



Senate

General Assembly

File No. 249

February Session, 2022

Substitute Senate Bill No. 317

Senate, March 31, 2022

The Committee on Labor and Public Employees reported through SEN. KUSHNER of the 24th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING UNEMPLOYMENT FOR STRIKING EMPLOYEES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 31-236 of the 2022 supplement to the general
2 statutes is repealed and the following is substituted in lieu thereof
3 (*Effective October 1, 2022*):

4 (a) An individual shall be ineligible for benefits:

5 (1) If the administrator finds that the individual has failed without
6 sufficient cause either to apply for available, suitable work when
7 directed so to do by the Public Employment Bureau or the
8 administrator, or to accept suitable employment when offered by the
9 Public Employment Bureau or by an employer, such ineligibility to
10 continue until such individual has returned to work and has earned at
11 least six times such individual's benefit rate. Suitable work means either
12 employment in the individual's usual occupation or field or other work

13 for which the individual is reasonably fitted, provided such work is
14 within a reasonable distance of the individual's residence. In
15 determining whether or not any work is suitable for an individual, the
16 administrator may consider the degree of risk involved to such
17 individual's health, safety and morals, such individual's physical fitness
18 and prior training and experience, such individual's skills, such
19 individual's previous wage level and such individual's length of
20 unemployment, but, notwithstanding any provision of this chapter, no
21 work shall be deemed suitable nor shall benefits be denied under this
22 chapter to any otherwise eligible individual for refusing to accept work
23 under any of the following conditions: (A) If the position offered is
24 vacant due directly to a strike, lockout or other labor dispute; (B) if the
25 wages, hours or other conditions of work offered are substantially less
26 favorable to the individual than those prevailing for similar work in the
27 locality; (C) if, as a condition of being employed, the individual would
28 be required to join a company union or to resign from or refrain from
29 joining any bona fide labor organization; (D) if the position offered is for
30 work that commences or ends between the hours of one and six o'clock
31 in the morning if the administrator finds that such work would
32 constitute a high degree of risk to the health, safety or morals of the
33 individual, or would be beyond the physical capabilities or fitness of the
34 individual or there is no suitable transportation available from the
35 individual's home to or from the individual's place of employment; or
36 (E) if, as a condition of being employed, the individual would be
37 required to agree not to leave such position if recalled by the
38 individual's former employer;

39 (2) (A) If, in the opinion of the administrator, the individual has left
40 suitable work voluntarily and without good cause attributable to the
41 employer, until such individual has earned at least ten times such
42 individual's benefit rate, provided whenever an individual voluntarily
43 leaves part-time employment under conditions that would render the
44 individual ineligible for benefits, such individual's ineligibility shall be
45 limited as provided in subsection (b) of this section, if applicable, and
46 provided further, no individual shall be ineligible for benefits if the
47 individual leaves suitable work (i) for good cause attributable to the

48 employer, including leaving as a result of changes in conditions created
49 by the individual's employer, (ii) to care for the individual's spouse,
50 child, or parent with an illness or disability, as defined in subdivision
51 (16) of this subsection, (iii) due to the discontinuance of transportation,
52 other than the individual's personally owned vehicle, used to get to and
53 from work, provided no reasonable alternative transportation is
54 available, (iv) to protect the individual, the individual's child, the
55 individual's spouse or the individual's parent from becoming or
56 remaining a victim of domestic violence, as defined in section 17b-112a,
57 provided such individual has made reasonable efforts to preserve the
58 employment, but the employer's account shall not at any time be
59 charged with respect to any voluntary leaving that falls under
60 subparagraph (A)(iv) of this subdivision, (v) for a separation from
61 employment that occurs on or after July 1, 2007, to accompany a spouse
62 who is on active duty with the armed forces of the United States and is
63 required to relocate by the armed forces, but the employer's account
64 shall not at any time be charged with respect to any voluntary leaving
65 that falls under subparagraph (A)(v) of this subdivision, or (vi) to
66 accompany such individual's spouse to a place from which it is
67 impractical for such individual to commute due to a change in location
68 of the spouse's employment, but the employer's account shall not be
69 charged with respect to any voluntary leaving under subparagraph
70 (A)(vi) of this subdivision; or

71 (B) If, in the opinion of the administrator, the individual has been
72 discharged or suspended for felonious conduct, conduct constituting
73 larceny of property or service, the value of which exceeds twenty-five
74 dollars, or larceny of currency, regardless of the value of such currency,
75 wilful misconduct in the course of the individual's employment, or
76 participation in an illegal strike, as determined by state or federal laws
77 or regulations, until such individual has earned at least ten times the
78 individual's benefit rate; provided an individual who (i) while on layoff
79 from regular work, accepts other employment and leaves such other
80 employment when recalled by the individual's former employer, (ii)
81 leaves work that is outside the individual's regular apprenticeable trade
82 to return to work in the individual's regular apprenticeable trade, (iii)

83 has left work solely by reason of governmental regulation or statute, or
84 (iv) leaves part-time work to accept full-time work, shall not be
85 ineligible on account of such leaving and the employer's account shall
86 not at any time be charged with respect to such separation, unless such
87 employer has elected payments in lieu of contributions;

88 (3) During any week in which the administrator finds that the
89 individual's total or partial unemployment is due to the existence of a
90 labor dispute other than a lockout at the factory, establishment or other
91 premises at which the individual is or has been employed, provided the
92 provisions of this subsection do not apply (A) after a period of two
93 consecutive weeks in which the administrator finds that the individual's
94 total or partial unemployment is due to the existence of such labor
95 dispute, or (B) if it is shown to the satisfaction of the administrator that:
96 [(A) the] (i) The individual is not participating in or financing or directly
97 interested in the labor dispute that caused the unemployment, and [(B)]
98 (ii) the individual does not belong to a trade, class or organization of
99 workers, members of which, immediately before the commencement of
100 the labor dispute, were employed at the premises at which the labor
101 dispute occurred, and are participating in or financing or directly
102 interested in the dispute; or [(C)] (iii) the individual's unemployment is
103 due to the existence of a lockout. A lockout exists whether or not such
104 action is to obtain for the employer more advantageous terms when an
105 employer [(i)] (I) fails to provide employment to its employees with
106 whom the employer is engaged in a labor dispute, either by physically
107 closing its plant or informing its employees that there will be no work
108 until the labor dispute has terminated, or [(ii)] (II) makes an
109 announcement that work will be available after the expiration of the
110 existing contract only under terms and conditions that are less favorable
111 to the employees than those current immediately prior to such
112 announcement; provided in either event the recognized or certified
113 bargaining agent shall have advised the employer that the employees
114 with whom the employer is engaged in the labor dispute are ready, able
115 and willing to continue working pending the negotiation of a new
116 contract under the terms and conditions current immediately prior to
117 such announcement;

118 (4) (A) Prior to January 1, 2024, during any week with respect to
119 which the individual has received or is about to receive remuneration in
120 the form of (i) (I) wages in lieu of notice or dismissal payments,
121 including severance or separation payment by an employer to an
122 employee beyond the employee's wages upon termination of the
123 employment relationship, unless the employee was required to waive
124 or forfeit a right or claim independently established by statute or
125 common law, against the employer as a condition of receiving the
126 payment, or any payment by way of compensation for loss of wages, or
127 (II) any other state or federal unemployment benefits, except mustering
128 out pay, terminal leave pay or any allowance or compensation granted
129 by the United States under an Act of Congress to an ex-servicemember in
130 recognition of the ex-servicemember's former military service, or any
131 service-connected pay or compensation earned by an ex-servicemember
132 paid before or after separation or discharge from active military service,
133 or (ii) compensation for temporary disability under any workers'
134 compensation law; and

135 (B) On or after January 1, 2024, during any week with respect to
136 which the individual has received or is about to receive remuneration in
137 the form of (i) (I) wages in lieu of notice or dismissal payments,
138 including severance or separation payment by an employer to an
139 employee beyond the employee's wages upon termination of the
140 employment relationship or any payment by way of compensation for
141 loss of wages, (II) any other state or federal unemployment benefits, or
142 (III) any vacation pay relating to an identifiable week or weeks
143 designated as a vacation period by arrangement between the individual
144 or the individual's representative and the individual's employer or that
145 is the customary vacation period in the employer's industry. The
146 following are excluded from this subparagraph: Mustering out pay,
147 terminal leave pay or any allowance or compensation granted by the
148 United States under an Act of Congress to an ex-servicemember in
149 recognition of the ex-servicemember's former military service, or any
150 service-connected pay or compensation earned by an ex-servicemember
151 paid before or after separation or discharge from active military service,
152 or any payment of accrued vacation pay payable upon separation from

153 employment, or (ii) compensation for temporary disability under any
154 workers' compensation law;

155 (5) Repealed by P.A. 73-140;

156 (6) If the administrator finds that the individual has left employment
157 to attend a school, college or university as a regularly enrolled student,
158 such ineligibility to continue during such attendance;

159 (7) Repealed by P.A. 74-70, S. 2, 4;

160 (8) If the administrator finds that, having received benefits in a prior
161 benefit year, the individual has not again become employed and been
162 paid wages since the commencement of said prior benefit year in an
163 amount equal to the greater of three hundred dollars or five times the
164 individual's weekly benefit rate by an employer subject to the provisions
165 of this chapter or by an employer subject to the provisions of any other
166 state or federal unemployment compensation law;

167 (9) If the administrator finds that the individual has retired and that
168 such retirement was voluntary, until the individual has again become
169 employed and has been paid wages in an amount required as a
170 condition of eligibility as set forth in subdivision (3) of section 31-235;
171 except that the individual is not ineligible on account of such retirement
172 if the administrator finds (A) that the individual has retired because (i)
173 such individual's work has become unsuitable considering such
174 individual's physical condition and the degree of risk to such
175 individual's health and safety, and (ii) such individual has requested of
176 such individual's employer other work that is suitable, and (iii) such
177 individual's employer did not offer such individual such work, or (B)
178 that the individual has been involuntarily retired;

179 (10) Repealed by P.A. 77-426, S. 6, 19;

180 (11) Repealed by P.A. 77-426, S. 6, 19;

181 (12) Repealed by P.A. 77-426, S. 17, 19;

182 (13) If the administrator finds that, having been sentenced to a term
183 of imprisonment of thirty days or longer and having commenced
184 serving such sentence, the individual has been discharged or suspended
185 during such period of imprisonment, until such individual has earned
186 at least ten times such individual's benefit rate;

187 (14) If the administrator finds that the individual has been discharged
188 or suspended because the individual has been disqualified under state
189 or federal law from performing the work for which such individual was
190 hired as a result of a drug or alcohol testing program mandated by and
191 conducted in accordance with such law, until such individual has
192 earned at least ten times such individual's benefit rate;

193 (15) If the individual is a temporary employee of a temporary help
194 service and the individual refuses to accept suitable employment when
195 it is offered by such service upon completion of an assignment until such
196 individual has earned at least six times such individual's benefit rate;
197 and

198 (16) (A) For purposes of subparagraph (A)(ii) of subdivision (2) of this
199 subsection, "illness or disability" means an illness or disability
200 diagnosed by a health care provider that necessitates care for the ill or
201 disabled person for a period of time longer than the employer is willing
202 to grant leave, paid or otherwise, and "health care provider" means (i) a
203 doctor of medicine or osteopathy who is authorized to practice medicine
204 or surgery by the state in which the doctor practices; (ii) a podiatrist,
205 dentist, psychologist, optometrist or chiropractor authorized to practice
206 by the state in which such person practices and performs within the
207 scope of the authorized practice; (iii) an advanced practice registered
208 nurse, nurse practitioner, nurse midwife or clinical social worker
209 authorized to practice by the state in which such person practices and
210 performs within the scope of the authorized practice; (iv) Christian
211 Science practitioners listed with the First Church of Christ, Scientist in
212 Boston, Massachusetts; (v) any medical practitioner from whom an
213 employer or a group health plan's benefits manager will accept
214 certification of the existence of a serious health condition to substantiate

215 a claim for benefits; (vi) a medical practitioner, in a practice enumerated
216 in clauses (i) to (v), inclusive, of this subparagraph, who practices in a
217 country other than the United States, who is licensed to practice in
218 accordance with the laws and regulations of that country; or (vii) such
219 other health care provider as the Labor Commissioner approves,
220 performing within the scope of the authorized practice.

221 (B) For purposes of subparagraph (B) of subdivision (2) of this
222 subsection, "wilful misconduct" means deliberate misconduct in wilful
223 disregard of the employer's interest, or a single knowing violation of a
224 reasonable and uniformly enforced rule or policy of the employer, when
225 reasonably applied, provided such violation is not a result of the
226 employee's incompetence and provided further, in the case of absence
227 from work, "wilful misconduct" means an employee must be absent
228 without either good cause for the absence or notice to the employer
229 which the employee could reasonably have provided under the
230 circumstances for three separate instances within a twelve-month
231 period. Except with respect to tardiness, for purposes of subparagraph
232 (B) of subdivision (2) of this subsection, (i) prior to January 1, 2024, each
233 instance in which an employee is absent for one day or two consecutive
234 days without either good cause for the absence or notice to the employer
235 which the employee could reasonably have provided under the
236 circumstances constitutes a "separate instance", and (ii) on or after
237 January 1, 2024, each instance in which an employee is absent for one
238 day without either good cause for the absence or notice to the employer
239 which the employee could reasonably have provided under the
240 circumstances constitutes a "separate instance".

241 (C) For purposes of subdivision (15) of this subsection, "temporary
242 help service" means any person conducting a business that consists of
243 employing individuals directly for the purpose of furnishing part-time
244 or temporary help to others; and "temporary employee" means an
245 employee assigned to work for a client of a temporary help service.

246 (b) Any individual who has voluntarily left part-time employment
247 under conditions which would otherwise render him ineligible for

248 benefits pursuant to subparagraph (A) of subdivision (2) of subsection
 249 (a) of this section, who has not earned ten times his benefit rate since
 250 such separation and who is otherwise eligible for benefits shall be
 251 eligible to receive benefits only as follows: (1) If such separation from
 252 the individual's part-time employment precedes a compensable
 253 separation, under the provisions of this chapter, from his full-time
 254 employment, he shall be eligible to receive an amount equal to the
 255 benefits attributable solely to the wages paid to him for any employment
 256 during his base period other than such part-time employment; or (2) if
 257 such separation from the individual's part-time employment follows a
 258 compensable separation, under the provisions of this chapter, from his
 259 full-time employment, he shall be eligible to receive an amount equal to
 260 the lesser of the partial unemployment benefits he would have received
 261 under section 31-229 but for such separation from his part-time
 262 employment or the partial unemployment benefits for which he would
 263 be eligible under section 31-229 based on any subsequent part-time
 264 employment. In no event may the employer who provided such part-
 265 time employment for the individual be charged for any benefits paid
 266 pursuant to the subsection. For purposes of this subsection, "full-time
 267 employment" means any job normally requiring thirty-five hours or
 268 more of service each week, and "part-time employment" means any job
 269 normally requiring less than thirty-five hours of service each week.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2022	31-236

LAB *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 23 \$	FY 24 \$
Labor Dept.	Unemployment Insurance Trust Fund - Potential Cost	See Below	See Below
Labor Dept.	Unemployment Insurance Trust Fund - Potential Revenue Gain	See Below	See Below

Municipal Impact: None

Explanation

The bill, which generally makes striking workers eligible for unemployment benefits after they have been on strike for two consecutive weeks, results in a potential cost and potential revenue gain to the Unemployment Insurance (UI) Trust Fund.

To the extent any striking workers become eligible for unemployment benefits as a result of the bill, this would result in a cost to the UI Trust Fund. Subsequent increases in experience ratings by employers would result in increased tax revenue to the UI Trust Fund on a lagged basis. The amounts are dependent on striking workers' benefits and affected employers' experience ratings.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to the number of workers and employers affected.

OLR Bill Analysis**sSB 317****AN ACT CONCERNING UNEMPLOYMENT FOR STRIKING EMPLOYEES.****SUMMARY**

This bill generally makes striking workers eligible for unemployment benefits after they have been on strike for two consecutive weeks. Under current law, claimants are generally ineligible for benefits during any week in which their unemployment is due to a labor dispute. The bill lifts this ineligibility after a period of two consecutive weeks in which the claimant's unemployment is due to the labor dispute.

Under existing law, unchanged by the bill, claimants may also qualify for benefits during a labor dispute, with no waiting period, if (1) the labor dispute is a lockout or (2) the claimant is not participating in the labor dispute that caused the unemployment and does not belong to a trade, class, or organization of workers who were employed at the premises immediately before the dispute started (e.g., non-union employees at a business temporarily closed by a strike).

EFFECTIVE DATE: October 1, 2022

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable Substitute

Yea 9 Nay 4 (03/22/2022)