

# S.4402 (Kennedy)/A.1443 (Wallace)

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<b>BILL</b> S.4402 (Kennedy)/A.1443 (Wallace)
<b>SUBJECT</b> Unemployment Benefits for Striking Workers
<b>DATE</b> June 01, 2023
<b>OPPOSE</b>

This bill would reduce the suspension period for unemployment (UI) benefits for striking workers from the current two weeks to one week. The sponsor’s memo argues that this is needed to provide “parity” to unionized workers. However, unionized employees already have a significant statutory advantage over other employees as New York – unlike forty-seven other states – authorizes UI benefits to strikers, when other workers can generally only claim benefits due to loss of work beyond their control

control.

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 2024 budget cycle to provide employers with relief from record-high UI taxes in New York, nor help repay the state's \$8 billion federal UI program debt – the entirety of which under existing state law will be repaid through increased payroll taxed on employers. In contrast, thirty-three other states have devoted more than \$26 billion in public funds – largely from the federal CARES act or ARPA – to pay off federal advances, stabilize their UI programs, and reduce the UI tax burden on their employer community.

Moreover, later this year, New York employers will be receiving another special assessment from the state to pay an estimated \$130 million in interest on our outstanding federal advances.

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 is contradictory to a government's role to promote labor peace.

As unemployment benefits are paid for entirely through taxes levied on employers, 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

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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 is an inducement for unions to strike, may prolong 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.

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

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