

HOUSE BILL REPORT

ESHB 1893

As Passed House:
February 12, 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:

Committee Activity:

Labor & Workplace Standards: 1/9/24, 1/26/24 [DPS];
Appropriations: 2/2/24, 2/5/24 [DPS(LAWS)].

Floor Activity:

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

Brief Summary of Engrossed Substitute 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 prohibited by federal or state law or court order.
- 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.

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.

HOUSE COMMITTEE ON LABOR & WORKPLACE STANDARDS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 6 members: Representatives Berry, Chair; Fosse, Vice Chair; Bronoske, Doglio, Ormsby and Ortiz-Self.

Minority Report: Do not pass. Signed by 3 members: Representatives Schmidt, Ranking Minority Member; Rude and Ybarra.

Staff: Kelly Leonard (786-7147).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The substitute bill by Committee on Labor & Workplace Standards be substituted therefor and the substitute bill do pass. Signed by 17 members: Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Berg, Callan, Chopp, Davis, Fitzgibbon, Lekanoff, Pollet, Riccelli, Ryu, Senn, Simmons, Slatter and Stonier.

Minority Report: Do not pass. Signed by 12 members: Representatives Corry, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Connors, Assistant Ranking Minority Member; Couture, Assistant Ranking Minority Member; Dye, Harris, Rude, Sandlin, Schmick, Springer, Stokesbary and Wilcox.

Minority Report: Without recommendation. Signed by 1 member: Representative Tharinger.

Staff: Emily Stephens (786-7157).

Background:

Unemployment Insurance.

The unemployment insurance (UI) system, administered by the Employment Security Department (ESD), is designed to provide partial wage replacement for unemployed workers. An individual is eligible to receive benefits if he or she: worked at least 680 hours in covered employment in his or her base year, was separated from employment through no fault of his or her own or quit work for good cause, is able to work, and is actively searching for work. The current maximum weekly benefit amount is \$1,019. With some exceptions, an individual must be eligible for a one-week waiting period before receiving benefits.

When an individual is paid UI benefits that the person was not entitled to, the ESD must issue an overpayment assessment explaining the reasons for and the amount of the overpayment. The ESD must impose interest of one percent per month on the outstanding

balance if the individual fails to repay the overpayment and fails to arrange a repayment plan.

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 the ESD for benefits actually paid to separated employees, instead of paying payroll taxes.

Strikes and Lockouts.

An individual is disqualified from receiving benefits if he or she is unemployed because of either:

- a strike; or
- a lockout initiated by an employer, who is a member of a multi-employer bargaining unit, after another 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 financing, or participating or directly interested in the strike or lockout, and if the individual does not belong to a grade or class of workers financing, or participating or directly interested in the strike or lockout.

The disqualification coincides with the strike or lockout, and therefore ends when the strike or lockout is terminated.

Summary of Engrossed Substitute 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 prohibited by federal or state law or court order; 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 he or she received benefits, the 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.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony (Labor & Workplace Standards):

(In support) Workers negotiate for better wages, benefits, and working conditions during collective bargaining. But some employers refuse to negotiate fairly with their workers. Strikes are always a last resort. Strikes pose a significant financial burden on workers, particularly low wage workers. Striking workers lose their income and sometimes their health benefits. There are many instances where employers will drag out bargaining during a strike in order to cause as much financial strain as possible. These bad actors are willing to leverage people's homes and their ability to feed their families. Executives know that workers cannot go long without wages. At the same time those executives are still collecting their paychecks. This is not fair. Lifting the restriction on accessing UI benefits will reduce the economic hardship experienced by striking workers. It is only partial wage replacement to assist with basics, like housing and food. Plus the worker must wait at least two weeks to access benefits. The bill will not incentivize strikes. It will help low wage workers be able to negotiate for better wages and working conditions while also accessing this critical safety net. This is not a new concept. New York, New Jersey, and Maine also provide UI benefits to striking workers. This policy not only helps those striking workers, but also their landlords and other folks who rely on them. It is important to our entire economy. The bill will not have a significant impact on the UI Trust Fund.

(Opposed) The bill interferes with the collective bargaining process, and it provides an incentive for unions to prolong strikes and refuse to return to work. Unions already provide strike benefits; unions are supposed to weigh the costs of a strike during a labor dispute. By

removing this financial pressure, employers will be placed in an unfair position. The UI system is not designed for this purpose. The system is set up to provide partial wage replacement to workers who lose their jobs through no fault of their own. That is not the case for labor strikes, which involve workers intentionally refusing to work in order to put pressure on the employer. Further, the UI system is funded exclusively by payroll taxes paid by employers. Workers do not pay into this system. The system is predicated on the idea that workers should get benefits when they lose their jobs based on the actions of employers. In this case the workers are choosing to go on strike. Socializing the costs of these benefits does not solve this problem. All employers should not be forced to pay for these benefits when it is the employees' decision to go on strike. The bill may affect the financial stability of the UI Trust Fund in the long-term.

Staff Summary of Public Testimony (Appropriations):

(In support) While bargaining, workers are faced with the untenable choice of accepting concessionary proposals from their employers, or risking housing, health care, and food instability. Some employers refuse to bargain fairly. Workers have a right to strike. This is a reasonable use of the unemployment insurance (UI) system. This will lead to reasonable wages and job security. The Employment Security Department expects claims to increase by less than 1 percent. The UI trust fund is in very good shape. Unemployment rates will be below prepandemic levels in 2026. This bill ensures workers can put food on the table. This bill helps workers access their right to strike.

(Opposed) The bill requires all businesses, regardless of whether they are involved in a labor dispute, to cover the costs of a strike. This bill may not comply with federal conformity requirements. The bill puts the UI program at risk and could jeopardize federal funding. This bill could have huge costs. The balance between employers and employees results in fair contracts. This bill would upset that balance and prolong work stoppages. The UI system is not designed to provide benefits when a worker voluntarily goes on strike. This bill puts the UI fund into jeopardy.

Persons Testifying (Labor & Workplace Standards): (In support) Representative Beth Doglio, prime sponsor; April Sims, Washington State Labor Council, American Federation of Labor and Congress of Industrial Organizations; Bryan Shanafelt, United Food and Commercial Workers Union Local 367; Rachel Ybarra, Starbucks Workers United; Rob Perdue, United Auto Workers; Jerry Sinclair, Association of Flight Attendants, Alaska Airlines; Brenda Wiest, Teamsters 117; and Ben Heiselt, Sapir Guth, and Bill Rudd, The International Brotherhood of Electrical Workers 46.

(Opposed) Bob Battles, Association of Washington Business ; Bruce Beckett, Washington Retail Association; Jerry VanderWood, Associated General Contractors of Washington; Brad Boswell, Seattle Metropolitan Chamber of Commerce; Julia Gorton, Washington Hospitality Association; and Bruce Chattin, Washington Aggregates and Concrete Association.

Persons Testifying (Appropriations): (In support) Sybill Hyppolite, Washington State Labor Council, The American Federation of Labor and Congress of Industrial Organizations; and Jon Holden, International Association of Machinists and Aerospace Workers District 751.

(Opposed) Robert Battles, Association of Washington Business; Cory Shaw, Washington Aggregates and Concrete Association; Jerry VanderWood, Associated General Contractors of Washington; Carolyn Logue, Washington Food Industry Association and Association of Builders and Contractors; and Julia Gorton, Washington Hospitality Association.

Persons Signed In To Testify But Not Testifying (Labor & Workplace Standards):
None.

Persons Signed In To Testify But Not Testifying (Appropriations): None.