

Labor Law Bulletin

Labor and employment law trends of interest to our clients and other friends.

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ILLINOIS LEGISLATURE APPROVES UNEMPLOYMENT BENEFITS FOR LOCKED-OUT EMPLOYEES; BILL IS BEFORE GOVERNOR FOR SIGNATURE

On January 11, 2005, the final day of the 93rd General Assembly, the Illinois state Senate passed legislation that will allow workers locked out during a labor dispute to receive unemployment insurance (UI) benefits. The legislation, Senate Bill 1994, now awaits the governor's signature. The Illinois Manufacturers Association (IMA) estimates that if enacted into law, SB 1994 will cost Illinois employers up to \$14 million annually in additional unemployment insurance benefits contributions.

Under current Illinois law, employees are not eligible for unemployment insurance benefits when their unemployment is due to a work stoppage caused by a labor dispute, including a lockout. 820 ILCS 405/604. There is an exception for workers who are locked out of their jobs when: (1) their employer refuses to negotiate under reasonable conditions, (2) the National Labor Relations Board determines that the employer has not bargained in good faith, or (3) the lockout violates the terms of an existing collective bargaining agreement.

SB 1994 provides that a lockout no longer constitutes a labor dispute and that locked-out workers are entitled to unemployment benefits unless (1) their union has refused to negotiate under reasonable conditions, (2) the National Labor Relations Board determines that their union has failed to bargain in good faith, or (3) the lockout violates an existing collective bargaining agreement.

Aside from the millions of dollars it could cost Illinois employers, SB 1994 is a troubling shift away from the intended purpose of unemployment insurance benefits, which is to provide economic security and relieve hardship for employees who, through no fault of their own, are unemployed. *Local 7-641 v. Illinois Dept. of Labor*, (Ill. 1982). SB 1994 also reverses decades of noninterference by the state in labor disputes. It is well established that the state is to remain neutral in labor disputes and collective bargaining, rendering assistance to neither employer nor labor. *Bridgestone/Firestone, Inc. v. Aldridge* (Ill. 1997).

A lockout is an employer's ultimate lawful response to the bargaining demands of its employees and union. However, by extending unemployment benefits to employees locked out as a result of labor negotiations, SB 1994 favors labor's interests and adversely impacts the employer who henceforth may lock out employees only if it is willing to pay the price of UI benefits.

A recent federal government survey reveals that Illinois is among a strong majority of states that deny unemployment benefits to locked-out employees. The IMA is urging interested employers to promptly write Governor Blagojevich encouraging him to veto SB 1994. The governor has sixty days to act on the bill.

If you have any questions about this legislation, please call Jim Spizzo (312/609-7705), Chris Nybo (312/609-7729), or any other Vedder Price attorney with whom you have worked.

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