

HOUSE BILL REPORT

ESSB 5041

As Reported by House Committee On:
Labor & Workplace Standards
Appropriations

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: Senate Committee on Labor & Commerce (originally sponsored by Senators Riccelli, Conway, Hasegawa, Saldaña, Salomon, Stanford, Dhingra, Nobles, Trudeau, Valdez, Bateman, Lovelett, Cleveland, Frame, Orwall, Pedersen, Slatter, Wellman and Wilson, C.).

Brief History:

Committee Activity:

Labor & Workplace Standards: 3/18/25, 3/21/25 [DP];
Appropriations: 4/4/25, 4/7/25 [DP].

Brief Summary of Engrossed Substitute Bill

- Allows individuals unemployed due to a labor strike to receive up to 12 weeks of unemployment insurance (UI) benefits following a specified disqualification period, from January 1, 2026, through December 31, 2035.
- Removes the disqualification from UI benefits based on an employer-initiated lockout resulting from a strike against another employer in a multi-employer bargaining unit, from January 1, 2026, through December 31, 2035.

HOUSE COMMITTEE ON LABOR & WORKPLACE STANDARDS

Majority Report: Do pass. Signed by 6 members: Representatives Berry, Chair; Fosse, Vice Chair; Scott, Vice Chair; Bronoske, Obras and Ortiz-Self.

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.

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

Staff: Kelly Leonard (786-7147).

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.

Benefits. Eligible workers can receive up to 26 weeks of UI benefits in a benefit year. The weekly benefit amount is calculated based on the eligible worker's earnings in the prior base year and then adjusted based on a statutory formula. The current maximum weekly benefit amount is \$1,079. 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 1 percent per month on the outstanding balance if the individual fails to repay the overpayment and fails to arrange a repayment plan.

Payroll Taxes. 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.

Disqualification Based on a Strike and Lockout.

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 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 in a final judgment; or
- the date the strike is terminated.

The worker is subject to the one-week waiting period before receiving benefits. The worker may receive weekly benefits for no more than 12 weeks. However, any weekly benefits received unrelated to the individual's unemployment due to a strike may not be counted toward those 12 weeks.

The ESD must issue an overpayment assessment for recovery of benefits if either the worker subsequently receives retroactive wages for any week for which he or she received benefits or a final judgment finds that a strike is prohibited by state or federal law. For contribution-paying employers, benefits paid to striking workers are charged only to the experience rating of the separating employer.

These provisions expire December 31, 2035, after which the provisions disqualifying a worker for the duration of a strike are reinstated.

By December 31, 2025, and continuing annually each year until 2035, the ESD must submit a report to the Legislature on the prevalence of strikes and the impact of strikes on the UI Trust Fund. The report must include certain data elements described in the bill, including

for example, the total number of strikes, the number of employees that participated in each strike, the number of UI claims paid to workers participating in the strikes, the total amount of UI benefits paid, the number of employers who experienced a rate class increase in the year following a labor strike, any increase in the social cost factor rate, and the UI benefits paid which are charged to employers who make payments in lieu of contributions.

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.

These provisions expire December 31, 2035, after which the provisions disqualifying a worker based on a lockout are reinstated.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect on January 1, 2026.

Staff Summary of Public Testimony:

(In support) This bill allows access to a social safety net for workers and their families, allowing them to afford basic needs like food and housing. This is the purpose of the UI system. Strikes are always a last resort. A person will not go on strike in order to collect UI benefits, which only cover a portion of lost wages and are capped. The bill is about fairness and justice for these workers. In some instances employers have been known to attempt to starve out workers while continuing to violate their rights. Striking workers face extreme economic insecurities, sacrificing food, housing, and medical care. Workers should not be coerced into accepting unfair contract terms that drive down labor standards. Striking workers fighting for their first contract are particularly affected by abusive and coercive tactics. Workers have been offered a mere cents per-hour increase while Chief Executive Officers make tens of thousands of dollars per day or even per hour. There is a fundamental power imbalance in favor of employers. UI benefits will provide basic stability to workers while allowing them to stay at the bargaining table. Employers will be incentivized to bargain fairly. The bill represents a reasonable compromise. Benefits are capped at 12 weeks. The ESD must conduct an annual study of the impacts to the UI Trust Fund. The entire bill sunsets after 10 years. Washington will not be the first state to do this. New York and New Jersey also allow for UI benefits for striking workers, and multiple other states allow for these benefits when a labor strike is tied to certain labor law violations. There is no evidence to support the claim that UI benefits will increase strike activity. The

claims that the bill will result in tax increases for unaffected businesses are untrue.

(Opposed) It is inappropriate to provide UI benefits to striking workers. The UI system is a safety net for workers who have lost their jobs. The UI system is designed for workers who are unemployed through no fault of their own, are able to work, and are actively seeking work, none of which apply to striking workers. The system is paid for by employers, not employees. UI benefits are not meant to pay for labor disputes. The bill upsets the careful business of labor negotiations. With the availability of UI benefits, strikes will become more prevalent and last longer. Strikes have significant impacts on business operations and financial conditions, which will worsen with higher payroll taxes required to offset UI benefits. The bill will have serious economic consequences across all sectors. Strikes impact workers, businesses, and communities, including the economic ecosystem relying upon stable operations of large scale employers. Long strikes cause businesses to close and projects to shut down. Small businesses that have yet to recover to pre-pandemic levels cannot afford to absorb the costs of longer-term strikes in their communities or the costs of subsidizing the labor disputes of other businesses through higher payroll taxes. Even though benefits are charged to employers, there are likely to be impacts to the fund that will affect premiums for all employers in the system. The fiscal note for the bill is incomplete because it specifically excludes the impacts and costs of large scale strikes, and it limits its analysis to strikes lasting only four weeks.

Persons Testifying: (In support) Senator Marcus Riccelli, prime sponsor; April Sims, Washington State Labor Council, AFL-CIO; Jan "Mikey" Abapo, International Association of Machinists, 751; Alexa Tapia, National Employment Law Project; Pearl Johnson, UNITE HERE Local 8; Erin Haick, SEIU local 925; Brenda Wiest, Teamsters local 117; Alex Hufstetler, IBEW local 56; Jerry Sinclair, Association of Flight Attendants, Alaska Airlines and CWA; Alex Hufstetler, IBEW local 46; and Tom Bosserman, Starbucks Workers United.

(Opposed) Lilly Hayward, Seattle Metro Chamber; Lindsey Hueer; Neil Strege, Washington Roundtable; Cory Shaw, Washington Aggregate and Concrete Association; Patrick Connor, NFIB; Julia Gorton, WA Hospitality Association; Carolyn Logue, Washington Food Industry Association; and Amber Carter, Washington Retail Association.

Persons Signed In To Testify But Not Testifying: Paul Jewell, Washington State Association of Counties; Miriam Battson, Gig Harbor Chamber of Commerce; Candice Bock, Association of Washington Cities; Elizabeth New, Washington Policy Center; Marissa Rathbone, Washington State School Directors' Association; Katherine Mahoney, South Sound Superintendents; Christine Brewer, Associated General Contractors; Jerry Chase, Aerospace Futures Alliance; Joel Bouchey; Bill Clarke, WA PUD Association; Anthony Holan, and Jon Holmen, Lake Washington School District.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: Do pass. Signed by 17 members: Representatives Ormsby, Chair; Gregerson, Vice Chair; Macri, Vice Chair; Berg, Bergquist, Callan, Cortes, Doglio, Fitzgibbon, Leavitt, Lekanoff, Peterson, Pollet, Ryu, Stonier, Street and Thai.

Minority Report: Do not pass. Signed by 13 members: Representatives Couture, Ranking Minority Member; Connors, Assistant Ranking Minority Member; Penner, Assistant Ranking Minority Member; Schmick, Assistant Ranking Minority Member; Burnett, Corry, Dye, Keaton, Manjarrez, Marshall, Rude, Springer and Tharinger.

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

Staff: Sydney Jeffrey (786-7303).

Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Labor & Workplace Standards:

No new changes were recommended.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect on January 1, 2026.

Staff Summary of Public Testimony:

(In support) The goal of this bill is to avoid strikes, not prolong or increase the frequency of them. This bill will equalize the playing field for workers, who live paycheck to paycheck, against large corporations who practice stall and starve tactics. Workers on strike that are bargaining for contracts, with organizations such as Starbucks, do not have strike funds to provide workers.

If you look at publicly available data on rate classes and the number of employees in those rate classes, you would be able to calculate that there is a less than 1 percent chance that rates would be socialized. The actual strike data shows that there were zero strikes that impacted small businesses in Washington. If you look at rate classes 1 to 10, you are accounting for 80 percent of employers in the entire state. Rate class 1, which is 46 percent of employers, has zero benefits charged, so there is no experience rating there. Rate class 10, which gets you up to the 86 percent of employers, has negligible benefits charged. Therefore, if you also consider that the employer population predominantly being dealt with are unionized employers, very few people are impacted.

It is unlikely that this bill would have a negative fiscal impact on any public employers. Cities and counties have not experienced a strike in the state in at least the last 25 years.

With respect to schools, when educators go on strike, there is no loss in earnings due to the 180-day employment calendar.

(Opposed) In state statute, public employees are generally prohibited from striking. There are concerns that this bill includes public employers. Counties have been very fortunate they have not been involved in a labor strike for many years. However, illegal strikes in Washington are not unheard of. Under this bill, to prevent public employees engaged in an illegal strike or work stoppage from receiving benefits, public employers bear the responsibility of seeking a final judgment to ensure that they would not have to pay or recoup any benefits that may be paid out to striking employees. This is an added cost to public employers, as they would be responsible for litigation costs associated with seeking a final judgement. Local government employees are inappropriately included in this bill. The Legislature should choose one of the following options: (1) find a way to remove public employers from the bill; (2) provide a way for public employers to recoup costs for litigation to reach a final judgement; or (3) do not pass the bill.

This bill could make life even less affordable to many of the state's workers. Union members pay hundreds of dollars in union dues every year resulting in millions and tens of millions of dollars for unions, which are not spent on things such as wage replacement for union members, but rather the wages of union employees who often make far more than union members. During the last 20 years, the average number of major work stoppages at the beginning of the year was 16.7 compared to the 33 at the beginning of 2023, indicating that striking is not a last resort.

The state's unemployment insurance (UI) system is currently stable but struggling to meet service goals. This bill would further strain the system which was never intended to cover large scale labor disputes. During the pandemic, the UI system endured with the help of billions in federal and state aid. That support will not be available for labor disputes. Given the recent federal activity, and that Washington is the most trade dependent state in the nation, stability is not guaranteed and is in fact now in jeopardy. The UI system has managed to support workers in times of need, but, even now, the Employment Security Department (ESD) only meets the 21-day payment goal 68 percent of the time. A major labor dispute, such as the one at Boeing that occurred in the fall of 2024, could stretch benefit payments out to 72 days. This bill risks destabilizing a critical system, and is bad for the system, businesses, and workers.

Right now, there is a balance between labor and business where both sides have skin in the game and both sides suffer if there is a strike. However, provisions of this bill serve to degrade cyclical contracts by creating an imbalance in negotiations, providing workers with an artificial advantage, and will extend time frames that strikes may last.

A concrete truck driver strike that occurred in November 2021 lasted 20 weeks. This strike had an incredible ripple effect and resulted in involuntary layoffs of 15,000 additional workers across the state. Sound Transit and the Washington Department of Transportation

were not immune to the effects and had layoffs as well. If this bill were to move, an additional provision that should be included in this bill is language that requires the unions to exhaust their strike funds prior to any access to state funds.

The effects of strikes are far reaching and beyond the unemployment reserves of the state. It will not just impact a single business at a time. The reality is that many businesses and industries are connected and a strike at one entity may result in a strike at another, or, at the very least, have a negative impact on businesses that rely on the striking entity in some capacity.

Governor Ferguson mentioned on the press conference on Tuesday, March 31, that this is not the time for new investments and new programs, especially those with unclear financial implications. Based on his statement, this bill should no longer be on the table. To go on strike is a conscious decision that carries consequences. One of those consequences is not being paid, and such behaviors should not be rewarded.

The Boeing strike in the fall of 2024 resulted in all the aerospace companies in the state having to furlough employees or put them on shared work. This resulted in those employees either leaving for other sectors or many of them continuing to only be part-time or in a shared work arrangement, even today. When looking at this bill, consider that for aerospace companies to continue to manufacture airplanes in Washington, a strong workforce and supply chain is needed. If this bill is adopted, Washington may not have either of those things in the future.

(Other) An amendment exempting public employees who are prohibited from striking from getting UI benefits should be included in this bill. Such an exemption is believed to not cause conflict with federal law, particularly when it is tied to the strike status. People say that a public employee strike is not going to happen, but it has happened before. Also, if it is not going to happen, then there is not a need to create ambiguous conditions that would exist in the absence of an amendment in this area. This bill should be amended in a manner that makes it clear, and does not make school districts go through unnecessary steps.

Persons Testifying: (In support) Lynette Shiroma; Joe Kendo; and Brenda Wiest, Teamsters117.

(Opposed) Paul Jewell, Washington State Association of Counties; Elizabeth New, Washington Policy Center; Julia Gorton, WA Hospitality Association; Cory Shaw, WA Aggregate and Concrete Association; Christine Brewer, Associated General Contractors; Lindsey Hueer, Association of Washington Business; Neil Strege, WA Roundtable; Lilly Hayward, Seattle Metro Chamber of Commerce; Carolyn Logue, WA Food Industry; Candice Bock, Association of Washington Cities; Katherine Mahoney, South South Supertintendents; Ruphina Nord, Washington State Young Republicans; and Jennifer Ziegler, Aerospace Futures Alliance.

(Other) Grace Yuan, School Alliance.

Persons Signed In To Testify But Not Testifying: None.