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H.B. 334
135th General Assembly

Bill Analysis

Version: As Introduced

Primary Sponsors: Reps. Grim and Miranda

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SUMMARY

- Permits an otherwise eligible individual to receive unemployment benefits if the individual's unemployment was caused by a strike at a facility owned or operated by the individual's employer, provided one week has elapsed since the unemployment caused by the strike began.
- Allows an individual who was unemployed because of a strike at a facility owned or operated by the individual's employer during any week occurring between January 1, 2023, and the bill's effective date, to receive benefits retroactively for the weeks of unemployment caused by that strike.

DETAILED ANALYSIS

Unemployment benefits due to strikes

The bill enacts the "Strike Term Access to Negotiation Duration Unemployment Protection Act (STAND UP Act)."¹ Under the bill, an individual who is otherwise eligible to receive unemployment benefits may receive benefits if both of the following apply:

- The individual's unemployment was caused by a strike at a facility or premises owned or operated by the individual's employer at which the individual is or was last employed;
- One week has elapsed since the beginning of the unemployment caused by the strike.²

Currently, an individual is generally disqualified from serving a waiting week or receiving unemployment benefits for any week during which the individual's unemployment is due to a labor dispute, including a strike. Continuing law contains exceptions to the labor dispute disqualification, including an exception for an individual who is unemployed due to a lockout or

¹ Section 3.

² R.C. 4141.294(A).

due to a labor dispute at a facility *other than* the facility at which the individual works, provided the individual is not financing, participating in, or directly interested in the dispute.³

Under the bill, if an individual is eligible to serve a waiting period or be paid benefits due to unemployment caused by a strike at the individual's place of employment or because of a labor dispute described in continuing law, the Director of Job and Family Services (who administers the Unemployment Compensation Law) must, for the duration of the strike or other dispute, waive a requirement in continuing law that a benefit recipient actively search for work while receiving benefits.⁴

Retroactive unemployment benefits for previous strikes

Under the bill, an individual who was unemployed because of a strike at a facility or premises owned or operated by the individual's employer during any week occurring between January 1, 2023, and the bill's effective date may receive benefits retroactively for the weeks of unemployment caused by the strike during that period.⁵

The bill requires an eligible individual to apply to the Director for the retroactive benefits in one of the following ways:

- If the individual was in an unexpired benefit year at the time the unemployment caused by the strike began, the individual must file a claim for benefits in accordance with continuing law for each week of unemployment caused by the strike;
- If the individual was not in an unexpired benefit year at the time the unemployment caused by the strike began, the individual must file both an initial application for a determination of benefit rights and a claim for benefits for each week of unemployment caused by the strike.⁶

An applicant for retroactive benefits may receive them for any week of unemployment occurring during a strike, provided the Director determines all the following apply:

- The individual's unemployment was, in-fact, caused by the strike;
- The individual was in an unexpired benefit year or satisfies the alternative monetary requirements described below;
- The individual was able to work and was available for suitable work during each week of unemployment caused by the strike for which the individual seeks retroactive benefits.⁷

The Director must do both of the following with respect to any week for which the individual is eligible for retroactive benefits under the bill:

³ R.C. 4141.29(D).

⁴ R.C. 4141.294(B), with conforming changes in R.C. 4141.29(A).

⁵ R.C. 4141.295(A).

⁶ R.C. 4141.295(B)(1).

⁷ R.C. 4141.295(C).

- Waive a continuing law requirement that the individual must actively have searched for work during a week to receive benefits;
- Consider the individual to be registered for purposes of a continuing law requirement that the individual must register for work.⁸

An individual receiving retroactive benefits under the bill may not exceed the maximum benefit amount allowed under continuing law. Continuing law sets the maximum benefit amount an individual may receive in a benefit year at one-half of the individual's average weekly wage (up to a statutory maximum determined by the number of the individual's dependents) multiplied by the total number of weeks for which the individual is eligible (a minimum of 20 weeks up to a maximum of 26 weeks).⁹

Alternative monetary requirement for retroactive benefits

The bill requires an individual applying for retroactive unemployment benefits who was not in an unexpired benefit year at the time of the strike to satisfy alternative monetary requirements to receive benefits. Under continuing law, determining eligibility is a two-phase process. In the first phase, an individual files an initial application for a determination of benefit rights, which generally examines whether the individual worked and earned enough to be eligible for benefits ("monetary eligibility"). This application is used to establish the individual's benefit year, which is the 52-week period during which the individual may file claims for benefits based on satisfying the monetary eligibility requirements.¹⁰ After filing a valid initial application and establishing a benefit year, an individual enters the second phase of the process. In the second phase, the individual must file a claim for benefits each week the individual seeks benefits during the individual's benefit year.¹¹

Ordinarily, to satisfy the monetary eligibility requirements, an individual must have worked in employment covered by the Unemployment Compensation Law for at least 20 weeks within the individual's "base period" and earned an average weekly wage of not less than 27.5% of the statewide average weekly wage within the base period.¹² The "base period" is the first four of the last five completed calendar quarters immediately preceding the first day of the claimant's benefit year. If an individual does not have sufficient qualifying weeks and wages in the base period to qualify, the claimant's base period is the four most recently completed calendar quarters preceding the first day of the claimant's benefit year, which is referred to as the "alternate base period."¹³

An individual applying for retroactive benefits under the bill must have worked in employment covered by the Law for at least 20 weeks and earned an average weekly wage of

⁸ R.C. 4141.295(D).

⁹ R.C. 4141.295(F) and 4141.30, not in the bill.

¹⁰ R.C. 4141.01(R)(1) and 4141.28(B) and (D), not in the bill.

¹¹ R.C. 4141.28(E), not in the bill.

¹² R.C. 4141.01(R), not in the bill.

¹³ R.C. 4141.01(Q), not in the bill.

not less than 27.5% of the statewide average weekly wage within the first four of the last five completed calendar quarters immediately preceding the day the individual's unemployment due to the strike began. If the individual does not have sufficient qualifying weeks and wages in that period to qualify for benefit rights, the individual must have satisfied the requirements during the four most recently completed calendar quarters preceding the day the individual's unemployment due to the strike began.¹⁴

The benefit year of an individual who satisfies the bill's alternative monetary requirements begins on the first day of the first full week during which the individual was unemployed due to the strike.¹⁵

All determinations made by the Director with respect to retroactive benefits under the bill are subject to the continuing law appeals process.¹⁶

Retroactive laws

Article II, Section 28 of the Ohio Constitution provides that "The General Assembly shall have no power to pass retroactive laws" This provision prohibits the General Assembly from enacting laws imposing new substantive duties and obligations on a person's past conduct and transactions or creating a new right out of an act that gave no right or imposed any obligation when it occurred. It does not, however, prohibit the enactment of retroactive laws that are remedial in nature.¹⁷ Because the bill expressly applies to strikes occurring before the bill's effective date, if the bill were challenged under this constitutional provision, a court may examine whether granting these benefits is substantive or remedial and determine whether it is permitted under the constitutional provision.

HISTORY

| Action | Date |
|------------|----------|
| Introduced | 11-21-23 |

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¹⁴ R.C. 4141.295(B)(2).

¹⁵ R.C. 4141.295(E).

¹⁶ R.C. 4141.295(G).

¹⁷ *State v. White*, 132 Ohio St.3d 344, 2012-Ohio-2583, ¶31-34 (2012).