

AN ACT concerning government.

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

Section 5. The Illinois Public Labor Relations Act is amended by changing Section 11 as follows:

(5 ILCS 315/11) (from Ch. 48, par. 1611)

Sec. 11. Unfair Labor Practice Procedures. Unfair labor practices may be dealt with by the Board in the following manner:

(a) Whenever it is charged that any person has engaged in or is engaging in any unfair labor practice, the Board or any agent designated by the Board for such purposes, shall conduct an investigation of the charge. If after such investigation the Board finds that the charge involves a dispositive issue of law or fact the Board shall issue a complaint and cause to be served upon the person a complaint stating the charges, accompanied by a notice of hearing before the Board or a member thereof designated by the Board, or before a qualified hearing officer designated by the Board at the offices of the Board or such other location as the Board deems appropriate, not less than 5 days after serving of such complaint provided that no complaint shall issue based upon any unfair labor practice occurring more than six months prior to the filing of a charge

with the Board and the service of a copy thereof upon the person against whom the charge is made, unless the person aggrieved thereby did not reasonably have knowledge of the alleged unfair labor practice or was prevented from filing such a charge by reason of service in the armed forces, in which event the six month period shall be computed from the date of his discharge. Any such complaint may be amended by the member or hearing officer conducting the hearing for the Board in his discretion at any time prior to the issuance of an order based thereon. The person who is the subject of the complaint has the right to file an answer to the original or amended complaint and to appear in person or by a representative and give testimony at the place and time fixed in the complaint. In the discretion of the member or hearing officer conducting the hearing or the Board, any other person may be allowed to intervene in the proceeding and to present testimony. In any hearing conducted by the Board, neither the Board nor the member or agent conducting the hearing shall be bound by the rules of evidence applicable to courts, except as to the rules of privilege recognized by law.

(b) The Board shall have the power to issue subpoenas and administer oaths. If any party wilfully fails or neglects to appear or testify or to produce books, papers and records pursuant to the issuance of a subpoena by the Board, the Board may apply to a court of competent jurisdiction to request that such party be ordered to appear before the Board to testify or

produce the requested evidence.

(c) Any testimony taken by the Board, or a member designated by the Board or a hearing officer thereof, must be reduced to writing and filed with the Board. A full and complete record shall be kept of all proceedings before the Board, and all proceedings shall be transcribed by a reporter appointed by the Board. The party on whom the burden of proof rests shall be required to sustain such burden by a preponderance of the evidence. If, upon a preponderance of the evidence taken, the Board is of the opinion that any person named in the charge has engaged in or is engaging in an unfair labor practice, then it shall state its findings of fact and shall issue and cause to be served upon the person an order requiring him to cease and desist from the unfair labor practice, and to take such affirmative action, including reinstatement of public employees with or without back pay, as will effectuate the policies of this Act. If the Board awards back pay, it shall also award interest at the rate of 7% per annum. The Board's order may further require the person to make reports from time to time, and demonstrate the extent to which he has complied with the order. If there is no preponderance of evidence to indicate to the Board that the person named in the charge has engaged in or is engaging in the unfair labor practice, then the Board shall state its findings of fact and shall issue an order dismissing the complaint. The Board's order may in its discretion also include an appropriate

sanction, based on the Board's rules and regulations, and the sanction may include an order to pay the other party or parties' reasonable expenses including costs and reasonable attorney's fee, if the other party has made allegations or denials without reasonable cause and found to be untrue or has engaged in frivolous litigation for the purpose of delay or needless increase in the cost of litigation; the State of Illinois or any agency thereof shall be subject to the provisions of this sentence in the same manner as any other party.

(d) Until the record in a case has been filed in court, the Board at any time, upon reasonable notice and in such manner as it deems proper, may modify or set aside, in whole or in part, any finding or order made or issued by it.

(e) A charging party or any person aggrieved by a final order of the Board granting or denying in whole or in part the relief sought may apply for and obtain judicial review of an order of the Board entered under this Act, in accordance with the provisions of the Administrative Review Law, as now or hereafter amended, except that such judicial review shall be afforded directly in the appellate court for the district in which the aggrieved party resides or transacts business, and provided, that such judicial review shall not be available for the purpose of challenging a final order issued by the Board pursuant to Section 9 of this Act for which judicial review has been petitioned pursuant to subsection (i) of Section 9. Any

direct appeal to the Appellate Court shall be filed within 35 days from the date that a copy of the decision sought to be reviewed was served upon the party affected by the decision. The filing of such an appeal to the Appellate Court shall not automatically stay the enforcement of the Board's order. An aggrieved party may apply to the Appellate Court for a stay of the enforcement of the Board's order after the aggrieved party has followed the procedure prescribed by Supreme Court Rule 335. The Board in proceedings under this Section may obtain an order of the court for the enforcement of its order.

(f) Whenever it appears that any person has violated a final order of the Board issued pursuant to this Section, the Board must commence an action in the name of the People of the State of Illinois by petition, alleging the violation, attaching a copy of the order of the Board, and praying for the issuance of an order directing the person, his officers, agents, servants, successors, and assigns to comply with the order of the Board. The Board shall be represented in this action by the Attorney General in accordance with the Attorney General Act. The court may grant or refuse, in whole or in part, the relief sought, provided that the court may stay an order of the Board in accordance with the Administrative Review Law, pending disposition of the proceedings. The court may punish a violation of its order as in civil contempt.

(g) The proceedings provided in paragraph (f) of this Section shall be commenced in the Appellate Court for the

district where the unfair labor practice which is the subject of the Board's order was committed, or where a person required to cease and desist by such order resides or transacts business.

(h) The Board through the Attorney General, shall have power, upon issuance of an unfair labor practice complaint alleging that a person has engaged in or is engaging in an unfair labor practice, to petition the circuit court where the alleged unfair labor practice which is the subject of the Board's complaint was allegedly committed, or where a person required to cease and desist from such alleged unfair labor practice resides or transacts business, for appropriate temporary relief or restraining order. Upon the filing of any such petition, the court shall cause notice thereof to be served upon such persons, and thereupon shall have jurisdiction to grant to the Board such temporary relief or restraining order as it deems just and proper.

(i) If an unfair labor practice charge involves the interpretation or application of a collective bargaining agreement and said agreement contains a grievance procedure with binding arbitration as its terminal step, the Board may defer the resolution of such dispute to the grievance and arbitration procedure contained in said agreement.

(Source: P.A. 87-736; 88-1.)

Section 99. Effective date. This Act takes effect upon becoming law.