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Effective January 2006, locked out employees in Illinois may now be eligible for unemployment benefits.

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Midwest Edition

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Illinois Grants Unemployment Benefits To Locked-Out Employees

By John DiJohn

On March 7, 2005, Illinois Governor Rod Blagojevich signed into law an act that amended Section 604 of the Illinois Unemployment Insurance Act. As amended, Section 604 now provides unemployment benefits to employees who are locked out by their employer. Effective January 1, 2006, locked out employees will be entitled to receive benefits provided the employees are not otherwise disqualified from receiving benefits under another section of the Illinois Unemployment Compensation Act.

As amended, the law does impose some limits on the entitlement locked-out employees will have to benefits. Specifically, the law states that locked-out employees are not entitled to receive benefits for any week of the lockout during which (1) the union refuses to meet, under reasonable conditions, with the employer to discuss the issues that gave rise to the lockout; (2) the National Labor Relations Board determines that the union has refused to bargain in good faith over the issues that gave rise to the lockout; or (3) the lockout resulted as a direct consequence of the union's violation of an existing collective bargaining agreement.

Under the Illinois Unemployment Insurance Act, an employer is required to contribute a specified percentage of its employees' salary into an Unemployment

Insurance Fund for the payment of benefits. The amount that an employer must pay is determined by the employer's experience rating. The employer's experience rating is determined on the basis of the number of its employees that apply for and receive benefits. The new law is significant because it may increase the pool of employees that may be eligible to receive benefits under the Act. If locked-out employees are eligible for and receive benefits, the employer's experience rating may increase, resulting in additional costs to the employer. Thus, an employer considering a lock out of employees should be aware that such action may impact their experience rating. Employers can work to manage these costs by seeking to meet with the union in order to resolve any contract disputes or otherwise convince the NLRB that the union is not acting in good faith. Employers, however, will have to take a more active role in the lock out process based on this amendment.

If you have questions regarding the this amendment, or wish to discuss other employment or labor-related issues, please contact John DiJohn at 312.795.3286 or jdijohn@littler.com. Mr. DiJohn is an Associate in the Chicago office of Littler Mendelson.