



Rep. Kathleen Willis

Filed: 3/1/2022

10200HB4919ham001

LRB102 23766 RJF 37073 a

1 AMENDMENT TO HOUSE BILL 4919

2 AMENDMENT NO. _____. Amend House Bill 4919 by replacing
3 everything after the enacting clause with the following:

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
14 the Board finds that the charge involves a dispositive issue
15 of law or fact the Board shall issue a complaint and cause to
16 be served upon the person a complaint stating the charges,

1 accompanied by a notice of hearing before the Board or a member
2 thereof designated by the Board, or before a qualified hearing
3 officer designated by the Board at the offices of the Board or
4 such other location as the Board deems appropriate, not less
5 than 5 days after serving of such complaint provided that no
6 complaint shall issue based upon any unfair labor practice
7 occurring more than six months prior to the filing of a charge
8 with the Board and the service of a copy thereof upon the
9 person against whom the charge is made, unless the person
10 aggrieved thereby did not reasonably have knowledge of the
11 alleged unfair labor practice or was prevented from filing
12 such a charge by reason of service in the armed forces, in
13 which event the six month period shall be computed from the
14 date of his discharge. Any such complaint may be amended by the
15 member or hearing officer conducting the hearing for the Board
16 in his discretion at any time prior to the issuance of an order
17 based thereon. The person who is the subject of the complaint
18 has the right to file an answer to the original or amended
19 complaint and to appear in person or by a representative and
20 give testimony at the place and time fixed in the complaint. In
21 the discretion of the member or hearing officer conducting the
22 hearing or the Board, any other person may be allowed to
23 intervene in the proceeding and to present testimony. In any
24 hearing conducted by the Board, neither the Board nor the
25 member or agent conducting the hearing shall be bound by the
26 rules of evidence applicable to courts, except as to the rules

1 of privilege recognized by law.

2 (a-5) The Board shall determine whether a violation of
3 paragraph (4) of subsection (a) of Section 10 frustrated the
4 purposes of this Act by undermining or significantly impacting
5 the collective bargaining process and, by do so, made
6 unavailable either the traditional remedies for a violation of
7 this Act or a make-whole remedy from the Board. The reasons for
8 such a determination may include the passage of time or that
9 the violation is of a nature that could undermine support for a
10 labor organization or otherwise undermine the labor
11 organization's bargaining strength. If the Board makes such a
12 determination under this subsection (a-5), the Board shall
13 make available interest arbitration in its order and shall,
14 upon request of the charging party, require the parties to
15 participate in the impasse arbitration procedures set forth in
16 Section 14, except that: (i) the right to strike shall not be
17 considered waived pursuant to Section 17 until the actual
18 convening of the arbitration hearing; and (ii) the
19 commencement of a new fiscal year shall not be deemed to impair
20 the jurisdiction or authority of the arbitration panel or its
21 decision. The parties shall continue to have a duty to engage
22 in good faith bargaining during the pendency of impasse
23 arbitration procedures.

24 (b) The Board shall have the power to issue subpoenas and
25 administer oaths. If any party wilfully fails or neglects to
26 appear or testify or to produce books, papers and records

1 pursuant to the issuance of a subpoena by the Board, the Board
2 may apply to a court of competent jurisdiction to request that
3 such party be ordered to appear before the Board to testify or
4 produce the requested evidence.

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

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

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

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

1 the purpose of challenging a final order issued by the Board
2 pursuant to Section 9 of this Act for which judicial review has
3 been petitioned pursuant to subsection (i) of Section 9. Any
4 direct appeal to the Appellate Court shall be filed within 35
5 days from the date that a copy of the decision sought to be
6 reviewed was served upon the party affected by the decision.
7 The filing of such an appeal to the Appellate Court shall not
8 automatically stay the enforcement of the Board's order. An
9 aggrieved party may apply to the Appellate Court for a stay of
10 the enforcement of the Board's order after the aggrieved party
11 has followed the procedure prescribed by Supreme Court Rule
12 335. The Board in proceedings under this Section may obtain an
13 order of the court 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
26 Review Law, pending disposition of the proceedings. The court

1 may 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
19 jurisdiction to grant to the Board such temporary relief or
20 restraining 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. 100-516, eff. 9-22-17.)".