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February 9, 2023

Dear Member of the Senate Labor Committee:

RE: Please Support S-3215 (Sarlo) Concerns Unemployment Insurance and Workers on Strike or Locked Out

Various work stoppages in New Jersey (and throughout the nation) have illustrated that our current law regarding unemployment benefits for workers on strike or locked out requires reform. Several loopholes exist in current law that result in workers being denied benefits. Furthermore, the waiting period for unemployment benefits is so long that few workers have ever benefited. The bill seeks to correct these flaws.

New Jersey's law concerning UI for locked out workers was enacted in 2005, and our law concerning UI and striking workers was enacted in 2018. Neither have been updated since their enactment. We have been advised that due to these loopholes and lengthy waiting periods, benefits have only been paid once since these laws were enacted.

Regarding the waiting period, the bill reduces the duration workers need to be on strike from four weeks to two weeks to collect UI benefits. Data shows that 90% of strikes last less than one week and that the average is four days. Therefore, few workers in New Jersey have ever benefited from the current four week law. New York State has already enacted this provision.

To put this waiting period requirement in context, the federal Bureau of Labor Statistics (BLS) started collecting strike data in 2000. Since then, New Jersey has had only five strikes that lasted over 30 days. Please note, BLS only includes strikes with over 500 workers.

To supplement this data, the Worker Institute at Cornell University has been tracking all work stoppages (of any number of workers) since January 2021. Thus far, over this 25 month period, there has been only one strike over 30 days in New Jersey.

In addition to reducing the waiting period, the bill closes three specific loopholes in current law:

1. Eliminates language that bars workers from collecting UI if they are locked out after they strike. This language is an incentive for employers to lock out workers if they have gone on strike, in order to reduce their UI exposure/costs. Workers can already receive UI if they are locked out, but only if they did not strike previously.

Workers at Shore Medical Center in Somers Point were denied benefits due to this technicality in 2019.

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2. Current law states that if an employer is violating state or federal law (often due to safety or staffing laws) or breaking the terms of an existing collective bargaining agreement and this violation is the reason the union goes on strike, then workers are entitled to UI.

The loophole that exists involving this issue is that the violation must be the **ONLY** reason for the strike. Therefore, if the union strikes for example due to the employer breaking the law on safety standards as well as, hypothetically, a lack of sick days, then workers can be denied UI. This language change allows the “violation of law” provision to be one of the factors contributing to the strike and not the **ONLY** reason.

A recent strike authorization vote by UNITE HERE Local 54 in Atlantic City exposed this loophole due to violations of the daily room cleaning law. Some casinos were violating state law on room cleaning each day in order to reduce labor costs. This was in part the reason the casino workers authorized a strike. However, since it was one of three reasons for the authorization and not the **ONLY** reason, litigation could have eliminated workers from collecting UI.

3. The bill corrects the “notice provision” by the employer of hiring permanent strike replacement workers. Currently, if scabs are hired, striking workers are eligible for UI as of the date the scabs were hired. However, the Department of Labor has taken the position that if the employer “notifies” the Department of Labor that they will rehire the striking workers after the work stoppage is resolved, then they don't have to pay UI prior to the 30 day threshold.

This bill eliminates the “notice” provision as a disqualifier for benefits.

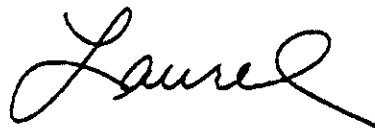
This provision was cited by the New Jersey Department of Labor as the rationale for denying UI benefits to striking workers at St. Michael's Hospital in 2022.

Thank you for the opportunity to present our position regarding this important legislation. We respectfully ask for your support.

Sincerely,



Charles Wowkanech
President



Laurel Brennan
Secretary-Treasurer

CW:LB:jd
OPEIU:153