



Rep. Edgar Gonzalez, Jr.

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LRB102 14009 CMG 25402 a

1 AMENDMENT TO HOUSE BILL 2521

2 AMENDMENT NO. _____. Amend House Bill 2521 on page 19,
3 immediately below line 2, by inserting the following:

4 "Section 10. The Illinois Educational Labor Relations Act
5 is amended by changing Sections 7, 8, and 14 as follows:

6 (115 ILCS 5/7) (from Ch. 48, par. 1707)

7 Sec. 7. Recognition of exclusive bargaining
8 representatives - unit determination. The Board is empowered
9 to administer the recognition of bargaining representatives of
10 employees of public school districts, including employees of
11 districts which have entered into joint agreements, or
12 employees of public community college districts, or any State
13 college or university, and any State agency whose major
14 function is providing educational services, making certain
15 that each bargaining unit contains employees with an
16 identifiable community of interest and that no unit includes

1 both professional employees and nonprofessional employees
2 unless a majority of employees in each group vote for
3 inclusion in the unit.

4 (a) In determining the appropriateness of a unit, the
5 Board shall decide in each case, in order to ensure employees
6 the fullest freedom in exercising the rights guaranteed by
7 this Act, the unit appropriate for the purpose of collective
8 bargaining, based upon but not limited to such factors as
9 historical pattern of recognition, community of interest,
10 including employee skills and functions, degree of functional
11 integration, interchangeability and contact among employees,
12 common supervision, wages, hours and other working conditions
13 of the employees involved, and the desires of the employees.
14 Nothing in this Act, except as herein provided, shall
15 interfere with or negate the current representation rights or
16 patterns and practices of employee organizations which have
17 historically represented employees for the purposes of
18 collective bargaining, including but not limited to the
19 negotiations of wages, hours and working conditions,
20 resolutions of employees' grievances, or resolution of
21 jurisdictional disputes, or the establishment and maintenance
22 of prevailing wage rates, unless a majority of the employees
23 so represented expresses a contrary desire under the
24 procedures set forth in this Act. This Section, however, does
25 not prohibit multi-unit bargaining. Notwithstanding the above
26 factors, where the majority of public employees of a craft so

1 decide, the Board shall designate such craft as a unit
2 appropriate for the purposes of collective bargaining.

3 The sole appropriate bargaining unit for tenured and
4 tenure-track academic faculty at each campus of the University
5 of Illinois shall be a unit that is comprised of
6 non-supervisory academic faculty employed more than half-time
7 and that includes all tenured and tenure-track faculty of that
8 University campus employed by the board of trustees in all of
9 the campus's undergraduate, graduate, and professional schools
10 and degree and non-degree programs (with the exception of the
11 college of medicine, the college of pharmacy, the college of
12 dentistry, the college of law, and the college of veterinary
13 medicine, each of which shall have its own separate unit),
14 regardless of current or historical representation rights or
15 patterns or the application of any other factors. Any
16 decision, rule, or regulation promulgated by the Board to the
17 contrary shall be null and void.

18 (b) An educational employer shall voluntarily recognize a
19 labor organization for collective bargaining purposes if that
20 organization appears to represent a majority of employees in
21 the unit. The employer shall post notice of its intent to so
22 recognize for a period of at least 20 school days on bulletin
23 boards or other places used or reserved for employee notices.
24 Thereafter, the employer, if satisfied as to the majority
25 status of the employee organization, shall send written
26 notification of such recognition to the Board for

1 certification. Any dispute regarding the majority status of a
2 labor organization shall be resolved by the Board which shall
3 make the determination of majority status.

4 Within the 20 day notice period, however, any other
5 interested employee organization may petition the Board to
6 seek recognition as the exclusive representative of the unit
7 in the manner specified by rules and regulations prescribed by
8 the Board, if such interested employee organization has been
9 designated by at least 15% of the employees in an appropriate
10 bargaining unit which includes all or some of the employees in
11 the unit intended to be recognized by the employer. In such
12 event, the Board shall proceed with the petition in the same
13 manner as provided in paragraph (c) of this Section.

14 (c) A labor organization may also gain recognition as the
15 exclusive representative by an election of the employees in
16 the unit. Petitions requesting an election may be filed with
17 the Board:

18 (1) by an employee or group of employees or any labor
19 organizations acting on their behalf alleging and
20 presenting evidence that 30% or more of the employees in a
21 bargaining unit wish to be represented for collective
22 bargaining or that the labor organization which has been
23 acting as the exclusive bargaining representative is no
24 longer representative of a majority of the employees in
25 the unit; or

26 (2) by an employer alleging that one or more labor

1 organizations have presented a claim to be recognized as
2 an exclusive bargaining representative of a majority of
3 the employees in an appropriate unit and that it doubts
4 the majority status of any of the organizations or that it
5 doubts the majority status of an exclusive bargaining
6 representative.

7 The Board shall investigate the petition and if it has
8 reasonable cause to suspect that a question of representation
9 exists, it shall give notice and conduct a hearing. If it finds
10 upon the record of the hearing that a question of
11 representation exists, it shall direct an election, which
12 shall be held no later than 90 days after the date the petition
13 was filed. The showing of interest in support of a petition
14 filed under paragraph (1) of this subsection (c) may be
15 evidenced by electronic communications, and such writing or
16 communication may be evidenced by the electronic signature of
17 the employee as provided under Section 5-120 of the Electronic
18 Commerce Security Act. The showing of interest shall be valid
19 only if signed within 12 months prior to the filing of the
20 petition. Nothing prohibits the waiving of hearings by the
21 parties and the conduct of consent elections.

22 (c-5) The Board shall designate an exclusive
23 representative for purposes of collective bargaining when the
24 representative demonstrates a showing of majority interest by
25 employees in the unit. If the parties to a dispute are without
26 agreement on the means to ascertain the choice, if any, of

1 employee organization as their representative, the Board shall
2 ascertain the employees' choice of employee organization, on
3 the basis of dues deduction authorization or other evidence,
4 or, if necessary, by conducting an election. The showing of
5 interest in support of a petition filed under this subsection
6 (c-5) may be evidenced by electronic communications, and such
7 writing or communication may be evidenced by the electronic
8 signature of the employee as provided under Section 5-120 of
9 the Electronic Commerce Security Act. The showing of interest
10 shall be valid only if signed within 12 months prior to the
11 filing of the petition. All evidence submitted by an employee
12 organization to the Board to ascertain an employee's choice of
13 an employee organization is confidential and shall not be
14 submitted to the employer for review. The Board shall
15 ascertain the employee's choice of employee organization
16 within 120 days after the filing of the majority interest
17 petition; however, the Board may extend time by an additional
18 60 days, upon its own motion or upon the motion of a party to
19 the proceeding. If either party provides to the Board, before
20 the designation of a representative, clear and convincing
21 evidence that the dues deduction authorizations, and other
22 evidence upon which the Board would otherwise rely to
23 ascertain the employees' choice of representative, are
24 fraudulent or were obtained through coercion, the Board shall
25 promptly thereafter conduct an election. The Board shall also
26 investigate and consider a party's allegations that the dues

1 deduction authorizations and other evidence submitted in
2 support of a designation of representative without an election
3 were subsequently changed, altered, withdrawn, or withheld as
4 a result of employer fraud, coercion, or any other unfair
5 labor practice by the employer. If the Board determines that a
6 labor organization would have had a majority interest but for
7 an employer's fraud, coercion, or unfair labor practice, it
8 shall designate the labor organization as an exclusive
9 representative without conducting an election. If a hearing is
10 necessary to resolve any issues of representation under this
11 Section, the Board shall conclude its hearing process and
12 issue a certification of the entire appropriate unit not later
13 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 (c-6) A labor organization or an employer may file a unit
17 clarification petition seeking to clarify an existing
18 bargaining unit. The Board shall conclude its investigation,
19 including any hearing process deemed necessary, and issue a
20 certification of clarified unit or dismiss the petition not
21 later than 120 days after the date the petition was filed. The
22 120-day period may be extended one or more times by the
23 agreement of all parties to a hearing to a date certain.

24 (d) An order of the Board dismissing a representation
25 petition, determining and certifying that a labor organization
26 has been fairly and freely chosen by a majority of employees in

1 an appropriate bargaining unit, determining and certifying
2 that a labor organization has not been fairly and freely
3 chosen by a majority of employees in the bargaining unit or
4 certifying a labor organization as the exclusive
5 representative of employees in an appropriate bargaining unit
6 because of a determination by the Board that the labor
7 organization is the historical bargaining representative of
8 employees in the bargaining unit, is a final order. Any person
9 aggrieved by any such order issued on or after the effective
10 date of this amendatory Act of 1987 may apply for and obtain
11 judicial review in accordance with provisions of the
12 Administrative Review Law, as now or hereafter amended, except
13 that such review shall be afforded directly in the Appellate
14 Court of a judicial district in which the Board maintains an
15 office. Any direct appeal to the Appellate Court shall be
16 filed within 35 days from the date that a copy of the decision
17 sought to be reviewed was served upon the party affected by the
18 decision.

19 No election may be conducted in any bargaining unit during
20 the term of a collective bargaining agreement covering such
21 unit or subdivision thereof, except the Board may direct an
22 election after the filing of a petition between January 15 and
23 March 1 of the final year of a collective bargaining
24 agreement. Nothing in this Section prohibits the negotiation
25 of a collective bargaining agreement covering a period not
26 exceeding 3 years. A collective bargaining agreement of less

1 than 3 years may be extended up to 3 years by the parties if
2 the extension is agreed to in writing before the filing of a
3 petition under this Section. In such case, the final year of
4 the extension is the final year of the collective bargaining
5 agreement. No election may be conducted in a bargaining unit,
6 or subdivision thereof, in which a valid election has been
7 held within the preceding 12 month period.

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

9 (115 ILCS 5/8) (from Ch. 48, par. 1708)

10 Sec. 8. Election - certification. Elections shall be by
11 secret ballot, and conducted in accordance with rules and
12 regulations established by the Illinois Educational Labor
13 Relations Board. A secret ballot election may be conducted
14 electronically, using an electronic voting system, in addition
15 to paper ballot voting systems. An incumbent exclusive
16 bargaining representative shall automatically be placed on any
17 ballot with the petitioner's labor organization. An
18 intervening labor organization may be placed on the ballot
19 when supported by 15% or more of the employees in the
20 bargaining unit. The Board shall give at least 30 days notice
21 of the time and place of the election to the parties and, upon
22 request, shall provide the parties with a list of names and
23 addresses of persons eligible to vote in the election at least
24 15 days before the election. The ballot must include, as one of
25 the alternatives, the choice of "no representative". No mail

1 ballots are permitted except where a specific individual would
2 otherwise be unable to cast a ballot.

3 The labor organization receiving a majority of the ballots
4 cast shall be certified by the Board as the exclusive
5 bargaining representative. If the choice of "no
6 representative" receives a majority, the employer shall not
7 recognize any exclusive bargaining representative for at least
8 12 months. If none of the choices on the ballot receives a
9 majority, a run-off shall be conducted between the 2 choices
10 receiving the largest number of valid votes cast in the
11 election. The Board shall certify the results of the election
12 within 6 working days after the final tally of votes unless a
13 charge is filed by a party alleging that improper conduct
14 occurred which affected the outcome of the election. The Board
15 shall promptly investigate the allegations, and if it finds
16 probable cause that improper conduct occurred and could have
17 affected the outcome of the election, it shall set a hearing on
18 the matter on a date falling within 2 weeks of when it received
19 the charge. If it determines, after hearing, that the outcome
20 of the election was affected by improper conduct, it shall
21 order a new election and shall order corrective action which
22 it considers necessary to insure the fairness of the new
23 election. If it determines upon investigation or after hearing
24 that the alleged improper conduct did not take place or that it
25 did not affect the results of the election, it shall
26 immediately certify the election results.

1 Any labor organization that is the exclusive bargaining
2 representative in an appropriate unit on the effective date of
3 this Act shall continue as such until a new one is selected
4 under this Act.

5 (Source: P.A. 92-206, eff. 1-1-02.)

6 (115 ILCS 5/14) (from Ch. 48, par. 1714)

7 Sec. 14. Unfair labor practices.

8 (a) Educational employers, their agents or representatives
9 are prohibited from:

10 (1) Interfering, restraining or coercing employees in
11 the exercise of the rights guaranteed under this Act.

12 (2) Dominating or interfering with the formation,
13 existence or administration of any employee organization.

14 (3) Discriminating in regard to hire or tenure of
15 employment or any term or condition of employment to
16 encourage or discourage membership in any employee
17 organization.

18 (4) Discharging or otherwise discriminating against an
19 employee because he or she has signed or filed an
20 affidavit, authorization card, petition or complaint or
21 given any information or testimony under this Act.

22 (5) Refusing to bargain collectively in good faith
23 with an employee representative which is the exclusive
24 representative of employees in an appropriate unit,
25 including, but not limited to, the discussing of

1 grievances with the exclusive representative; provided,
2 however, that if an alleged unfair labor practice involves
3 interpretation or application of the terms of a collective
4 bargaining agreement and said agreement contains a
5 grievance and arbitration procedure, the Board may defer
6 the resolution of such dispute to the grievance and
7 arbitration procedure contained in said agreement.

8 (6) Refusing to reduce a collective bargaining
9 agreement to writing and signing such agreement.

10 (7) Violating any of the rules and regulations
11 promulgated by the Board regulating the conduct of
12 representation elections.

13 (8) Refusing to comply with the provisions of a
14 binding arbitration award.

15 (9) Expending or causing the expenditure of public
16 funds to any external agent, individual, firm, agency,
17 partnership or association in any attempt to influence the
18 outcome of representational elections held pursuant to
19 paragraph (c) of Section 7 of this Act; provided, that
20 nothing in this subsection shall be construed to limit an
21 employer's right to be represented on any matter
22 pertaining to unit determinations, unfair labor practice
23 charges or pre-election conferences in any formal or
24 informal proceeding before the Board, or to seek or obtain
25 advice from legal counsel. Nothing in this paragraph shall
26 be construed to prohibit an employer from expending or

1 causing the expenditure of public funds on, or seeking or
2 obtaining services or advice from, any organization, group
3 or association established by, and including educational
4 or public employers, whether or not covered by this Act,
5 the Illinois Public Labor Relations Act or the public
6 employment labor relations law of any other state or the
7 federal government, provided that such services or advice
8 are generally available to the membership of the
9 organization, group, or association, and are not offered
10 solely in an attempt to influence the outcome of a
11 particular representational election.

12 (10) Interfering with, restraining, coercing,
13 deterring or discouraging educational employees or
14 applicants to be educational employees from: (1) becoming
15 members of an employee organization; (2) authorizing
16 representation by an employee organization; or (3)
17 authorizing dues or fee deductions to an employee
18 organization, nor shall the employer intentionally permit
19 outside third parties to use its email or other
20 communications systems to engage in that conduct. An
21 employer's good faith implementation of a policy to block
22 the use of its email or other communication systems for
23 such purposes shall be a defense to an unfair labor
24 practice.

25 (11) Disclosing to any person or entity information
26 set forth in subsection (d) of Section 3 of this Act that

1 the employer knows or should know will be used to
2 interfere with, restrain, coerce, deter, or discourage any
3 public employee from: (i) becoming or remaining members of
4 a labor organization, (ii) authorizing representation by a
5 labor organization, or (iii) authorizing dues or fee
6 deductions to a labor organization.

7 (12) Promising, threatening, or taking any action (i)
8 to permanently replace an employee who participates in a
9 strike under Section 13 of this Act, (ii) to discriminate
10 against an employee who is working or has unconditionally
11 offered to return to work for the employer because the
12 employee supported or participated in such as a strike, or
13 (iii) to lockout, suspend, or otherwise withhold from
14 employment employees in order to influence the position of
15 such employees or the representative of such employees in
16 collective bargaining prior to a strike.

17 (b) Employee organizations, their agents or
18 representatives or educational employees are prohibited from:

19 (1) Restraining or coercing employees in the exercise
20 of the rights guaranteed under this Act, provided that a
21 labor organization or its agents shall commit an unfair
22 labor practice under this paragraph in duty of fair
23 representation cases only by intentional misconduct in
24 representing employees under this Act.

25 (2) Restraining or coercing an educational employer in
26 the selection of his representative for the purposes of

1 collective bargaining or the adjustment of grievances.

2 (3) Refusing to bargain collectively in good faith
3 with an educational employer, if they have been designated
4 in accordance with the provisions of this Act as the
5 exclusive representative of employees in an appropriate
6 unit.

7 (4) Violating any of the rules and regulations
8 promulgated by the Board regulating the conduct of
9 representation elections.

10 (5) Refusing to reduce a collective bargaining
11 agreement to writing and signing such agreement.

12 (6) Refusing to comply with the provisions of a
13 binding arbitration award.

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

20 (c-5) The employer shall not discourage public employees
21 or applicants to be public employees from becoming or
22 remaining union members or authorizing dues deductions, and
23 shall not otherwise interfere with the relationship between
24 employees and their exclusive bargaining representative. The
25 employer shall refer all inquiries about union membership to
26 the exclusive bargaining representative, except that the

1 employer may communicate with employees regarding payroll
2 processes and procedures. The employer will establish email
3 policies in an effort to prohibit the use of its email system
4 by outside sources.

5 (d) The actions of a Financial Oversight Panel created
6 pursuant to Section 1A-8 of the School Code due to a district
7 violating a financial plan shall not constitute or be evidence
8 of an unfair labor practice under any of the provisions of this
9 Act. Such actions include, but are not limited to, reviewing,
10 approving, or rejecting a school district budget or a
11 collective bargaining agreement.

12 (Source: P.A. 101-620, eff. 12-20-19; revised 8-21-20.)".