

SENATE BILL REPORT

SB 5041

As Reported by Senate Committee On:
Labor & Commerce, February 14, 2025
Ways & Means, February 28, 2025

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: 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 & Commerce: 1/21/25, 2/14/25 [DPS-WM, DNP].
Ways & Means: 2/25/25, 2/28/25 [DPS (LC), DNP].

Brief Summary of First Substitute Bill

- Allows individuals unemployed due to a labor strike to receive 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.
- 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

Majority Report: That Substitute Senate Bill No. 5041 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

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.

Signed by Senators Saldaña, Chair; Conway, Vice Chair; Alvarado, Ramos and Stanford.

Minority Report: Do not pass.

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

Staff: Susan Jones (786-7404)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Substitute Senate Bill No. 5041 as recommended by Committee on Labor & Commerce be substituted therefor, and the substitute bill do pass.

Signed by Senators Robinson, Chair; Stanford, Vice Chair, Operating; Trudeau, Vice Chair, Capital; Frame, Vice Chair, Finance; Cleveland, Conway, Dhingra, Hansen, Hasegawa, Kauffman, Pedersen, Riccelli, Saldaña, Wellman and Wilson, C..

Minority Report: Do not pass.

Signed by Senators Gildon, Ranking Member, Operating; Torres, Assistant Ranking Member, Operating; Schoesler, Ranking Member, Capital; Dozier, Assistant Ranking Member, Capital; Boehnke, Braun, Muzzall, Wagoner and Warnick.

Staff: Josh Hinman (786-7281)

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 a specified good cause; and
- is able and 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.

Certain benefit payments are not charged to the experience rating accounts of employers paying contributions to the UI program.

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, 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 participating in, financing, or directly interested in the strike or lockout.

The disqualification ends when the strike or lockout is terminated.

Summary of Bill (First Substitute): The disqualification for striking workers is modified as follows:

- the disqualification for striking workers ends on the earlier of: (1) 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 (2) the date the strike ends;
- if a final judgment finds that a strike is prohibited by state or federal law, any benefits paid must be repaid by the workers;
- if retroactive wages are paid for any weeks the individual received benefits, ESD must issue an overpayment assessment to recover the benefits;
- the regular one-week waiting period applies after the disqualification ends; and
- for contribution-paying employers, benefits paid to striking workers are charged only to the experience rating of the separating employer.

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.

Appropriation: None.

Fiscal Note: Available.

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

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

Staff Summary of Public Testimony on First Substitute (Labor & Commerce): PRO: This bill allows access to a social safety net for workers and their families by making sure employees on strike can access unemployment insurance after two weeks so they can afford basic needs like food and housing. No one goes on strike to get unemployment insurance benefits, which only provide a partial wage replacement. In the last decade, only seven strikes would have qualified under this bill, major strikes.

It's a benefit to all when people join together and speak with a more collective voice to have

a say about their compensation and the work environment. Without a social safety net during a strike, workers are faced with tremendous pressures to end the strike quickly or never go on strike in the first place. This levels the playing field.

America has an inequity problem. Employers who refuse to bargain in good faith should not be allowed to use economic pressure to punish workers for exercising their rights. Structures in place to recognize unions have suffered for decades with underfunding from Congress. Strikes are not taken lightly. It is a difficult decision made during an intense period of dispute.

There's a power imbalance between workers and the corporations who take advantage of the working conditions. Experiences were shared of difficult working conditions and workers' financial difficulties during strikes. Strike funds are not enough. Strikes involve uncertainty, sacrifice and risk, including loss of health care. Striking workers are temporarily disconnected from their employers and their paychecks. That's exactly the type of worker UI was designed to support. In New York and New Jersey, which already offer UI benefits to striking workers, there is no evidence that access to UI benefits makes workers more likely to go on strike. If employers know that workers have this support, employers may be more likely to bargain fairly so that a strike is less likely to occur.

Some employers asked to delay the bill to get more time to understand the obligations and for ESD to implement the bill. That is why the effective date is delayed to January 1, 2026.

CON: When it comes to labor disputes, a fair question to ask is who pays? From a small business perspective, the labor organizations and their workers have the responsibility and obligation to plan ahead for a labor stoppage by having a robust strike fund available. Small employers are already paying a higher social tax rate as a result of a UI agreement that was made during the pandemic. With social taxes already inflated and that even if these additional benefits are to be experienced, those larger employers suffering strikes would either be at or quickly reach rate class 40, meaning their premiums and contributions would be capped. That creates a shift to all other employers. The tax rate would go up for small businesses not involved in the labor dispute. Small businesses simply cannot afford to subsidize large employers and their unionized workforces who get into labor disputes.

Washington already pays some of the highest unemployment costs in the country. This tax is a 100 percent employer paid and goes up administratively every year with the increase in the state average wage. When an employer's experience rate exceeds the highest allowable rate, those additional costs are socialized across all employers. This bill disrupts that balance, tipping the scale in favor of one side. Such a shift could have severe consequences for critical sectors, including schools, infrastructure, medical institutions and other key economic drivers. UI wasn't meant to pay workers in labor disputes. We don't know how many strikes this change will inspire. Driving businesses out of Washington with bad policy leaves workers with fewer options.

Strikes also have a negative impact on local and regional and state economies, local shops and retail stores that rely on the business from the employers and employees that are affected by these strikes, and they suffer when strikes are prolonged. This bill will disincentivize timely resolution to strikes further hurting our economies at the local and state level.

This bill has the potential to delay and increase infrastructure project costs. Examples of past strikes were given, which increased housing development and transportation project costs.

OTHER: For federal conformity, it would likely be a conformity issue with the USDOL guidance to differentiate between public and private sector. Looking at the factors, other than the reason workers are no longer employed, could potentially be a conformity issue. For the impact on the fund, there are employers who pay in premiums and have experience rated charges and reimbursable employers, who are not insured. For reimbursable employers, they are billed for the benefits and have to pay the ESD back. Examples were given of public employers where they would have to reimburse ESD for benefits paid.

Persons Testifying (Labor & Commerce): PRO: Senator Marcus Riccelli, Prime Sponsor; Anne Paxton, Unemployment Law Projexr; Amy Traub, National Employment Law Project; Jan Michael Abapo; Rachel Ybarra, Starbucks Workers United; Jose Martinez, United Farm Workers; Brenda Wiest, Teamsters local 117; Alex Hufstetler, IBEW Local 46; Karyna Babaiants, SEIU Local 6; Joe Kendo, Washington State Labor Council, AFL-CIO; Jan Michael Abapo, Machinists District Lodge 751; Pearl Johnson, UNITE HERE Local 8; Andrew Stinson, Association of Flight Attendants, CWA Local 19.

CON: Elizabeth New, Washington Policy Center; Patrick Connor, NFIB; Mike Ennis, BIAW; Amber Carter, WA Retail Association; Cory Shaw, Washington Aggregates & Concrete Association; Lindsey Hueer, Association of Washington Business; Julia Gorton, Washington Hospitality Association; Sarah Clark, Seattle Chamber of Commerce; Neil Strege, WA Roundtable.

OTHER: Dan Zeitlin, Employment Security; Josh Dye, ESD.

Persons Signed In To Testify But Not Testifying (Labor & Commerce):

CON: Roland Bonser; Scott Hooper; JENNIFER HUMBLE, MOTION ENGINEERING & FABRICATION; Carolyn Logue, Washington Food Industry Association; rochelle marsh; Brent Bair; Joseph Lembo; Jeff Clement; Mary Urban; Jacquie Roach; Jeremy Underwood; Nick Marin; Kelsey Van Miert, Northwest Health Care Linen; Becky Barnhart, Integrus Architecture; Tim Smith; John Kemler, RBK Manufacturing; Rob Fritz; Brian Trimble, Herzog Family Center; Stefanie Peterson; Kendra James; NICOLETTE WEGNER, Chinook Enterprises; Howard Rew; Robert Price, Price Cold Storage & Packing Co; Tom James; Christopher Hannon, Watson Furniture Group; Phillip Selmer; Katherine Seward,

SUPERIOR LINEN SERVICE; Dennis Flabetich ; Wes Davis; Sharon Royne; Darin Willis; Craig Leuthold, Maryhill Winery; Teri M Zimmerman; Allison Budvarson, Out of the Box Manufacturing; Janice Stephens; Ryan Umstadd ; Andy Barth, Inland Power & Light; Heather Burgess; Michael Shea, Summit Salon Academy; Kari Magill; Frederick Hoffman; Marc Gonchar; John Snedeker, Salmon Terminals ; Craig Parkinson, Individual; Lewis Ralph; Shannon Hoffee, Wide Hollow Development; bill kaczmarek; Shannon Oakley; David Zemek; Joseph Carman; Robert Vixie, Cowiche Growers, Inc.; ROBERT HOLLAND, Insure with Bob, Inc.; TJ Houk; Doran Docken, Databar inc; LaTisha Robinson, Precision Turf Equipment, LLC; Jared Laprise, JB Emerging Tech Solutions; Mackenzie Del Valle; Len Zarelli ; MICHELLE REEVES, Reliable Electric; MAYLENE FISHER; Preston Dunn, Zemek Construction; Alex Fong, Signarama Redmond, WA; Jason Irving; Dory Chase, Simpson Door Company; Christopher Burgess; JAMES BOBST, VICE PRESIDENT, CORPORATE RELATIONS; jim powers; Rosemary Brester; Wendy Marsolek; Lawrence Shaw, NorMed; Nguyen Ta, Tetra Pak; curtis evanenko; Bill Symmes; TRACEY MOREN; Craig Griffith; Corey Rogers, Ward Rugh, Inc.; Kathy Scanlan, Northwest Abrasives, LLC; Josh Jorgensen, Mission Ridge Ski & Board Resort; Mary Morgan; Michele Willms, Associated Geneal Contractors of Washington (AGC); SUE WALKER, Toscanos Cafe and Wine Bar; Christina Hodgson; Kevin Robertson; Mason Hudson; Thomas Simmons, True Light Electric; Thomas Dooley, HighLine Grain Growers, Inc.; Julie Richards; Troy Lautenbach, 13084 Ball rd; Toby Sutton; Melissa Slaughter, Group Solutions Northwest LLC; Miker Mayer; kamran rahman; Doug Bobay; Mark Hansen; douglas simpson, ballard sheet metal works, inc.; Susanna Simpson; Robin Korthuis, Lynden Family Physical Therapy; Prescott Tuesley; Kimberly Carpenter; Jennifer Ziegler, Aerospace Futures Alliance; Rodney Hill; Brian Morrish, Morrish Design Group; John Levenda; Harry Thetford, Sound Earthworks, Inc.; MIRIAM DAVIS.

OTHER: Meenakshi Rani, G4 Telecom.

Staff Summary of Public Testimony on First Substitute (Ways & Means): PRO: This is not a novel concept and not a radical reimaging about employment insurance. Unemployment insurance is designed to replace wages for workers. The U.S. Supreme Court has determined this to be an acceptable use. New York and New Jersey both have had this option for several years. Their economies have not suffered. Despite having higher rates of union density than Washington, New York has not experienced a higher rate of strikes. Over the last four years, there have been 11 strikes in Washington State lasting more than 14 days. Of these, 11 qualifying strikes, not one involved public sector employment. There has not been any strike of any municipal or county workers over the last 20 years or perhaps longer. This bill will help thousands of low wage workers assert the right to organize during a period of runaway income inequality.

If you look at the publicly available data on rate classes and the number of employees in those rate classes, you could do the math and calculate that there is a less than 1 percent chance that rates would be socialized. And if you look at actual strike data, it shows that there were zero strikes that impacted small businesses. Forty-six percent of the businesses

across the board are in rate class 1, which means they have almost zero benefit charges. If you go to rate class 10, you cover 80 percent of businesses. If you have a strike in one of those years, your rates are going to return to normal in four years.

CON: We're opposed to the entirety of this policy. We think it's inappropriate to force employers to pay for the cost of a striking worker. UI should be a safety net for workers that have no job to return to and that's not the case with workers on strike. The first fiscal note estimated over a million dollars in biennial ongoing costs. Almost all of this would be paid out of the ESD Administrative Account and all employers pay into this. So the assertion that this bill will only cost employers with their workers on strike is absolutely false. This policy has been introduced in several states and been rejected in every single one of them.

We appreciate that this proposal allows for repayment of benefits that may have been paid if a strike is prohibited by state or federal law. Public employees are prohibited from striking. Unfortunately this requires onerous and expensive litigation on the part of the public employer to get to that final judgment in a court. So we ask that you do not advance this provision.

We are concerned that at some point we will have a large event. We'll have a situation where rate class 40 is hit or an employer leaves a state, in which case all of those costs will in fact be socialized. This means a small business will be paying for a large strike. We are also deeply skeptical of the fiscal note.

We share the same concerns from cities and from state agencies, we believe this bill will cost counties money. Counties shouldn't have to get a judgment from a court to state that an illegal work stoppage is illegal and to deny benefits.

I'd ask you to shift your focus for a moment, not directly to the employees receiving unemployment insurance for strikes, but the employees who are impacted in other businesses by long-term strikes. And all of our companies can tell you a number of stories from the most recent labor dispute. In many cases, many of them have employees they had to furlough who left to other sectors. In other cases, we have employees who are still on shared work as a result of the lengthy labor dispute that occurred last year. We're very concerned that this bill creates a situation where we will not have a skilled workforce nor a strong supply chain.

In 2021, there was a strike where 15,000 workers were impacted by 330 striking workers. Washington Department of Transportation had to lay off 163 workers and Sound Transit had to lay out 270 workers. The strike lasted 140 days.

A quick Google search will show that the teamsters has about 300 million in their strike fund with 1.4 million members across the country. This seems to me like the unions could take better care of their striking workers.

On behalf of the South Sound Superintendent, the school districts are very concerned as a reimbursable employer. If there are strikes, under this law, we would have to reimburse the ESD for the costs of this strike. So I want to be very clear that school districts would be impacted by this. We ask that if you're going to include school districts in this, that you put some language that asks for mandatory arbitration.

The fiscal note completely underestimates the impact of this bill. Instead of using Washington's current annual filing rates as a baseline, ESD uses another state that has a lower rate—then jumps through a series of assumptions and equations to ratchet that number down further. They exclude the Boeing strike last year. They exclude the Teamsters' concrete strike and they exclude one-week strikes. This cherry picking of data allows ESD to claim an artificially lower number.

Striking workers are ineligible, yet that does not stop them from trying to get benefits. ESD already averages more than 2300 per year from striking workers, which is much higher than the fiscal note states as the fiscal impact. We believe a Washington State fiscal note should be based on Washington State facts. We are opposed to having other employers pay for the cost of those negotiations impacting the broader state economy and workforces that have nothing to do with the strike.

OTHER: Employment Security Department staff are present to assist legislative staff and testifiers to answer various member questions.

Persons Testifying (Ways & Means): PRO: Joe Kendo, Washington State Labor Council, AFL-CIO; Brenda Wiest, Teamsters117.

CON: Lindsey Hueer, Association of Washington Business; Patrick Connor, NFIB; Candice Bock, Association of Washington Cities; Paul Jewell, Washington State Association of Counties; Jennifer Ziegler, Aerospace Futures Alliance; Cory Shaw, Washington Aggregates & Concrete Association; Charlie Brown, South Sound Superintendents; Mike Ennis, Building Industry Association of Washington (BIAW); Julia Gorton, Washington Hospitality Association.

OTHER: Josh Dye, Employment Security Department.

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.