



**JOB KILLER**

May 14, 2019

TO: Members, Assembly Committee on Appropriations

**SUBJECT: AB 1066 (GONZALEZ) UNEMPLOYMENT INSURANCE: TRADE DISPUTES: ELIGIBILITY FOR BENEFITS HEARING SCHEDULED – MAY 15, 2019 OPPOSED/ **JOB KILLER** - AS AMENDED APRIL 30, 2019**

The California Chamber of Commerce and the organizations listed below respectfully **OPPOSE AB 1066 (Gonzalez)** as a **JOB KILLER**, which would overturn more than 70 years of precedent by charging employers to provide unemployment insurance (UI) to workers during labor disputes and create additional solvency issues for California’s UI system.

During the recent recession, California’s UI fund was exhausted, as more and more Californians turned to the state for support in their time of need. Simply put, the state’s UI fund was not able to meet the needs of the state’s unemployed workforce – which led to California seeking loans from the federal government beginning in 2008. These loans eventually totaled more than \$10 billion. It was not until just last year – 2018 – that California finally repaid the federal government loans necessary to get through the crisis. These loans resulted in costs to the state’s general fund,<sup>1</sup> as well as to California’s employers. **AB 1066** threatens to increase this insolvency, by adding potentially massive groups of striking workers’ to California’s unemployment rolls and draining California’s UI fund.

<sup>1</sup> General fund payments were made in the hundreds of millions of dollars, per year. Employers were forced to pay increased federal taxes as well, also in the hundreds of millions of dollars. <https://lao.ca.gov/Recommendations/Details/555>

Under existing law going back more than 70 years, UI benefits have not been available to striking employees so long as they remain away from work due to the trade dispute.<sup>2</sup> That policy is a good policy – unemployment is not intended to address labor disputes and labor disputes are not intended to influence unemployment. Other code sections also reflect this norm. For example, though the California Employment Development Department (EDD) must investigate labor disputes, it is legally prohibited from taking those findings into account in assessing unemployment benefits.<sup>3</sup>

The difference between labor disputes and unemployment is even more clear when the individual employees' positions are compared. The employee in a labor dispute, though temporarily on strike, has the right pursuant to their union contract to return to their position at the conclusion of the labor dispute. The employer is commonly compelled to hold that position open and allow them to return. In contrast, an employee who has been terminated has no right to claim a future position from their former employer – they are truly facing an uncertain future – which UI addresses by providing support while they look for new work.<sup>4</sup> That is the long-standing norm of unemployment insurance.

**AB 1066** would change this longstanding norm and require employers to pay unemployment benefits to striking employees after the first four weeks of a trade dispute. Notably, **AB 1066** contains no end date or qualifications for the receipt of such benefits, which suggests that they could continue for up to 26 weeks for the entire union.

Furthermore, because **AB 1066** contains no provisions regarding the merits of the trade dispute, even if the EDD were to investigate the trade dispute and determine that the employees' demands were simply impossible, it would not make any difference. As discussed above, the merits of the dispute are separated by law – so employees would be entitled to 26 weeks of unemployment benefits.

And, while **AB 1066** provides these benefits for employees, employers will be unable to negotiate as they will face the fear of simultaneous unemployment claims from *every striking worker* and long-term increases in their experience rating. Depending on the size of the union and employer, businesses could face hundreds or thousands of simultaneous claims for unemployment, driving up their experience rating and UI account payments for years to come. The 2003 grocery workers strike provides an example of the potential scale of the burden that **AB 1066** can create. 59,000 union workers went on strike for four and one-half months.<sup>5</sup> Assuming those workers made, on average, approximately \$12/hour, or \$24,960 per year,<sup>6</sup> we can calculate the resulting cost to employers if **AB 1066** had been in effect: approximately \$226,560,000 – just under a quarter of a billion dollars.

In short, **AB 1066** will pull the EDD and unemployment benefits into the politics of labor disputes and incentivize striking by placing the entire cost of the strike on the employer, regardless of the merits of the labor dispute. Moreover, by both encouraging labor strikes by employees and placing significant costs on employers via their UI accounts, **AB 1066** poses a potentially existential threat to California employers who work with unions.

For these reasons, we **OPPOSE AB 1066** as a **JOB KILLER**.

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<sup>2</sup> Unemployment Insurance Code § 1026; *W.R. Grace & Co. v. California Employment Comm'n*, 24 Cal. 2d 720, 731 (1944) (“It is not the function of the commission to evaluate the merits of a controversy between an employer and his employees; if a trade dispute exists and the employee leaves his work because of it, he may not receive benefits . . .”)

<sup>3</sup> See Unemployment Ins. Code § 1262.5.

<sup>4</sup> Also distinct, the striking worker *is not looking for work* – and it is not clear how AB 1066 would address this otherwise required element of UI payments.

<sup>5</sup> <https://www.nytimes.com/2004/02/28/us/grocery-workers-relieved-if-not-happy-at-strike-s-end.html>.

<sup>6</sup> Salary of \$12/hour converted to \$2080/month for use in EDD calculator, available at: <https://www.edd.ca.gov/unemployment/UI-Calculator.htm>

Sincerely,



Robert Moutrie,  
Policy Advocate  
California Chamber of Commerce

Associated General Contractors  
Building Owners and Managers Association  
California Association of Realtors  
California Association of Sheet Metal and Air Conditioning Contracts National Association  
California Building Industry Association  
California Business Properties Association  
California Farm Bureau Federation  
California Grocers Association  
California Hospital Association  
California League of Food Producers  
California Manufacturers & Technology Association  
California Professional Association of Specialty Contractors  
California Trucking Association  
Camarillo Chamber of Commerce  
Commercial Real Estate Development Association  
El Centro Chamber of Commerce  
El Dorado County Chamber of Commerce  
Flasher Barricade Association  
Fresno Chamber of Commerce  
Greater Bakersfield Chamber of Commerce  
Greater Irvine Chamber of Commerce  
International Council of Shopping Centers  
Lodi District Chamber of Commerce  
National Federation of Independent Business  
North Orange County Chamber  
Oceanside Chamber of Commerce  
Official Police Garages of Los Angeles  
Rancho Cucamonga Chamber of Commerce  
San Gabriel Valley Economic Partnership

cc: Legislative Affairs, Office of the Governor  
Shubhangi Domokos, Office of Assemblymember Gonzalez  
Paul Riches, Assembly Insurance Committee  
Suzanne Sutton, Assembly Republican Caucus

RM:ll