

Date of Hearing: April 24, 2019

ASSEMBLY COMMITTEE ON INSURANCE  
Tom Daly, Chair  
AB 1066 (Gonzalez) – As Amended April 22, 2019

**SUBJECT:** Unemployment insurance: trade disputes: eligibility for benefits

**SUMMARY:** Permits workers involved in a trade dispute to collect unemployment insurance (UI) benefits. Specifically, **this bill:**

- 1) Permits workers involved in a trade dispute to collect unemployment insurance after a two week waiting period.
- 2) Codifies a California Supreme Court Decision (*Coast Packing Co. v. California Unemployment Insurance Appeals Board* (1966) 64 Cal. 2d 76) that found workers subject to a lockout eligible for UI benefits.

**EXISTING LAW:**

- 1) Establishes the UI program administered by the Employment Development Department (EDD) to provide partial wage replacement to workers who lost their job through no fault of their own.
- 2) Establishes a number of eligibility criteria for receiving UI benefits including the requirement that the recipient be able and available to accept suitable work and actively engaged in the search for suitable work.
- 3) Establishes a one week waiting period before an unemployed worker can obtain UI benefits.
- 4) Provides that workers out of work because of a trade dispute, other than a lockout, are ineligible for UI benefits.
- 5) Provides an unemployed worker with 50% of their weekly wages (based on the worker's highest quarterly earnings in the prior 18 months) with a maximum weekly benefit of \$450 for up to 26 weeks.
- 6) Requires employers to pay a state UI tax on the first \$7,000 of wages paid to a worker each year to pay the cost of UI benefits.
- 7) Requires employers, as a matter of federal law, to pay a federal UI tax on the first \$7,000 of wages paid to a worker to pay the cost of UI administration.
- 8) Establishes a schedule of UI tax rates (with a maximum rate of 6.2%).
- 9) Permits public employers and non-profit organizations to participate in the UI program on a reimbursable basis rather than be subject to the state UI tax.

**FISCAL EFFECT:** Undetermined

**COMMENTS:**

- 1) *Purpose.* According to the author, AB 1066 ensures that workers who go on strike due to a trade dispute would be eligible for UI benefits after a two week waiting period. These workers would be subject to the same requirements and limitations as other workers applying for UI benefits. Unemployment insurance exists to help workers who find themselves temporarily without a paycheck. Workers involved in a labor dispute merit support from the state, and this bill is one small step in ensuring all workers can exercise their right to strike.

Strikes are often the most impactful way working people can come together to influence terms and conditions of their employment. Employees can legally strike for economic reasons or to protest an unfair labor practice by their employer, such as an employer's failure to address harassment and discrimination in the workplace, failure to follow wage and hour laws, or refusal to bargain in good-faith with employees' union representatives. Union members vote on whether or not to strike, but because of the personal and collective sacrifices striking requires, many unions require a two-thirds majority vote in order to strike. Strikes can be undertaken as a last resort by employees wanting to resolve a significant labor dispute with their employer or when matters are at an impasse and workers have exhausted all other options. The risks are even greater considering that working people engaged in an economic strike can lose their jobs if their employer decides to hire permanent replacements. Even if striking workers receive a modest level of financial assistance through their union's strike fund – typically an average of \$150 to \$300 a week – it doesn't come close to a full-time, minimum-wage salary, and it certainly isn't enough to live on. Based on a May 2018 report from the Federal Reserve Board on the Economic Well-Being of U.S. Households, 4 out of 10 families would not be able to afford to pay a \$400 emergency expense. Given the significant financial sacrifices that are required of workers on strike, it's evident that this basic, protected right isn't realistically accessible for low-income workers. Workers who earn the lowest wages are among the most vulnerable employees in the workplace and have the greatest need to exercise their right to strike for improved conditions.

- 2) *Strikes.* According to data from the Bureau of Labor Statistics, the number of U.S. workers involved in work stoppages in 2018 (485,000), including both strikes and lockouts, was the highest of any year since 1986 (533,000). Last year saw 20 work stoppages which is the highest since 2007 which saw 21 major strikes and lockouts.

Data on trade disputes collected by EDD show upward movement in the number of California workers involved in trade disputes in recent years. In 2014, 472 employees were engaged in a trade dispute and 12,478 were in 2018. The numbers will continue to rise in 2019 with over 34,000 workers involved in trade disputes to date. That notable increase is driven by the Los Angeles Unified School District strike. The following are examples of recent trade disputes involving a large number of California workers:

- Pacific Maritime Association Dispute (2002)
- Grocery Dispute involving Ralphs Grocery Company, Albertson's, Inc., and Vons Companies, Inc. (2003)
- San Francisco Hotels Multi-Employer Group Dispute (2004)
- Writers Guild of America Dispute (2007)
- Tesoro Refineries Dispute (2011)
- Los Angeles Unified School District (LAUSD) Teacher Dispute (2019)

- 3) *Other States.* Some other states currently allow workers to collect unemployment benefits while on strike, most notably New York and New Jersey. In 2018, New Jersey enacted a law that allows workers on strike to collect unemployment benefits. This law allows workers to be able to file for unemployment insurance in labor disputes after 30 days when an employer violates the terms of an employment contract or collective bargaining agreement, or engages in an unfair labor practice that violates state or federal law. New York has long had a similar law with a 49 day waiting period.
- 4) *Suggested Amendment.* The author may want to consider amending the bill to extend the waiting period to 4 weeks. This would more closely reflect the legislation passed in New Jersey in 2018 which provides benefits to striking workers after 30 days.

## **REGISTERED SUPPORT / OPPOSITION:**

### **Support**

CA Conference Board of the Amalgamated Transit Union  
 CA Conference of Machinists  
 California Labor Federations, Sponsor  
 California State Association of Electrical Workers  
 California State Pipe Traders Council  
 California Teamsters  
 Communications Workers of America District (CWA), Co-Sponsor  
 Engineers and Scientists of CA, IFPTE Local 20, AFL-CIO  
 Inlandboatmen's Union of Pacific  
 Professional and Technical Engineers, IFPTE Local 21, AFL-CIO  
 United Food and Commercial Workers Western States Council (UFCW)  
 UNITE-HERE, AFL-CIO  
 Utility Workers of America  
 Western States Council of Sheet Metal Workers

### **Opposition**

Associated General Contractors  
 Building Owners and Managers Association  
 California Association of Realtors  
 California Association of Sheet Metal and Air Conditioning Contracts National Association  
 California Building Industry Association  
 California Grocers Association  
 California Hospital Association  
 California Manufacturers & Technology Association  
 California Professional Association of Specialty Contractors  
 California Trucking Association  
 Commercial Real Estate Development Association  
 Flasher Barricade Association  
 International Council of Shopping Centers  
 Official Police Garages of Los Angeles

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