



Massachusetts Poised To Up The Ante In Labor Disputes Amid 6-Month Lockout

Insights

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Massachusetts legislators have taken steps to immediately enhance the Commonwealth's unemployment compensation regime for locked-out employees of gas and electric companies. In light of the 6-month standoff at National Grid, the gas and electric utility that serves much of Massachusetts, the House of Representatives just passed a bill today that would extend an employee's unemployment eligibility indefinitely for the duration of any lockout, with their employer footing 100 percent of the cost. Where do we expect this legislation to go from here, and what do Massachusetts employers need to know about this development?

Background

As most in the area know, National Grid employees represented by the United Steelworkers have been locked out of their jobs since June 2018. That's when negotiations over a successor collective bargaining agreement broke down over the amount of wage increases and modifications to employee health insurance and retirement programs.

Over the last six months, National Grid has withstood immense political pressure to end the lockout. These efforts have included a statewide moratorium on all non-emergency work, increased scrutiny from the Department of Public Utilities, and personal appeals from the governor and attorney general.

Additionally, in September, a series of gas-caused explosions rocked several communities in the Merrimack Valley, resulting in one fatality and millions of dollars in damage. Although National Grid does not service the affected areas, the disaster has brought increased publicity and pressure upon all of the Commonwealth's gas companies.

Labor Disputes And Unemployment

Under existing state law, employees involved in a labor dispute—either a lockout or an employee strike—are generally entitled to collect unemployment benefits, with few exceptions. These benefits, typically a percentage of an employee's ordinary wages, are available for up to 30 weeks. Once this period expires, however, these benefits cease and affected employees must look elsewhere to supplement their income.

Enter Beacon Hill, which recently expedited its deliberations over House Bill 4988, "An Act to Protect Locked Out Employees." Under the bill, locked out employees of gas or electric companies would be

Locked Out Employees. Under the bill, locked out employees of gas or electric companies would be eligible for the indefinite continuation of their unemployment compensation for the duration of the lockout.

Both the extended benefits and any additional costs associated with the implementation of the new program would be assessed directly against the employer of the locked-out employees. Moreover, the companies who lock out employees would be prohibited from passing the cost along to ratepayers (i.e., customers).

What Does This Mean For Massachusetts Employers?

The economic costs of strikes and lockouts are among the most important considerations that negotiating parties take into account when formulating their labor relations strategies. By requiring employers to essentially self-fund unemployment benefits for extended lockouts, the House is placing its thumb on the scale in favor of labor organizations at the expense of the Commonwealth's employers.

Because the text of the bill defines "employer" as an "electric company or gas company," it does not seem to apply to all employers generally. However, it represents a significant incursion by the government into what are typically private negotiations between an employer and the union.

Employers throughout the Commonwealth should take note of this development, as more generally applicable legislation could soon follow. In any event, the bill creates yet another cost that employers may have to contemplate during any collective bargaining negotiations with their employees.

Next Steps

The House of Representatives passed the bill without objection earlier today. We expect the State Senate to similarly pass this bill in the near future, given its Democratic supermajority. It remains to be seen, however, if Republican Governor Charlie Baker will sign or veto the bill.

Employers should continue to watch this issue as the legislature continues its debate on this and similar bills, especially to determine whether its impacts will soon be felt beyond the gas and electric utility industry. Fisher Phillips will monitor this and similar legislation and provide updates as necessary.

If you have any questions about this new law, please contact any attorney in the [Boston office](#) of Fisher Phillips at 617.722.0044.

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