



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB3765

by Rep. Keith R. Wheeler

SYNOPSIS AS INTRODUCED:

| | |
|--------------------|------------------------|
| 5 ILCS 315/6 | from Ch. 48, par. 1606 |
| 115 ILCS 5/7.5 new | |
| 115 ILCS 5/11 | from Ch. 48, par. 1711 |

Amends the Illinois Public Labor Relations Act. Provides that certain provisions concerning the collection of dues under collective bargaining agreements apply only to collective bargaining agreements entered into before the effective date of this amendatory Act. Provides that for collective bargaining agreements entered into, modified, extended, or amended on and after the effective date of the amendatory Act, employers shall not enter into collective bargaining agreements that provide for the payroll deduction of labor organization dues, fair share payments, initiation fees, and assessments. Provides that employers shall not deduct labor organization dues, fair share payments, initiation fees, and assessments from any employee paychecks. Amends the Illinois Educational Labor Relations Act to make conforming changes. Effective immediately.

LRB100 00081 RJF 10085 b

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 6 as follows:

6 (5 ILCS 315/6) (from Ch. 48, par. 1606)

7 Sec. 6. Right to organize and bargain collectively;
8 exclusive representation; and fair share arrangements.

9 (a) Employees of the State and any political subdivision of
10 the State, excluding employees of the General Assembly of the
11 State of Illinois and employees excluded from the definition of
12 "public employee" under subsection (n) of Section 3 of this
13 Act, have, and are protected in the exercise of, the right of
14 self-organization, and may form, join or assist any labor
15 organization, to bargain collectively through representatives
16 of their own choosing on questions of wages, hours and other
17 conditions of employment, not excluded by Section 4 of this
18 Act, and to engage in other concerted activities not otherwise
19 prohibited by law for the purposes of collective bargaining or
20 other mutual aid or protection, free from interference,
21 restraint or coercion. Employees also have, and are protected
22 in the exercise of, the right to refrain from participating in
23 any such concerted activities. Employees may be required,

1 pursuant to the terms of a lawful fair share agreement, to pay
2 a fee which shall be their proportionate share of the costs of
3 the collective bargaining process, contract administration and
4 pursuing matters affecting wages, hours and other conditions of
5 employment as defined in Section 3(g).

6 (b) Nothing in this Act prevents an employee from
7 presenting a grievance to the employer and having the grievance
8 heard and settled without the intervention of an employee
9 organization; provided that the exclusive bargaining
10 representative is afforded the opportunity to be present at
11 such conference and that any settlement made shall not be
12 inconsistent with the terms of any agreement in effect between
13 the employer and the exclusive bargaining representative.

14 (c) A labor organization designated by the Board as the
15 representative of the majority of public employees in an
16 appropriate unit in accordance with the procedures herein or
17 recognized by a public employer as the representative of the
18 majority of public employees in an appropriate unit is the
19 exclusive representative for the employees of such unit for the
20 purpose of collective bargaining with respect to rates of pay,
21 wages, hours and other conditions of employment not excluded by
22 Section 4 of this Act. A public employer is required upon
23 request to furnish the exclusive bargaining representative
24 with a complete list of the names and addresses of the public
25 employees in the bargaining unit, provided that a public
26 employer shall not be required to furnish such a list more than

1 once per payroll period. The exclusive bargaining
2 representative shall use the list exclusively for bargaining
3 representation purposes and shall not disclose any information
4 contained in the list for any other purpose. Nothing in this
5 Section, however, shall prohibit a bargaining representative
6 from disseminating a list of its union members.

7 (d) Labor organizations recognized by a public employer as
8 the exclusive representative or so designated in accordance
9 with the provisions of this Act are responsible for
10 representing the interests of all public employees in the unit.
11 Nothing herein shall be construed to limit an exclusive
12 representative's right to exercise its discretion to refuse to
13 process grievances of employees that are unmeritorious.

14 (e) When a collective bargaining agreement is entered into
15 with an exclusive representative, it may include in the
16 agreement a provision requiring employees covered by the
17 agreement who are not members of the organization to pay their
18 proportionate share of the costs of the collective bargaining
19 process, contract administration and pursuing matters
20 affecting wages, hours and conditions of employment, as defined
21 in Section 3 (g), but not to exceed the amount of dues
22 uniformly required of members. The organization shall certify
23 to the employer the amount constituting each nonmember
24 employee's proportionate share which shall not exceed dues
25 uniformly required of members. In such case, the proportionate
26 share payment in this Section shall be deducted by the employer

1 from the earnings of the nonmember employees and paid to the
2 employee organization.

3 (f) For collective bargaining agreements entered into
4 before the effective date of this amendatory Act of the 100th
5 General Assembly, only ~~Only~~ the exclusive representative may
6 negotiate provisions in a collective bargaining agreement
7 providing for the payroll deduction of labor organization dues,
8 fair share payment, initiation fees and assessments. Except as
9 provided in subsection (e) of this Section, any such deductions
10 shall only be made upon an employee's written authorization,
11 and continued until revoked in writing in the same manner or
12 until the termination date of an applicable collective
13 bargaining agreement. Such payments shall be paid to the
14 exclusive representative.

15 Where a collective bargaining agreement is terminated, or
16 continues in effect beyond its scheduled expiration date
17 pending the negotiation of a successor agreement or the
18 resolution of an impasse under Section 14, the employer shall
19 continue to honor and abide by any dues deduction or fair share
20 clause contained therein until a new agreement is reached
21 including dues deduction or a fair share clause. For the
22 benefit of any successor exclusive representative certified
23 under this Act, this provision shall be applicable, provided
24 the successor exclusive representative:

25 (i) certifies to the employer the amount constituting
26 each non-member's proportionate share under subsection

1 (e); or

2 (ii) presents the employer with employee written
3 authorizations for the deduction of dues, assessments, and
4 fees under this subsection.

5 Failure to so honor and abide by dues deduction or fair
6 share clauses for the benefit of any exclusive representative,
7 including a successor, shall be a violation of the duty to
8 bargain and an unfair labor practice.

9 (f-5) For collective bargaining agreements entered into,
10 modified, extended, or amended on and after the effective date
11 of this amendatory Act of the 100th General Assembly, employers
12 shall not enter into collective bargaining agreements that
13 provide for the payroll deduction of labor organization dues,
14 fair share payments, initiation fees, and assessments.
15 Employers shall not deduct labor organization dues, fair share
16 payments, initiation fees, and assessments from any employee
17 paychecks.

18 (g) Agreements containing a fair share agreement must
19 safeguard the right of nonassociation of employees based upon
20 bona fide religious tenets or teachings of a church or
21 religious body of which such employees are members. Such
22 employees may be required to pay an amount equal to their fair
23 share, determined under a lawful fair share agreement, to a
24 nonreligious charitable organization mutually agreed upon by
25 the employees affected and the exclusive bargaining
26 representative to which such employees would otherwise pay such

1 service fee. If the affected employees and the bargaining
2 representative are unable to reach an agreement on the matter,
3 the Board may establish an approved list of charitable
4 organizations to which such payments may be made.

5 (Source: P.A. 97-1172, eff. 4-5-13.)

6 Section 10. The Illinois Educational Labor Relations Act is
7 amended by changing Section 11 and by adding Section 7.5 as
8 follows:

9 (115 ILCS 5/7.5 new)

10 Sec. 7.5. No dues collections. For collective bargaining
11 agreements entered into, modified, extended, or amended on and
12 after the effective date of this amendatory Act of the 100th
13 General Assembly, employers shall not enter into collective
14 bargaining agreements that provide for the payroll deduction of
15 labor organization dues, initiation fees, and assessments.
16 Employers shall not deduct labor organization dues, initiation
17 fees, and assessments from any employee paychecks.

18 (115 ILCS 5/11) (from Ch. 48, par. 1711)

19 Sec. 11. Non-member fair share payments.

20 (a) When a collective bargaining agreement is entered into
21 with an exclusive representative, it may include a provision
22 requiring employees covered by the agreement who are not
23 members of the organization to pay to the organization a fair

1 share fee for services rendered. The exclusive representative
2 shall certify to the employer an amount not to exceed the dues
3 uniformly required of members which shall constitute each non
4 member employee's fair share fee. For collective bargaining
5 agreements containing a fair share fee provision entered into
6 before the effective date of this amendatory Act of the 100th
7 General Assembly, the ~~The~~ fair share fee payment shall be
8 deducted by the employer from the earnings of the non member
9 employees and paid to the exclusive representative.

10 The amount certified by the exclusive representative shall
11 not include any fees for contributions related to the election
12 or support of any candidate for political office. Nothing in
13 this Section shall preclude the non member employee from making
14 voluntary political contributions in conjunction with his or
15 her fair share payment.

16 If a collective bargaining agreement that includes a fair
17 share clause expires or continues in effect beyond its
18 scheduled expiration date pending the negotiation of a
19 successor agreement, then the employer shall continue to honor
20 and abide by the fair share clause until a new agreement that
21 includes a fair share clause is reached. Failure to honor and
22 abide by the fair share clause for the benefit of any exclusive
23 representative as set forth in this paragraph shall be a
24 violation of the duty to bargain and an unfair labor practice.

25 Agreements containing a fair share agreement must
26 safeguard the right of non-association of employees based upon

1 bonafide religious tenets or teaching of a church or religious
2 body of which such employees are members. Such employees may be
3 required to pay an amount equal to their proportionate share,
4 determined under a proportionate share agreement, to a
5 non-religious charitable organization mutually agreed upon by
6 the employees affected and the exclusive representative to
7 which such employees would otherwise pay such fee. If the
8 affected employees and the exclusive representative are unable
9 to reach an agreement on the matter, the Illinois Educational
10 Labor Relations Board may establish an approved list of
11 charitable organizations to which such payments may be made.

12 For collective bargaining agreements containing a fair
13 share fee provision entered into before the effective date of
14 this amendatory Act of the 100th General Assembly, the ~~The~~
15 Board shall by rule require that in cases where an employee
16 files an objection to the amount of the fair share fee, the
17 employer shall continue to deduct the employee's fair share fee
18 from the employee's pay, but shall transmit the fee, or some
19 portion thereof, to the Board for deposit in an escrow account
20 maintained by the Board; provided, however, that if the
21 exclusive representative maintains an escrow account for the
22 purpose of holding fair share fees to which an employee has
23 objected, the employer shall transmit the entire fair share fee
24 to the exclusive representative, and the exclusive
25 representative shall hold in escrow that portion of the fee
26 that the employer would otherwise have been required to

1 transmit to the Board for escrow, provided that the escrow
2 account maintained by the exclusive representative complies
3 with rules to be promulgated by the Board within 30 days of the
4 effective date of this amendatory Act of 1989 or that the
5 collective bargaining agreement requiring the payment of the
6 fair share fee contains an indemnification provision for the
7 purpose of indemnifying the employer with respect to the
8 employer's transmission of fair share fees to the exclusive
9 representative.

10 (b) For collective bargaining agreements entered into,
11 modified, extended, or amended on and after the effective date
12 of this amendatory Act of the 100th General Assembly, employers
13 shall not enter into collective bargaining agreements that
14 provide for the payroll deduction of fair share payments.
15 Employers shall not deduct fair share payments from any
16 employee paychecks.

17 (Source: P.A. 94-210, eff. 7-14-05.)

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