



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB2521

Introduced 2/19/2021, by Rep. Edgar Gonzalez, Jr.

SYNOPSIS AS INTRODUCED:

5 ILCS 315/9 from Ch. 48, par. 1609
5 ILCS 315/10 from Ch. 48, par. 1610

Amends the Illinois Public Labor Relations Act. Provides that the showing of interest in support of a petition filed for the purpose of selecting a labor organization as the representative of the employees in a bargaining unit may be evidenced by electronic communications, and such writing or communication may be evidenced by the electronic signature of the employees. Provides that the showing of interest shall be valid only if signed within 12 months prior to the filing of the petition. Provides that a secret ballot election held for the purpose of selecting a labor organization as the representative of the employees in a bargaining unit may be conducted electronically, using an electronic voting system, in addition to paper ballot voting systems. Provides that it shall be an unfair labor practice for an employer to promise, threaten, or take any action because of an employees specified participation in a strike.

LRB102 14009 RJF 19361 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 Sections 9 and 10 as follows:

6 (5 ILCS 315/9) (from Ch. 48, par. 1609)

7 Sec. 9. Elections; recognition.

8 (a) Whenever in accordance with such regulations as may be
9 prescribed by the Board a petition has been filed:

10 (1) by a public employee or group of public employees
11 or any labor organization acting in their behalf
12 demonstrating that 30% of the public employees in an
13 appropriate unit (A) wish to be represented for the
14 purposes of collective bargaining by a labor organization
15 as exclusive representative, or (B) asserting that the
16 labor organization which has been certified or is
17 currently recognized by the public employer as bargaining
18 representative is no longer the representative of the
19 majority of public employees in the unit; or

20 (2) by a public employer alleging that one or more
21 labor organizations have presented to it a claim that they
22 be recognized as the representative of a majority of the
23 public employees in an appropriate unit, the Board shall

1 investigate such petition, and if it has reasonable cause
2 to believe that a question of representation exists, shall
3 provide for an appropriate hearing upon due notice. Such
4 hearing shall be held at the offices of the Board or such
5 other location as the Board deems appropriate. If it finds
6 upon the record of the hearing that a question of
7 representation exists, it shall direct an election in
8 accordance with subsection (d) of this Section, which
9 election shall be held not later than 120 days after the
10 date the petition was filed regardless of whether that
11 petition was filed before or after the effective date of
12 this amendatory Act of 1987; provided, however, the Board
13 may extend the time for holding an election by an
14 additional 60 days if, upon motion by a person who has
15 filed a petition under this Section or is the subject of a
16 petition filed under this Section and is a party to such
17 hearing, or upon the Board's own motion, the Board finds
18 that good cause has been shown for extending the election
19 date; provided further, that nothing in this Section shall
20 prohibit the Board, in its discretion, from extending the
21 time for holding an election for so long as may be
22 necessary under the circumstances, where the purpose for
23 such extension is to permit resolution by the Board of an
24 unfair labor practice charge filed by one of the parties
25 to a representational proceeding against the other based
26 upon conduct which may either affect the existence of a

1 question concerning representation or have a tendency to
2 interfere with a fair and free election, where the party
3 filing the charge has not filed a request to proceed with
4 the election; and provided further that prior to the
5 expiration of the total time allotted for holding an
6 election, a person who has filed a petition under this
7 Section or is the subject of a petition filed under this
8 Section and is a party to such hearing or the Board, may
9 move for and obtain the entry of an order in the circuit
10 court of the county in which the majority of the public
11 employees sought to be represented by such person reside,
12 such order extending the date upon which the election
13 shall be held. Such order shall be issued by the circuit
14 court only upon a judicial finding that there has been a
15 sufficient showing that there is good cause to extend the
16 election date beyond such period and shall require the
17 Board to hold the election as soon as is feasible given the
18 totality of the circumstances. Such 120 day period may be
19 extended one or more times by the agreement of all parties
20 to the hearing to a date certain without the necessity of
21 obtaining a court order. The showing of interest in
22 support of a petition filed under paragraph (1) of this
23 subsection (a) may be evidenced by electronic
24 communications, and such writing or communication may be
25 evidenced by the electronic signature of the employee as
26 provided under Section 5-120 of the Electronic Commerce

1 Security Act. The showing of interest shall be valid only
2 if signed within 12 months prior to the filing of the
3 petition. Nothing in this Section prohibits the waiving of
4 hearings by stipulation for the purpose of a consent
5 election in conformity with the rules and regulations of
6 the Board or an election in a unit agreed upon by the
7 parties. Other interested employee organizations may
8 intervene in the proceedings in the manner and within the
9 time period specified by rules and regulations of the
10 Board. Interested parties who are necessary to the
11 proceedings may also intervene in the proceedings in the
12 manner and within the time period specified by the rules
13 and regulations of the Board.

14 (a-5) The Board shall designate an exclusive
15 representative for purposes of collective bargaining when the
16 representative demonstrates a showing of majority interest by
17 employees in the unit. If the parties to a dispute are without
18 agreement on the means to ascertain the choice, if any, of
19 employee organization as their representative, the Board shall
20 ascertain the employees' choice of employee organization, on
21 the basis of dues deduction authorization or other evidence,
22 or, if necessary, by conducting an election. The showing of
23 interest in support of a petition filed under this subsection
24 (a-5) may be evidenced by electronic communications, and such
25 writing or communication may be evidenced by the electronic
26 signature of the employee as provided under Section 5-120 of

1 the Electronic Commerce Security Act. The showing of interest
2 shall be valid only if signed within 12 months prior to the
3 filing of the petition. All evidence submitted by an employee
4 organization to the Board to ascertain an employee's choice of
5 an employee organization is confidential and shall not be
6 submitted to the employer for review. The Board shall
7 ascertain the employee's choice of employee organization
8 within 120 days after the filing of the majority interest
9 petition; however, the Board may extend time by an additional
10 60 days, upon its own motion or upon the motion of a party to
11 the proceeding. If either party provides to the Board, before
12 the designation of a representative, clear and convincing
13 evidence that the dues deduction authorizations, and other
14 evidence upon which the Board would otherwise rely to
15 ascertain the employees' choice of representative, are
16 fraudulent or were obtained through coercion, the Board shall
17 promptly thereafter conduct an election. The Board shall also
18 investigate and consider a party's allegations that the dues
19 deduction authorizations and other evidence submitted in
20 support of a designation of representative without an election
21 were subsequently changed, altered, withdrawn, or withheld as
22 a result of employer fraud, coercion, or any other unfair
23 labor practice by the employer. If the Board determines that a
24 labor organization would have had a majority interest but for
25 an employer's fraud, coercion, or unfair labor practice, it
26 shall designate the labor organization as an exclusive

1 representative without conducting an election. If a hearing is
2 necessary to resolve any issues of representation under this
3 Section, the Board shall conclude its hearing process and
4 issue a certification of the entire appropriate unit not later
5 than 120 days after the date the petition was filed. The
6 120-day period may be extended one or more times by the
7 agreement of all parties to a hearing to a date certain.

8 (a-6) A labor organization or an employer may file a unit
9 clarification petition seeking to clarify an existing
10 bargaining unit. The Board shall conclude its investigation,
11 including any hearing process deemed necessary, and issue a
12 certification of clarified unit or dismiss the petition not
13 later than 120 days after the date the petition was filed. The
14 120-day period may be extended one or more times by the
15 agreement of all parties to a hearing to a date certain.

16 (b) The Board shall decide in each case, in order to assure
17 public employees the fullest freedom in exercising the rights
18 guaranteed by this Act, a unit appropriate for the purpose of
19 collective bargaining, based upon but not limited to such
20 factors as: historical pattern of recognition; community of
21 interest including employee skills and functions; degree of
22 functional integration; interchangeability and contact among
23 employees; fragmentation of employee groups; common
24 supervision, wages, hours and other working conditions of the
25 employees involved; and the desires of the employees. For
26 purposes of this subsection, fragmentation shall not be the

1 sole or predominant factor used by the Board in determining an
2 appropriate bargaining unit. Except with respect to non-State
3 fire fighters and paramedics employed by fire departments and
4 fire protection districts, non-State peace officers and peace
5 officers in the State Department of State Police, a single
6 bargaining unit determined by the Board may not include both
7 supervisors and nonsupervisors, except for bargaining units in
8 existence on the effective date of this Act. With respect to
9 non-State fire fighters and paramedics employed by fire
10 departments and fire protection districts, non-State peace
11 officers and peace officers in the State Department of State
12 Police, a single bargaining unit determined by the Board may
13 not include both supervisors and nonsupervisors, except for
14 bargaining units in existence on the effective date of this
15 amendatory Act of 1985.

16 In cases involving an historical pattern of recognition,
17 and in cases where the employer has recognized the union as the
18 sole and exclusive bargaining agent for a specified existing
19 unit, the Board shall find the employees in the unit then
20 represented by the union pursuant to the recognition to be the
21 appropriate unit.

22 Notwithstanding the above factors, where the majority of
23 public employees of a craft so decide, the Board shall
24 designate such craft as a unit appropriate for the purposes of
25 collective bargaining.

26 The Board shall not decide that any unit is appropriate if

1 such unit includes both professional and nonprofessional
2 employees, unless a majority of each group votes for inclusion
3 in such unit.

4 (c) Nothing in this Act shall interfere with or negate the
5 current representation rights or patterns and practices of
6 labor organizations which have historically represented public
7 employees for the purpose of collective bargaining, including
8 but not limited to the negotiations of wages, hours and
9 working conditions, discussions of employees' grievances,
10 resolution of jurisdictional disputes, or the establishment
11 and maintenance of prevailing wage rates, unless a majority of
12 employees so represented express a contrary desire pursuant to
13 the procedures set forth in this Act.

14 (d) In instances where the employer does not voluntarily
15 recognize a labor organization as the exclusive bargaining
16 representative for a unit of employees, the Board shall
17 determine the majority representative of the public employees
18 in an appropriate collective bargaining unit by conducting a
19 secret ballot election, except as otherwise provided in
20 subsection (a-5). Such a secret ballot election may be
21 conducted electronically, using an electronic voting system,
22 in addition to paper ballot voting systems. Within 7 days
23 after the Board issues its bargaining unit determination and
24 direction of election or the execution of a stipulation for
25 the purpose of a consent election, the public employer shall
26 submit to the labor organization the complete names and

1 addresses of those employees who are determined by the Board
2 to be eligible to participate in the election. When the Board
3 has determined that a labor organization has been fairly and
4 freely chosen by a majority of employees in an appropriate
5 unit, it shall certify such organization as the exclusive
6 representative. If the Board determines that a majority of
7 employees in an appropriate unit has fairly and freely chosen
8 not to be represented by a labor organization, it shall so
9 certify. The Board may also revoke the certification of the
10 public employee organizations as exclusive bargaining
11 representatives which have been found by a secret ballot
12 election to be no longer the majority representative.

13 (e) The Board shall not conduct an election in any
14 bargaining unit or any subdivision thereof within which a
15 valid election has been held in the preceding 12-month period.
16 The Board shall determine who is eligible to vote in an
17 election and shall establish rules governing the conduct of
18 the election or conduct affecting the results of the election.
19 The Board shall include on a ballot in a representation
20 election a choice of "no representation". A labor organization
21 currently representing the bargaining unit of employees shall
22 be placed on the ballot in any representation election. In any
23 election where none of the choices on the ballot receives a
24 majority, a runoff election shall be conducted between the 2
25 choices receiving the largest number of valid votes cast in
26 the election. A labor organization which receives a majority

1 of the votes cast in an election shall be certified by the
2 Board as exclusive representative of all public employees in
3 the unit.

4 (f) A labor organization shall be designated as the
5 exclusive representative by a public employer, provided that
6 the labor organization represents a majority of the public
7 employees in an appropriate unit. Any employee organization
8 which is designated or selected by the majority of public
9 employees, in a unit of the public employer having no other
10 recognized or certified representative, as their
11 representative for purposes of collective bargaining may
12 request recognition by the public employer in writing. The
13 public employer shall post such request for a period of at
14 least 20 days following its receipt thereof on bulletin boards
15 or other places used or reserved for employee notices.

16 (g) Within the 20-day period any other interested employee
17 organization may petition the Board in the manner specified by
18 rules and regulations of the Board, provided that such
19 interested employee organization has been designated by at
20 least 10% of the employees in an appropriate bargaining unit
21 which includes all or some of the employees in the unit
22 recognized by the employer. In such event, the Board shall
23 proceed with the petition in the same manner as provided by
24 paragraph (1) of subsection (a) of this Section.

25 (h) No election shall be directed by the Board in any
26 bargaining unit where there is in force a valid collective

1 bargaining agreement. The Board, however, may process an
2 election petition filed between 90 and 60 days prior to the
3 expiration of the date of an agreement, and may further
4 refine, by rule or decision, the implementation of this
5 provision. Where more than 4 years have elapsed since the
6 effective date of the agreement, the agreement shall continue
7 to bar an election, except that the Board may process an
8 election petition filed between 90 and 60 days prior to the end
9 of the fifth year of such an agreement, and between 90 and 60
10 days prior to the end of each successive year of such
11 agreement.

12 (i) An order of the Board dismissing a representation
13 petition, determining and certifying that a labor organization
14 has been fairly and freely chosen by a majority of employees in
15 an appropriate bargaining unit, determining and certifying
16 that a labor organization has not been fairly and freely
17 chosen by a majority of employees in the bargaining unit or
18 certifying a labor organization as the exclusive
19 representative of employees in an appropriate bargaining unit
20 because of a determination by the Board that the labor
21 organization is the historical bargaining representative of
22 employees in the bargaining unit, is a final order. Any person
23 aggrieved by any such order issued on or after the effective
24 date of this amendatory Act of 1987 may apply for and obtain
25 judicial review in accordance with provisions of the
26 Administrative Review Law, as now or hereafter amended, except

1 that such review shall be afforded directly in the Appellate
2 Court for the district in which the aggrieved party resides or
3 transacts business. Any direct appeal to the Appellate Court
4 shall be filed within 35 days from the date that a copy of the
5 decision sought to be reviewed was served upon the party
6 affected by the decision.

7 (Source: P.A. 95-331, eff. 8-21-07; 96-813, eff. 10-30-09.)

8 (5 ILCS 315/10) (from Ch. 48, par. 1610)

9 Sec. 10. Unfair labor practices.

10 (a) It shall be an unfair labor practice for an employer or
11 its agents:

12 (1) to interfere with, restrain or coerce public
13 employees in the exercise of the rights guaranteed in this
14 Act or to dominate or interfere with the formation,
15 existence or administration of any labor organization or
16 contribute financial or other support to it; provided, an
17 employer shall not be prohibited from permitting employees
18 to confer with him during working hours without loss of
19 time or pay;

20 (2) to discriminate in regard to hire or tenure of
21 employment or any term or condition of employment in order
22 to encourage or discourage membership in or other support
23 for any labor organization. Nothing in this Act or any
24 other law precludes a public employer from making an
25 agreement with a labor organization to require as a

1 condition of employment the payment of a fair share under
2 paragraph (e) of Section 6;

3 (3) to discharge or otherwise discriminate against a
4 public employee because he has signed or filed an
5 affidavit, petition or charge or provided any information
6 or testimony under this Act;

7 (4) to refuse to bargain collectively in good faith
8 with a labor organization which is the exclusive
9 representative of public employees in an appropriate unit,
10 including, but not limited to, the discussing of
11 grievances with the exclusive representative;

12 (5) to violate any of the rules and regulations
13 established by the Board with jurisdiction over them
14 relating to the conduct of representation elections or the
15 conduct affecting the representation elections;

16 (6) to expend or cause the expenditure of public funds
17 to any external agent, individual, firm, agency,
18 partnership or association in any attempt to influence the
19 outcome of representational elections held pursuant to
20 Section 9 of this Act; provided, that nothing in this
21 subsection shall be construed to limit an employer's right
22 to internally communicate with its employees as provided
23 in subsection (c) of this Section, to be represented on
24 any matter pertaining to unit determinations, unfair labor
25 practice charges or pre-election conferences in any formal
26 or informal proceeding before the Board, or to seek or

1 obtain advice from legal counsel. Nothing in this
2 paragraph shall be construed to prohibit an employer from
3 expending or causing the expenditure of public funds on,
4 or seeking or obtaining services or advice from, any
5 organization, group, or association established by and
6 including public or educational employers, whether covered
7 by this Act, the Illinois Educational Labor Relations Act
8 or the public employment labor relations law of any other
9 state or the federal government, provided that such
10 services or advice are generally available to the
11 membership of the organization, group or association, and
12 are not offered solely in an attempt to influence the
13 outcome of a particular representational election;

14 (7) to refuse to reduce a collective bargaining
15 agreement to writing or to refuse to sign such agreement;

16 (8) to interfere with, restrain, coerce, deter, or
17 discourage public employees or applicants to be public
18 employees from: (i) becoming or remaining members of a
19 labor organization; (ii) authorizing representation by a
20 labor organization; or (iii) authorizing dues or fee
21 deductions to a labor organization, nor shall the employer
22 intentionally permit outside third parties to use its
23 email or other communication systems to engage in that
24 conduct. An employer's good faith implementation of a
25 policy to block the use of its email or other
26 communication systems for such purposes shall be a defense

1 to an unfair labor practice; ~~or~~

2 (9) to disclose to any person or entity information
3 set forth in subsection (c-5) of Section 6 of this Act that
4 the employer knows or should know will be used to
5 interfere with, restrain, coerce, deter, or discourage any
6 public employee from: (i) becoming or remaining members of
7 a labor organization, (ii) authorizing representation by a
8 labor organization, or (iii) authorizing dues or fee
9 deductions to a labor organization; or.

10 (10) to promise, threaten, or take any action: (i) to
11 permanently replace an employee who participates in a
12 strike as provided under Section 17; (ii) to discriminate
13 against an employee who is working or has unconditionally
14 offered to return to work for the employer because the
15 employee supported or participated in such a strike; or
16 (iii) to lockout, suspend, or otherwise withhold
17 employment from employees in order to influence the
18 position of such employees or the representative of such
19 employees in collective bargaining prior to a strike.

20 (b) It shall be an unfair labor practice for a labor
21 organization or its agents:

22 (1) to restrain or coerce public employees in the
23 exercise of the rights guaranteed in this Act, provided,
24 (i) that this paragraph shall not impair the right of a
25 labor organization to prescribe its own rules with respect
26 to the acquisition or retention of membership therein or

1 the determination of fair share payments and (ii) that a
2 labor organization or its agents shall commit an unfair
3 labor practice under this paragraph in duty of fair
4 representation cases only by intentional misconduct in
5 representing employees under this Act;

6 (2) to restrain or coerce a public employer in the
7 selection of his representatives for the purposes of
8 collective bargaining or the settlement of grievances; or

9 (3) to cause, or attempt to cause, an employer to
10 discriminate against an employee in violation of
11 subsection (a)(2);

12 (4) to refuse to bargain collectively in good faith
13 with a public employer, if it has been designated in
14 accordance with the provisions of this Act as the
15 exclusive representative of public employees in an
16 appropriate unit;

17 (5) to violate any of the rules and regulations
18 established by the boards with jurisdiction over them
19 relating to the conduct of representation elections or the
20 conduct affecting the representation elections;

21 (6) to discriminate against any employee because he
22 has signed or filed an affidavit, petition or charge or
23 provided any information or testimony under this Act;

24 (7) to picket or cause to be picketed, or threaten to
25 picket or cause to be picketed, any public employer where
26 an object thereof is forcing or requiring an employer to

1 recognize or bargain with a labor organization of the
2 representative of its employees, or forcing or requiring
3 the employees of an employer to accept or select such
4 labor organization as their collective bargaining
5 representative, unless such labor organization is
6 currently certified as the representative of such
7 employees:

8 (A) where the employer has lawfully recognized in
9 accordance with this Act any labor organization and a
10 question concerning representation may not
11 appropriately be raised under Section 9 of this Act;

12 (B) where within the preceding 12 months a valid
13 election under Section 9 of this Act has been
14 conducted; or

15 (C) where such picketing has been conducted
16 without a petition under Section 9 being filed within
17 a reasonable period of time not to exceed 30 days from
18 the commencement of such picketing; provided that when
19 such a petition has been filed the Board shall
20 forthwith, without regard to the provisions of
21 subsection (a) of Section 9 or the absence of a showing
22 of a substantial interest on the part of the labor
23 organization, direct an election in such unit as the
24 Board finds to be appropriate and shall certify the
25 results thereof; provided further, that nothing in
26 this subparagraph shall be construed to prohibit any

1 picketing or other publicity for the purpose of
2 truthfully advising the public that an employer does
3 not employ members of, or have a contract with, a labor
4 organization unless an effect of such picketing is to
5 induce any individual employed by any other person in
6 the course of his employment, not to pick up, deliver,
7 or transport any goods or not to perform any services;
8 or

9 (8) to refuse to reduce a collective bargaining
10 agreement to writing or to refuse to sign such agreement.

11 (c) The expressing of any views, argument, or opinion or
12 the dissemination thereof, whether in written, printed,
13 graphic, or visual form, shall not constitute or be evidence
14 of an unfair labor practice under any of the provisions of this
15 Act, if such expression contains no threat of reprisal or
16 force or promise of benefit.

17 (d) The employer shall not discourage public employees or
18 applicants to be public employees from becoming or remaining
19 union members or authorizing dues deductions, and shall not
20 otherwise interfere with the relationship between employees
21 and their exclusive bargaining representative. The employer
22 shall refer all inquiries about union membership to the
23 exclusive bargaining representative, except that the employer
24 may communicate with employees regarding payroll processes and
25 procedures. The employer will establish email policies in an
26 effort to prohibit the use of its email system by outside

1 sources.

2 (Source: P.A. 101-620, eff. 12-20-19.)