



## Employment Law Note

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# Washington State Legislature Fails to Approve Unemployment Benefits for Striking Workers



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House Bill (“HB”) 1893 has not passed after it failed to advance to the Senate floor by the March 1 cutoff. The bill, if passed, would have allowed workers who walk off the job to strike to qualify for up to four weeks of unemployment insurance benefits. Employees would have become eligible on the second Sunday following the first day of a strike and could then begin to receive benefit payments after an additional one-week waiting period. Additionally, had the bill passed, employees would have also no longer been disqualified from unemployment insurance during employer-initiated labor lockouts.

The bill, which was sponsored by Rep. Beth Doglio, D-Olympia, and 50 other representatives, passed the House on February 12 with a vote of 53-44 but failed to make it to the Senate floor before a key cutoff deadline on March 1.

### Background

The bill aimed to help striking workers with certain expenses (housing and food) while they negotiate with their employers, reducing the economic hardship employees face when not working. Those sponsoring the bill urged lawmakers to adopt it, in part, because they believed it would encourage employers to come to the table and negotiate in good faith.

Those opposed to the bill cautioned that it could interfere with the collective bargaining process and provide an incentive for unions to prolong strikes and refuse to return to work, placing employers in an

unfair position. Those in opposition also expressed concern about the cost of funding such an expense given that unemployment insurance is funded exclusively by payroll taxes paid by employers. Employees do not pay into the system. Additionally, those in opposition indicated that the unemployment compensation system is predicated on the idea that workers should get benefits when they lose their jobs based on the actions of employers. In contrast, in the case of HB 1893, workers would have been provided with benefits under the system after having elected to go on strike. Employers argued that they should not be forced to pay for these benefits when it is the employees' decision to go on strike. Perhaps most importantly, those opposing HB 1893 pointed out that the bill may affect the long-term financial stability of the unemployment insurance trust fund.

### Some States Do Provide Unemployment Insurance to Striking Workers

Three states—New York, New Jersey, and Maine—provide unemployment benefits for workers on strike. Recently, California passed a similar bill, but it was vetoed by the Governor who indicated cost was the biggest concern.

Unions in Massachusetts and Connecticut have also pushed for laws allowing strikers to have access to unemployment benefits. To date, neither state has been successful.

While these laws in other states have no direct impact on Washington employers, the existence of continued efforts across the country to enact such protections

for striking workers suggests such efforts in Washington may continue in the future.

## What is in Washington's Future in Terms of Unions?

Over the past few years, Washington has seen an uptick in union formation for Seattle-based companies (e.g., Starbucks and PCC). Labor movements have been growing in the U.S.—particularly since the beginning of the pandemic—and they are likely going to continue to increase. Experts have stated that COVID-19 is the biggest factor in today's union surge. More and more people are joining labor unions each month and pro-union sentiment is the highest it's been in years.

Employees are rethinking their relationship with work and with their employers. While HB 1893 did not ultimately pass, it is likely that Washington will see similar bills aimed at protecting union workers. The landscape is in the middle of a shift and employers should be dialed in to employees' changing attitudes and perspectives. Employers are encouraged to consult with counsel to review their vulnerability to union organizing efforts and determine how they may respond to any such efforts.

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