

HB0622



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB0622

by Rep. Jay Hoffman

SYNOPSIS AS INTRODUCED:

5 ILCS 315/11

from Ch. 48, par. 1611

Amends the Illinois Public Labor Relations Act. Provides that the filing of an appeal in the Appellate Court to obtain judicial review of an order of the Illinois Labor Relations Board shall not automatically stay the enforcement of the Board's order. Provides that an aggrieved party may apply to the Appellate Court for a stay of the enforcement of the Board's order after providing notice to the Board and the prevailing party or parties, and may be granted a stay of enforcement after making a showing of good cause in accordance with the Administrative Review Law. Effective immediately.

LRB100 06098 RJF 16130 b

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 11 as follows:

6 (5 ILCS 315/11) (from Ch. 48, par. 1611)

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

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

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

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

1 produce the requested evidence.

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

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

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

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

1 direct appeal to the Appellate Court shall be filed within 35
2 days from the date that a copy of the decision sought to be
3 reviewed was served upon the party affected by the decision.
4 The filing of such an appeal to the Appellate Court shall not
5 automatically stay the enforcement of the Board's order. An
6 aggrieved party may apply to the Appellate Court for a stay of
7 the enforcement of the Board's order after providing notice to
8 the Board and the prevailing party or parties, and may be
9 granted a stay of enforcement after making a showing of good
10 cause in accordance with paragraph (1) of subsection (a) of
11 Section 3-111 of the Administrative Review Law. The Board in
12 proceedings under this Section may obtain an order of the court
13 for the enforcement of its order.

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

1 punish a violation of its order as in civil contempt.

2 (g) The proceedings provided in paragraph (f) of this
3 Section shall be commenced in the Appellate Court for the
4 district where the unfair labor practice which is the subject
5 of the Board's order was committed, or where a person required
6 to cease and desist by such order resides or transacts
7 business.

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

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

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

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