



April 30, 2025

TO: Members of the House Committee on Labor and Workplace Standards

FR: Paloma Sparks, Oregon Business & Industry

RE: Opposition to SB 916 – Unemployment Benefits for Striking Workers

Chair Grayber, Vice-chair Elmer and members of the House Committee on Labor and Workplace Standards. For the record, I am Paloma Sparks, Executive Vice President & General Counsel for Oregon Business & Industry (OBI).

OBI is a statewide association representing businesses from a wide variety of industries and from each of Oregon's 36 counties. In addition to being the statewide chamber of commerce, OBI is the state affiliate for the National Association of Manufacturers and the National Retail Federation. Our 1,600 member companies, more than 80% of which are small businesses, employ more than 250,000 Oregonians. Oregon's private sector businesses help drive a healthy, prosperous economy for the benefit of everyone.

The long-standing purpose of unemployment insurance is to provide a safety net for individuals who become unemployed **through no fault of their own**. The legal definition of a strike is "an organized and intentional stoppage or slowdown of work by employees, intending to make the employer comply with the demands of employees." The core principles behind these two concepts are, quite simply, irreconcilable.

Oregon employers fund our unemployment insurance system. In recent years, employers have stood up and worked with the Employment Department to fund increasing administrative costs when the federal government reduced those funds going to states. OBI has always valued the way OED has prioritized helping both employers and employees but this bill turns that upside down. Employers simply cannot be expected to continue to absorb an ever-increasing list of expenses. Ultimately, it may end up that OED is correct and the cost of this single policy is minimal but this is added on top of a wide variety of costs employers are responsible for already. This new cost is in addition to OED's plan to increase taxes paid by employers to fund the Supplemental Employment Department Administrative Fund (SEDAF).

ORS 657.155(1)(c) declares that in order to be eligible to receive UI benefits a claimant must be able to work, available for work and actively seeking and unable to obtain suitable work. OAR 471-030-0036(3)(f) further clarifies that and states that an individual is not available for work in any week claimed if "the individual has an opportunity to perform suitable work during the week and fails to accept or report for such work." Under current law the only exception to the work search requirement

is for individuals who are temporarily unemployed (which is limited to four weeks) and those that are prohibited by their union to seek non-union work. While we understand what the Employment Department spoke to on Monday, it seems to be a simplification of what Oregon statute and rules require.

Section 303(a)(12) of the Social Security Act (42 USC 503(a)(12)) requires that an individual claiming UI benefits must be able to work, available to work and actively seeking work. This law was adopted in 2012 to codify the US Department of Labor's long-held interpretation that those three conditions must be met in order for an individual to be eligible. It is also a requirement for states to receive federal UI administrative grants.

The 1979 US Supreme Court decision in *New York Tel. Co. v. New York Dept. of Labor*, 440 U.S. 519 (1979) that OED referenced is not actually on point on the question of availability and certainly does not address section 303(a)(12) of the Social Security Act. In fact, that case involved a question of conflict between state law and the National Labor Relations Act. The Court ruled that because that because there was no specific prohibition against states paying unemployment compensation in the Social Security Act or the National Labor Relations Act, states could make payments to claimants during a labor dispute. At issue here is not whether UI payments are allowed for striking workers but rather if striking workers must satisfy the requirement of being able to work, available to work and actively looking for work as required in section 303(a)(12).

Only two states in the nation allow striking workers to collect unemployment benefits – New Jersey and New York. This concept can only do further damage to Oregon at a time when we are seeing an alarming downward trend in our competitiveness with other states. A recent CNBC ranking of “America's Top States for Business” ranked Oregon 28th overall but that reflects a drop of 10 spots from 2022 when Oregon was ranked 18th overall. Additionally, in the report's Oregon was third from the bottom in terms of business friendliness. Which states are considered to be less business friendly than Oregon – according to the 128 metrics used? New Jersey and New York.

Oregon already has a reputation for being unfriendly to business. Oregon's economy stands on the edge, particularly given the additional risks caused by a looming trade war. All signs are pointing in the wrong direction. The state's own economist has noted that Oregon is in manufacturing recession and has been for the last two quarters. Job recovery is stagnant and housing production has slowed. In the years 2021-2023 the City of Portland issued an average of over 3,000 multifamily housing permits per year. Last year the City issued just 856 of those permits. In the Portland Metro area, Clark County is growing while Multnomah, Clackamas and Washington counties fall behind. All the warning signs of recession are present. That means employees who are truly out of work through no fault of their own will be likely need access to UI benefits.