



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB2380

by Rep. Mary E. Flowers

SYNOPSIS AS INTRODUCED:

5 ILCS 315/20	from Ch. 48, par. 1620
20 ILCS 2610/14	from Ch. 121, par. 307.14
50 ILCS 725/3.8	from Ch. 85, par. 2561

Amends the Illinois Public Labor Relations Act. Provides that on or after the effective date of the bill, any provision in a collective bargaining agreement which would limit the ability of a public employer to investigate the conduct of an employee of the public employer is hereby declared to be against public policy and unenforceable unless the limitation is otherwise required by State or federal law. Amends the State Police Act. Provides that the Department of State Police shall have a procedure to bypass the requirement that a complaint must be supported by a sworn affidavit against a State Police Officer. Amends the Uniform Peace Officers' Disciplinary Act. Provides that every law enforcement agency or local governmental unit shall have a procedure to bypass the requirement that complaint must be supported by a sworn affidavit against a sworn peace officer.

LRB100 06930 SLF 16981 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Public Labor Relations Act is
5 amended by changing Section 20 as follows:

6 (5 ILCS 315/20) (from Ch. 48, par. 1620)

7 Sec. 20. Prohibitions.

8 (a) Nothing in this Act shall be construed to require an
9 individual employee to render labor or service without his
10 consent, nor shall anything in this Act be construed to make
11 the quitting of his labor by an individual employee an illegal
12 act; nor shall any court issue any process to compel the
13 performance by an individual employee of such labor or service,
14 without his consent; nor shall the quitting of labor by an
15 employee or employees in good faith because of abnormally
16 dangerous conditions for work at the place of employment of
17 such employee be deemed a strike under this Act.

18 (b) This Act shall not be applicable to units of local
19 government employing less than 5 employees at the time the
20 Petition for Certification or Representation is filed with the
21 Board. This prohibition shall not apply to bargaining units in
22 existence on the effective date of this Act and units of local
23 government employing more than 5 employees where the total

1 number of employees falls below 5 after the Board has certified
2 a bargaining unit.

3 (c) On or after the effective date of this amendatory Act
4 of the 100th General Assembly, any provision in a collective
5 bargaining agreement which would limit the ability of a public
6 employer to investigate the conduct of an employee of the
7 public employer is hereby declared to be against public policy
8 and unenforceable unless the limitation is otherwise required
9 by State or federal law.

10 (Source: P.A. 93-442, eff. 1-1-04; 93-1080, eff. 6-1-05; 94-67,
11 eff. 1-1-06.)

12 Section 10. The State Police Act is amended by changing
13 Section 14 as follows:

14 (20 ILCS 2610/14) (from Ch. 121, par. 307.14)

15 Sec. 14. Except as is otherwise provided in this Act, no
16 Department of State Police officer shall be removed, demoted or
17 suspended except for cause, upon written charges filed with the
18 Board by the Director and a hearing before the Board thereon
19 upon not less than 10 days' notice at a place to be designated
20 by the chairman thereof. At such hearing, the accused shall be
21 afforded full opportunity to be heard in his or her own defense
22 and to produce proof in his or her defense. Anyone filing a
23 complaint against a State Police Officer must have the
24 complaint supported by a sworn affidavit. The Department of

1 State Police shall have a procedure to bypass the requirement
2 that a complaint must be supported by a sworn affidavit against
3 a State Police Officer. Any such complaint, having been
4 supported by a sworn affidavit, and having been found, in total
5 or in part, to contain false information, shall be presented to
6 the appropriate State's Attorney for a determination of
7 prosecution.

8 Before any such officer may be interrogated or examined by
9 or before the Board, or by a departmental agent or investigator
10 specifically assigned to conduct an internal investigation,
11 the results of which hearing, interrogation or examination may
12 be the basis for filing charges seeking his or her suspension
13 for more than 15 days or his or her removal or discharge, he or
14 she shall be advised in writing as to what specific improper or
15 illegal act he or she is alleged to have committed; he or she
16 shall be advised in writing that his or her admissions made in
17 the course of the hearing, interrogation or examination may be
18 used as the basis for charges seeking his or her suspension,
19 removal or discharge; and he or she shall be advised in writing
20 that he or she has a right to counsel of his or her choosing,
21 who may be present to advise him or her at any hearing,
22 interrogation or examination. A complete record of any hearing,
23 interrogation or examination shall be made, and a complete
24 transcript or electronic recording thereof shall be made
25 available to such officer without charge and without delay.

26 The Board shall have the power to secure by its subpoena

1 both the attendance and testimony of witnesses and the
2 production of books and papers in support of the charges and
3 for the defense. Each member of the Board or a designated
4 hearing officer shall have the power to administer oaths or
5 affirmations. If the charges against an accused are established
6 by a preponderance of evidence, the Board shall make a finding
7 of guilty and order either removal, demotion, suspension for a
8 period of not more than 180 days, or such other disciplinary
9 punishment as may be prescribed by the rules and regulations of
10 the Board which, in the opinion of the members thereof, the
11 offense merits. Thereupon the Director shall direct such
12 removal or other punishment as ordered by the Board and if the
13 accused refuses to abide by any such disciplinary order, the
14 Director shall remove him or her forthwith.

15 If the accused is found not guilty or has served a period
16 of suspension greater than prescribed by the Board, the Board
17 shall order that the officer receive compensation for the
18 period involved. The award of compensation shall include
19 interest at the rate of 7% per annum.

20 The Board may include in its order appropriate sanctions
21 based upon the Board's rules and regulations. If the Board
22 finds that a party has made allegations or denials without
23 reasonable cause or has engaged in frivolous litigation for the
24 purpose of delay or needless increase in the cost of
25 litigation, it may order that party to pay the other party's
26 reasonable expenses, including costs and reasonable attorney's

1 fees. The State of Illinois and the Department shall be subject
2 to these sanctions in the same manner as other parties.

3 In case of the neglect or refusal of any person to obey a
4 subpoena issued by the Board, any circuit court, upon
5 application of any member of the Board, may order such person
6 to appear before the Board and give testimony or produce
7 evidence, and any failure to obey such order is punishable by
8 the court as a contempt thereof.

9 The provisions of the Administrative Review Law, and all
10 amendments and modifications thereof, and the rules adopted
11 pursuant thereto, shall apply to and govern all proceedings for
12 the judicial review of any order of the Board rendered pursuant
13 to the provisions of this Section.

14 Notwithstanding the provisions of this Section, a policy
15 making officer, as defined in the Employee Rights Violation
16 Act, of the Department of State Police shall be discharged from
17 the Department of State Police as provided in the Employee
18 Rights Violation Act, enacted by the 85th General Assembly.

19 (Source: P.A. 96-891, eff. 5-10-10.)

20 Section 15. The Uniform Peace Officers' Disciplinary Act is
21 amended by changing Section 3.8 as follows:

22 (50 ILCS 725/3.8) (from Ch. 85, par. 2561)

23 Sec. 3.8. Admissions; counsel; verified complaint.

24 (a) No officer shall be interrogated without first being

1 advised in writing that admissions made in the course of the
2 interrogation may be used as evidence of misconduct or as the
3 basis for charges seeking suspension, removal, or discharge;
4 and without first being advised in writing that he or she has
5 the right to counsel of his or her choosing who may be present
6 to advise him or her at any stage of any interrogation.

7 (b) Anyone filing a complaint against a sworn peace officer
8 must have the complaint supported by a sworn affidavit. Every
9 law enforcement agency or local governmental unit shall have
10 procedure to bypass the requirement that complaint must be
11 supported by a sworn affidavit against a sworn peace officer.
12 Any complaint, having been supported by a sworn affidavit, and
13 having been found, in total or in part, to contain knowingly
14 false material information, shall be presented to the
15 appropriate State's Attorney for a determination of
16 prosecution.

17 (Source: P.A. 97-472, eff. 8-22-11.)