

SENATE BILL REPORT

ESHB 1893

As Reported by Senate Committee On:
Labor & Commerce, February 19, 2024

Title: An act relating to unemployment insurance benefits for striking or lockout workers.

Brief Description: Concerning unemployment insurance benefits for striking or lockout workers.

Sponsors: House Committee on Labor & Workplace Standards (originally sponsored by Representatives Doglio, Berry, Fosse, Reeves, Farivar, Hackney, Ryu, Ortiz-Self, Orwall, Callan, Macri, Goodman, Senn, Slatter, Riccelli, Tharinger, Bronoske, Ramel, Wylie, Pollet, Cortes, Chopp, Bergquist, Berg, Fey, Donaghy, Reed, Street, Stonier, Kloba, Leavitt, Mena, Simmons, Morgan, Alvarado, Walen, Taylor, Peterson, Ormsby, Stearns, Thai, Bateman, Duerr, Ramos, Rule, Gregerson, Lekanoff, Nance, Santos, Shavers and Davis).

Brief History: Passed House: 2/12/24, 53-44.

Committee Activity: Labor & Commerce: 2/15/24, 2/19/24 [DPA, DNP].

Brief Summary of Amended Bill

- Allows individuals unemployed due to a labor strike to receive up to four weeks of unemployment insurance (UI) benefits following a specified disqualification period and the waiting week, provided that the labor strike is not found to be prohibited by federal or state law in a final judgment, in which case the disqualification resumes as of the date of the judgment.
- Removes the provision disqualifying an individual for UI benefits based on an employer-initiated lockout resulting from a strike against another employer in a multi-employer bargaining unit.

SENATE COMMITTEE ON LABOR & COMMERCE

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Majority Report: Do pass as amended.

Signed by Senators Keiser, Chair; Conway, Vice Chair; Saldaña, Vice Chair; Hansen and Stanford.

Minority Report: Do not pass.

Signed by Senators King, Ranking Member; Braun, MacEwen and Schoesler.

Staff: Susan Jones (786-7404)

Background: Unemployment Insurance Benefits. The Employment Security Department (ESD) administers Washington State's unemployment insurance program. An unemployed individual is eligible to receive unemployment insurance benefits (UI benefits) if the individual:

- worked at least 680 hours in the base year;
- was separated from employment through no fault of the claimant's or quit work for good cause; and
- is able to work, available to work, and is actively searching for suitable work.

A claimant must be unemployed for a one-week waiting period before being eligible for UI benefits. The current maximum weekly benefit amount is \$1,019.

Overpayments. When an individual is paid UI benefits that the person was not entitled to, ESD must issue an overpayment assessment explaining the reasons for and the amount of the overpayment. ESD must impose interest of 1 percent per month on the outstanding balance if the individual fails to repay the overpayment and fails to arrange a repayment plan.

Disqualification from Unemployment Insurance Benefits During Strike or Lockout. An individual is disqualified from UI benefits when the individual's unemployment is:

- due to a strike at the factory, establishment, or other premises where the individual is or was last employed; or
- due to a lockout by the employer who is a member of a multi-employer bargaining unit and who has locked out the employees at the factory, establishment, or other premises where the individual is or was last employed after one member of the multi-employer bargaining unit has been struck by its employees as a result of the multi-employer bargaining process.

The disqualification does not apply if:

- the individual is not participating in or financing or directly interested in the strike or lockout that caused the unemployment; and
- the individual does not belong to a grade or class of workers of which, immediately before the strike or lockout, there were members employed at the premises where the strike or lockout occurs, any of whom are participating in or financing or directly interested in the strike or lockout.

The disqualification ends when the strike or lockout is terminated.

Unemployment Insurance Benefits: Contribution-Paying Employers or Reimbursable Employers. Most employers are contribution-paying employers, referred to as taxable employers. For this category, benefits are financed through employer contributions, referred to as payroll taxes. An employer's contributions are determined by multiple factors, including an experience rating based on the benefits paid to its employees. By default, benefits are proportionally charged to base-year employers according to the amount of wages paid to the person by each employer in the person's base year compared to the wages paid by all employers. In some specific instances, benefits are charged only to the separating employer, and in other instances, benefits are not charged to any employer. If benefits are not charged to any employer, those costs are socialized and shared evenly by all employers participating in the UI system.

State and local governments, federally-recognized tribes, and some nonprofit organizations qualify as reimbursable employers. For this category, the employer reimburses ESD for benefits actually paid to separated employees, instead of paying payroll taxes.

Summary of Amended Bill: Strikes. The time period for which individuals are disqualified from UI benefits based on a strike is modified, effectively allowing striking workers to receive benefits in some instances. The disqualification ends at the earlier of:

- the second Sunday following the first date of the strike, provided that the strike is not found to be prohibited by federal or state law or court order, in which case the disqualification resumes as of the date of the judgment; or
- the date the strike is terminated.

The individual is subject to the one-week waiting period before receiving benefits. A striking worker may not receive weekly benefits for more than four calendar weeks. If the striking worker subsequently receives retroactive wages for any week for which the worker received benefits, ESD must issue an overpayment assessment for recovery of those benefits.

For contribution-paying employers, benefits paid to striking workers are charged only to the experience rating of the separating employer.

Lockouts. The disqualification based on a lockout of employees in a multi-employer bargaining unit is removed, thereby allowing those individuals to qualify for UI benefits. For contribution-paying employers, the benefits paid to a locked out individual are charged to all base year employers, unless an exception applies for the particular claim.

EFFECT OF LABOR & COMMERCE COMMITTEE AMENDMENT(S):

For the disqualification for UI benefits that may end on the second Sunday following the

first date of the strike, the disqualification is that the strike is not found to be prohibited by federal or state law in a final judgment, in which case the disqualification would resume as of the date of the judgment, rather than that the strike is not prohibited by federal or state law.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Engrossed Substitute House Bill: *The committee recommended a different version of the bill than what was heard.* PRO: Workers exercising their right to strike should not have to lose the roof over their head when employers do not bargain in good faith. No one wants to go on strike. Workers don't have choice. Companies refuse to bargain. Workers can be starved out by the employer. It is impossible without additional support. There is a power imbalance.

This bill is narrowed from previous bill. In the modeling, there is not an employer who will impact the trust fund.

Winning a union doesn't necessarily mean better wages. Getting an agreement is a long process. The employer can delay.

CON: We appreciate holding employers not involved harmless but there is not way to do that. This will increase cost to trust fund and all employers. Rate class 40 tend to be the largest and more likely to have a strike. They are capped at 5.4 percent for experience. This will be larger cost than reported. The state will have increased costs for benefits. This should go through fiscal committee.

Fundamentally, UI is intended to provide replacement for wages if a job is lost through no fault of the employee. This would increase UI costs. Washington is the fourth largest state for UI cost. The task force brought about a successful trust fund. The benefits are the highest in the nation and was supposed to be for workers who lose for no fault of their own. This will impact the stability of the fund.

Strikes increase costs for construction projects. This could be costly to state projects because of delays. We oppose even with the change. Strikes at grocery stores and suppliers would impact communities. This would alter the relationship of workers and employers.

There is a balance of give and take. We should retain the current balance.

OTHER: The initial bill was socialized. The amendment charges the benefits to the separating employer. The place when it would impact all employers is at rate class 40 if it could not be absorbed. Models by ESD were discussed where they did not project an increase in the social tax.

Persons Testifying: PRO: Representative Beth Doglio, Prime Sponsor; Rachel Ybarra, Starbucks Workers United; Sarah Bright, SEIU 925; Kairi Beliz; Brenda Wiest, Teamsters 117; Melinda Jorge, AFA Alaska.

CON: Brad Boswell, Seattle Metropolitan Chamber of Commerce; Robert (Bob) Battles, Association of Washington Business (AWB); Jerry VanderWood, AGC and WA Construction Industry Council; Julia Gorton, Washington Hospitality Association; Katie Beeson, Washington Food Industry Association (WFIA); Bruce Beckett, Wa Retail Association.

OTHER: Caitlyn Jekel, WA State Employment Security Dept.

Persons Signed In To Testify But Not Testifying:

CON: Rashma Agarwal, EASC - Economic Alliance of Snohomish County; Cory Shaw, Washington Aggregates & Concrete Association; kyle bunch, Puterbaugh Construction; SAM SPIEGELMAN, Citizen Action Defense Fund; Jason Vander Veen; Jeannette Mchesney; Jennifer Ziegler, Kaiser Aluminum; David Baird; Neil Strege, WA Roundtable; Michelle Storlie.