

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

ASSEMBLY, No. 3861

**STATE OF NEW JERSEY
218th LEGISLATURE**

DATED: JUNE 26, 2018

SUMMARY

- Synopsis:** Concerns unemployment compensation and labor disputes.
- Type of Impact:** Indeterminate increase in expenditures from the Unemployment Insurance Compensation Trust Fund, partially if not fully offset by an indeterminate increase in revenue to the Unemployment Compensation Auxiliary Fund.
- Agencies Affected:** Department of Labor and Workforce Development (DOLWD)

Office of Legislative Services Estimate

Fiscal Impact	
State Cost	Indeterminate
State Revenue	Indeterminate

- The Office of Legislative Services (OLS) estimates that the bill may result in annual increase in Unemployment Insurance (UI) compensation trust fund expenditures and revenue collections.
- The OLS estimates that the bill may result in an indeterminate annual increase in expenditures from the UI compensation trust fund due to the unemployment insurance benefits that could be provided during certain labor disputes under the bill.
- The OLS also estimates that the bill may result in indeterminate annual increase in revenue to the unemployment compensation auxiliary fund due to the collection of penalties established under the bill and additional employer UI taxes as a result of larger unemployment insurance claims. The OLS notes that the bill’s indeterminate annual increase in State expenditures and revenue collections may partially, if not fully, offset one another.
- The OLS cannot quantify the fiscal impact of this bill as the nature and number of labor disputes from year to year are unpredictable.

BILL DESCRIPTION

This bill permits the payment of Unemployment Insurance (UI) benefits during labor disputes under certain specified conditions.

The bill provides that, for any claim for a period of unemployment commencing on or after July 1, 2018:

1. A claimant is not disqualified because of a labor dispute if the labor dispute is caused by the failure or refusal of the employer to comply with an agreement or contract between the employer and the claimant, including a collective bargaining agreement with a union representing the claimant, or a State or federal law pertaining to hours, wages, or other conditions of work; and

2. If the unemployment of a claimant is caused by a labor dispute, including a strike or other concerted employee activities, but not by a lockout or a labor dispute caused by the employer non-compliance indicated by the bill, the claimant shall not be provided benefits during the first 30 days following the commencement of the labor dispute, except that the waiting period shall not apply if the employer hires a permanent replacement worker for the claimant's position. A replacement worker shall be presumed to be permanent unless the employer certifies in writing that the claimant will be permitted to return to his or her prior position upon conclusion of the dispute. If the employer does not permit the return, the claimant shall be entitled to recover any benefits lost as a result of the 30 day waiting period before receiving benefits, and the department may impose a penalty upon the employer of up to \$750 per employee per week of benefits lost, to be paid into the unemployment compensation auxiliary fund.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates that the bill may result in an indeterminate increase in expenditures from the Unemployment Insurance Compensation Trust Fund (UI trust fund) due to the unemployment insurance benefits that could be provided during certain labor disputes under the bill. These expenditures may, partially if not fully, be offset by an indeterminate increase in revenue to the Unemployment Compensation Auxiliary Fund (UCAF) due to the collection of penalties established under the bill.

Currently, eligible UI claimants under the “unemployment compensation law,” may potentially receive 60 percent of their average weekly wage, not to exceed the maximum weekly amount, which in 2018 is \$681. A claimant can collect a maximum of 26 weeks of benefits on a regular unemployment claim. All State UI benefits are paid from the UI trust fund, the federally maintained account, which is used to receive employer and employee UI taxes.

This bill provides UI benefits to claimants whose unemployment is the result of a labor dispute under specified conditions. Therefore, as those claimants are currently disqualified from receiving UI benefits, there may be an increase in expenditures from the UI trust fund to compensate such claimants for their benefits. The OLS, however, cannot determine the

magnitude of these expenditures as the number of claimants that may qualify for benefits under this bill cannot be predicted.

Furthermore, under this bill, a 30 day waiting period would be required before a claimant is provided benefits if the labor dispute is not prompted by a lockout of an employer's failure to comply with contract terms, and the employer permits the claimant to return to work following the dispute. In this case, if the labor dispute is resolved prior to the end of the 30 day waiting period, the claimant would not receive any UI benefits and there would be no expenditure from the UI trust fund.

In addition, the DOLWD may impose a penalty upon the employer of up to \$750 per employee per week of benefits lost during the 30 day waiting period, if the employer does not permit the claimant's return to work after the labor dispute. All penalties are to be paid into the UCAF, a repository for all interest and penalties imposed upon employers for violations of UI regulations. Moneys from the UCAF are to be used for the cost of the administration of the UI trust fund, as well as for essential expenditures in connection with UI programs. As the number of claimants an employer may permanently replace is not foreseeable, the OLS cannot determine the amount of revenue that may be generated as a result of the bill.

While the OLS cannot determine the number or scale of future labor disputes, according to Current Employment Statistics survey produced by the United States Bureau of Labor Statistics, only a few large strikes of 1,000 workers or more occurred in New Jersey since 2006. Most recently, approximately 1,800 members of the Wired Telecommunications Carriers from the Electrical Workers—IBEW went on strike on March 28, 2017, and have not resolved the labor dispute, for a total of 298 days, which surpasses the maximum regular unemployment claim of 26 weeks. Assuming that all of the striking workers in New Jersey involved in this labor dispute filed eligible claims under this bill for the maximum weekly UI benefit of \$681 for the entire 26 weeks, the resulting expenditure from the UI trust fund would be approximately \$85.0 million. However, the OLS notes that if enacted, this bill as amended, does not qualify these 1,800 workers for UI benefits because this labor dispute occurred before July 1, 2018. According to the DOLWD, as of June 2018, the UI trust fund had a balance of approximately \$2.6 billion.

Section: Commerce, Labor and Industry

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This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).