



S.8130 (Kennedy) / A.9540 (Wallace)

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| BILL S.8130 (Kennedy) / A.9540 (Wallace) |
| SUBJECT Relates to Decreasing the Length of the Suspension Period Applicable to Certain Striking Workers Who Seek to Obtain Unemployment Insurance Benefits |
| DATE June 01, 2022 |
| OPPOSE |

This bill proposes to reduce the suspension period for unemployment (UI) benefits for striking workers from its current two weeks to one week.

While there are many policy arguments against this proposed change, it is notable that the state legislature is now proposing to enhance UI benefits and increase costs to the state's UI system, after doing nothing during the FY 2023 budget cycle to provide employers with relief from record-high UI taxes in New York, nor help repay the state's now \$8 billion plus federal UI program debt – the entirety of which under existing state law will be repaid through increased payroll taxed on employers.

This legislation would result in the government using a benefit transfer program to “take sides” in an industrial dispute on behalf of employees. Currently only New York, Rhode Island, and recently New Jersey, allow any such benefits to strikers, and no state provides this benefit with just one week's waiting period (New Jersey requires thirty days, Rhode Island seven weeks).

The Business Council, on behalf of its more than 3,500 members opposes this type of government interference as an improper use of the unemployment insurance system.

Research has shown (*Hutchens, Robert M., David B. Lipsky, and Robert N. Stern. 1989. Strikers and Subsidies: The Influence of Government Transfer Programs on Strike Activity*) that there is a direct and significant correlation between the payment of unemployment benefits for striking workers and the frequency of strikes. This result in contradictory to a government's role to promote labor peace.

As unemployment benefits are the result of taxes levied on employers and employers alone, asking one party to bear the full cost of strike activity – and then compensating the other side for unemployment related to a strike –

comes in conflict with the goal of promoting industrial peace. Since the passage of the Taft-Hartley Act of 1947 it has been the clear purpose of government to act as a “referee” in labor disputes. Ensuring that the rules are followed and that no “unfair labor practices” are used.

Unemployment benefits are for those who are “involuntarily” unemployed. The current New York suspension period was the result of a committee seeking compromise for its passage in 1935 (and amending in 1941). That committee acknowledged that after a period of time, a work stoppage as the result of a labor dispute could become uncertain as to whether the employee was unemployed voluntarily or involuntarily. As a result, the compromise was to establish a suspension period of ten weeks (reduced by the legislature to 8 weeks in 1941 and then reduced further to two weeks in 2020).

In contrast, the state’s provision of striker benefits and its short waiting period encourages unions to strike, prolongs the duration of existing disputes, violates the principle of state neutrality in labor disputes, interferes with the federally established policy of “free collective bargaining,” constitutes an unnecessary drain on the state's unemployment insurance fund, and, because employer unemployment insurance taxes are experience rated, forces employers to finance strikes against themselves.

To further reduce the suspension period to only one week would not only exacerbate those problems but – as indicated by the research – have a dramatic effect on strike frequency. This is contrary to the stated role of government in maintaining industrial peace. It is also certain that employers, forced to bear the entire burden of a labor dispute, look to locate their business in one of the other 47 states that do not require them to do so.

The government has other public benefit programs it could use to ease the burden of striking workers if it determined necessary and appropriate to do so, with the cost of these other programs paid for through the state budget and broadly supported by all state taxpayers. If the public policy of the state is to relieve the financial burden on striking workers, we suggest use of these other government transfer programs.

For the reasons stated above, The Business Council of New York State opposes this legislation.