, *supra* note 2, at 42, with 29 U.S.C. § 2612(a)(1) (2006).

⁴⁸ See, e.g., Michael Selmi, *Is Something Better than Nothing? Critical Reflections on Ten Years of the FMLA*, 15 WASH. U. J.L. & POL'Y 65, 71-72 (2004) (explaining that some of the FMLA's drafters felt that although the Act did not accomplish everything they wanted, it was the first step toward their policy ideals).

⁴⁹ See, e.g., House Transcript, *supra* note 26 (statement of Rep. Bruce Zolaski) (responding to objections to the exclusions by suggesting "mak[ing] some adjustments to" the Act in the future).

⁵⁰ See, e.g., Harold Hongju Koh, *Why the President (Almost) Always Wins in Foreign Affairs: Lessons of the Iran-Contra Affair*, 97 YALE L.J. 1255, 1297-98 (1988) (describing how lawmakers' incentives lead to shortsighted decisionmaking).

⁵¹ E.g., PHILIP K. HOWARD, *THE DEATH OF COMMON SENSE* 203 (2d ed. 2011).

⁵² See, e.g., William J. Stuntz, *The Pathological Politics of Criminal Law*, 100 MICH. L. REV. 505, 513-15 (2001).

⁵³ See, e.g., Robert B. Eichholz, *Should the Federal Income Tax Be Simplified?*, 48 YALE L.J. 1200, 1202-03 (1939).

⁵⁴ See, e.g., J.B. Ruhl & James Salzman, *Mozart and the Red Queen: The Problem of Regulatory Accretion in the Administrative State*, 91 GEO. L.J. 757, 769-75 (2003).

risk disturbing the entrenched interests of the specific businesses and industries favored under current law.⁵⁵ Moreover, legislators likely enjoy far less public praise for repealing specific provisions of old statutes than for enacting new improvements to them.⁵⁶

History appears largely supportive of this hypothesis. Although it is not unheard of for a legislature to repeal an affirmative exemption,⁵⁷ such provisions have a remarkable tendency to survive comprehensive transformations of statutory schemes. One example is the 1959 California Fair Employment Practices Act,⁵⁸ a state-level antidiscrimination law that became functionally inactive when the federal government enacted Title VII in 1964.⁵⁹ In the early 1970s, the California legislature revived its antidiscrimination law, culminating in major revisions to the state labor code in 1973.⁶⁰ In spite of the substantial differences between the new legislation and the defunct 1959 law, the 1973 amendments adopted the 1959 Act's exemption of entities with fewer than five employees and preserved the original language exempting "a social club, fraternal, charitable, educational or religious association or corporation not organized for private profit."⁶¹ Moreover, the small-employer and religious-association exemptions have survived to this day⁶² in spite of massive expansions to the coverage of what is now known as the Fair Employment and Housing Act, such as prohibition of discrimination based on age, disability, pregnancy, and sexual orientation,⁶³ as well as a complete overhaul of administrative procedures and remedies.⁶⁴ It is difficult to explain the persistence of the old provisions without concluding that affirmative exemptions take on a life of their own.⁶⁵

⁵⁵ Cf. J. Clifton Fleming, Jr. & Robert J. Peroni, *Can Tax Expenditure Analysis Be Divorced from a Normative Tax Base?: A Critique of the "New Paradigm" and Its Denouement*, 30 VA. TAX REV. 135, 155–56 (2010) (describing how exemptions in the tax code gain normative status over time).

⁵⁶ Cf. Stuntz, *supra* note 52, at 553–57 (explaining, in the context of criminal law, why public and interest group support for repealing old laws tends to be nonexistent).

⁵⁷ In 1966, for instance, the FLSA was amended to include some agricultural workers. See Fair Labor Standards Amendments of 1966, Pub. L. No. 89-601, sec. 103, § 3(e), 80 Stat. 830, 832 (codified as amended at 29 U.S.C. § 213 (2006)). But many of the FLSA's original exemptions are still in force. Compare 29 U.S.C. § 213 (2006), with Fair Labor Standards Act of 1938, ch. 676, § 13, 52 Stat. 1060, 1067–68.

⁵⁸ 1959 Cal. Stat. 1999.

⁵⁹ See Marjorie Gelb & JoAnne Frankfurt, *California's Fair Employment and Housing Act: A Viable State Remedy for Employment Discrimination*, 34 HASTINGS L.J. 1055, 1055 (1983).

⁶⁰ 1973 Cal. Stat. 2498; see Gelb & Frankfurt, *supra* note 59, at 1059–60.

⁶¹ Compare 1959 Cal. Stat. at 2000, sec. 1, § 1413(d), with 1973 Cal. Stat. at 2499, sec. 3, § 1413(d).

⁶² See Fair Employment and Housing Act, CAL GOV'T CODE § 12926(d) (West 2011).

⁶³ See *id.* § 12940(a); Gelb & Frankfurt, *supra* note 59, at 1059.

⁶⁴ See Gelb & Frankfurt, *supra* note 59, at 1060–67.

⁶⁵ Perhaps the California legislature preserved the exemption for religious associations to avoid potential First Amendment concerns. Yet that reasoning would not explain, for instance, the one-way ratchet effect in Massachusetts's modern minimum wage law, which has been fre-

Given the ubiquity of explicit carve-outs in workplace laws, it is useful to examine an area that typically covers an expansive field of employers: workers' compensation. The first successful workers' compensation law in the United States, enacted in Wisconsin in 1911,⁶⁶ was voluntary for private employers: it applied only to those that opted in and implicitly excluded all others.⁶⁷ The 1911 Act, like so much workplace legislation, was the product of a long process of whittling more ambitious proposals into one that was acceptable to businesses.⁶⁸ Although their progress was initially modest, by declining to affirmatively exempt any specific employers or industries, the drafters of the 1911 Act may have laid a strong foundation for a broad workers' compensation law in the future. In 1931, Wisconsin made the program compulsory,⁶⁹ and to this day its definition of "employer" is quite expansive.⁷⁰

These observations, of course, are not exhaustive, and they do not speak to the exigencies of every political negotiation. But the PSLA's enactment of both affirmative exemptions and implicit exclusions provides an opportunity to reconsider the merits and pitfalls of the various compromise strategies. Lawmakers who see their efforts at workplace reform as a modest step toward a policy ideal should structure their initiatives to give those ideals the best possible chance of reaching fruition. In the midst of a grueling process of political trade-offs, they should not lose sight of the significantly different effects that changes in a bill's language and content can have on the future of a reform effort.

quently amended to exempt a growing list of employers from its overtime provisions. See An Act Establishing a Minimum Rate for Hours Worked in Excess of Forty Hours in a Work Week, 1960 Mass. Acts 775; An Act Relative to the Minimum Rates for Hours Worked in Excess of Forty Hours in a Work Week in Certain Businesses, 1961 Mass. Acts 258; An Act Providing that the Law Establishing a Minimum Rate for Hours Worked in Excess of Forty Hours in a Work Week Shall Not Apply to Employees Employed in Charitable Homes for the Aged, 1969 Mass. Acts 52; An Act Exempting Employees of Certain Amusement Parks from the Law Providing for Overtime Pay, 1983 Mass. Acts 138.

⁶⁶ See Act of May 3, 1911, 1911 Wis. Sess. Laws 43. New York had enacted a workers' compensation statute in 1910, but it was quickly struck down by the New York Court of Appeals. See Robert Asher, *The 1911 Wisconsin Workmen's Compensation Law: A Study in Conservative Labor Reform*, WIS. MAG. HIST., Winter 1973-1974, at 123, 140.

⁶⁷ See 1911 Wis. Sess. Laws at 44, sec. 1, § 2394-5(2). The law was mandatory for state and local government employers. See *id.* § 2394-5(1).

⁶⁸ See Asher, *supra* note 66, at 129-33.

⁶⁹ See Act of May 7, 1931, 1931 Wis. Sess. Laws 205, 206, sec. 2, § 102.04 (amending the 1911 Act to make the workers' compensation program compulsory for non-farm employers of three or more employees).

⁷⁰ See WIS. STAT. § 102.04 (2011).