



Sen. Celina Villanueva

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10200SB2332sam001

LRB102 16623 KTG 24865 a

1 AMENDMENT TO SENATE BILL 2332

2 AMENDMENT NO. _____. Amend Senate Bill 2332 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the
5 Secure Jobs Act.

6 Section 5. Definitions. In this Act:

7 "Benefits" means the cash value of any employer-paid
8 vacation leave, sick leave, medical insurance plan, disability
9 insurance plan, life insurance plan, annuity, and pension
10 benefit plan in effect on the date of discharge.

11 "Casual employee" refers to work in or around a private
12 home, that is irregular, uncertain, or incidental in nature
13 and duration.

14 "Constructive discharge" means the voluntary termination
15 of employment by an employee because of a situation created by
16 an act or omission of the employer that an objective,

1 reasonable person would find so intolerable that voluntary
2 termination is the only reasonable alternative.

3 "Day or temporary laborer", "day and temporary labor
4 services agency", and "third party client" have the meaning
5 ascribed to those terms under Section 5 of the Day and
6 Temporary Labor Services Act.

7 "Department" means the Department of Labor.

8 "Discharge" means any cessation of employment, including
9 constructive discharge, indefinite suspension, layoff, or
10 reduction in hours.

11 "Egregious misconduct" means deliberate or grossly
12 negligent conduct that:

13 (1) endangers the safety or well-being of the
14 individual, co-workers, customers, or other persons,
15 including discrimination against, harassment of, or
16 causing physical or emotional harm to co-workers,
17 customers, or other persons;

18 (2) causes serious damage to the employer's or
19 customers' property or business interests, including, but
20 not limited to, theft; or

21 (3) involves grossly inappropriate behavior such as
22 working under the influence of intoxicants or controlled
23 substances.

24 "Electronic monitoring" means the collection of
25 information concerning worker activities, communications,
26 actions, biometric information, as that term is defined in

1 Section 10 of the Biometric Information Privacy Act, or
2 behaviors by electronic means including, but not limited to,
3 video or audio surveillance, electronic work pace tracking,
4 and other means.

5 "Employ" means to suffer or permit to work.

6 "Employee" has the meaning given that term in Section 2 of
7 the Illinois Wage Payment and Collection Act, and also
8 includes a "day or temporary laborer" but does not include a
9 casual employee who performs work in or around a private home
10 that is irregular in nature. A person may be an employee of 2
11 or more employers at the same time. "Employee" does not
12 include supervisors or persons who hold elective office.

13 "Employer" has the meaning given that term in Section 2 of
14 the Illinois Wage Payment and Collection Act, and also
15 includes a "third party client" and a "day and temporary labor
16 services agency". More than one entity may be the employer of
17 an employee, including in circumstances where one entity
18 controls, is controlled by, or is under common control with
19 another employer, or where one entity exerts control over the
20 operations of another employer. An employer-employee
21 relationship is presumed to exist when an individual performs
22 labor or services for an employer. The party asserting that an
23 individual is not an employee must establish by a
24 preponderance of the evidence that the individual is an
25 independent contractor.

26 "Just cause" means:

1 (1) an employee's failure to satisfactorily perform
2 his or her job duties or to comply with employer policies;

3 (2) an employee's egregious misconduct; or

4 (3) bona fide economic reasons.

5 "Progressive discipline" means an employer's disciplinary
6 system that provides a graduated range of reasonable responses
7 to an employee's failure to satisfactorily perform his or her
8 job duties or comply with employer policies, with the
9 disciplinary measures ranging from mild to severe, depending
10 on the frequency and degree of the failure, and the employee
11 being afforded a reasonable period of time to address
12 concerns.

13 "Reduction in hours" means a reduction in an employee's
14 hours of work totaling at least 15% of the employee's average
15 weekly work hours.

16 "Relator" means a current or former employee, contractor,
17 subcontractor, or employee of such a contractor or
18 subcontractor of an alleged violator of this Act, regardless
19 of whether that person has received full or partial relief,
20 who seeks relief through a public enforcement action brought
21 under this Act.

22 "Representative organization" means a nonprofit or labor
23 organization selected by a relator to initiate a public
24 enforcement action on the relator's behalf.

25 "Severance pay" has the meaning of that term as described
26 in Section 50.

1 "Short-term position" means employment pursuant to a
2 written contract that specifies that the position is to end
3 after a specified period of time, not to exceed 6 months, where
4 the employer can show that the work or need in question is
5 expected to end, such as in the case of a seasonal job or a job
6 to perform a specific project.

7 Section 10. Prohibition against discharge without just
8 cause.

9 (a) An employer shall not discharge an employee without
10 just cause. Just cause may not be based on off-duty conduct
11 unless there is a demonstrable and material nexus between the
12 conduct and the employee's job performance or the employer's
13 legitimate business interests.

14 (b) The employer shall within 3 days provide a written
15 explanation to any discharged employee of the specific reasons
16 for the discharge. In determining whether an employer had just
17 cause for discharge, a fact finder may not consider any
18 reasons not included in such written explanation. Where an
19 employer fails to provide a written explanation to a
20 discharged employee, the discharge shall not be deemed to be
21 based on just cause. All information and judgments that the
22 employer considered in making the determination shall be made
23 available to the employee or his or her representative.

24 (c) The employer shall bear the burden of proving just
25 cause including, if applicable, that the employer followed

1 progressive discipline, by a preponderance of non-hearsay
2 evidence in any proceeding brought pursuant to this Act.

3 Section 15. Factors to be considered. In determining
4 whether an employee has been discharged for just cause for
5 failure to satisfactorily perform job duties or for failure to
6 comply with employer policies, the fact finder shall consider,
7 in addition to any other relevant factors, whether:

8 (1) the employee knew or should have known of his or
9 her job duties or of the employer's policy;

10 (2) the employer provided relevant and adequate
11 training to the employee;

12 (3) the employer's policy was reasonable and applied
13 consistently;

14 (4) the employer undertook a thorough, fair and
15 objective investigation; and

16 (5) the employer used progressive discipline.

17 Section 20. Discharge for failure to satisfactorily
18 perform job duties. A discharge for failure to satisfactorily
19 perform job duties or comply with employer policies shall not
20 be deemed to be based on just cause unless the employer has
21 used progressive discipline. Provided, further, that the time
22 period between a first warning or discipline and termination
23 shall be not less than 15 days, and the employer may not rely
24 on a warning or discipline issued more than one year in the

1 past to justify a discharge.

2 Section 25. Progressive discipline. Under progressive
3 discipline, an employer may discharge an employee immediately
4 for egregious misconduct. A finding of misconduct for purposes
5 of unemployment insurance eligibility shall not necessarily
6 constitute serious misconduct for purposes of this Act. An
7 employee discharged for egregious misconduct shall not be
8 entitled to severance pay.

9 Section 30. Discharge based on bona fide economic reasons.
10 A discharge shall not be deemed to be based on bona fide
11 economic reasons unless the following conditions are met:

12 (1) the discharge results from a reduction in
13 production, sales, services, profit, or funding of the
14 employer, or technological or organizational changes in
15 the employer's operations that necessitate full or partial
16 reduction of the employer's operations;

17 (2) the employees or groups of employees to be
18 discharged are identified using broadly applicable
19 criteria that do not appear to target individuals; and

20 (3) the bona fide economic reasons justifying the
21 discharge were specified in writing to the employee at the
22 time of the discharge and are supported by the employer's
23 records.

24 A discharge shall be presumed not to be based on bona fide

1 economic reasons where the employer hired or hires another
2 employee to perform substantially the same work within 90 days
3 before or after the discharge. Elimination of staff redundancy
4 created by a merger or acquisition shall not be deemed a bona
5 fide economic reason for discharge of employees.

6 Section 35. Employee actions that do not constitute just
7 cause for termination. In no event shall any of the following
8 actions by an employee constitute just cause for termination:

9 (1) an employee's communication about workplace
10 practices or policies, including, but not limited to,
11 health or safety practices or hazards related to COVID-19,
12 to any person, including to an employer, an employer's
13 agent, other employees, a government agency, or the
14 public, including through print, online, social media, or
15 any other media; or

16 (2) an employee's refusal to work under conditions
17 that the employee reasonably believes would expose him or
18 her, other employees, or the public to an unreasonable
19 health or safety risk, including, but not limited to, risk
20 of illness or exposure to COVID-19.

21 An employer shall not retaliate against any employee or
22 other person for such conduct. Notwithstanding any other
23 provision of law, such conduct shall constitute protected
24 conduct and may not be contractually prohibited, or subject to
25 civil or criminal sanction or liability.

1 Section 40. Employer assessments. An employer must
2 conduct its own assessment of an employee, and may not rely on
3 data gathered through electronic monitoring in discharging or
4 disciplining an employee. Such employment decisions must be
5 made based on human-provided information sources such as
6 supervisors' assessments and documentation, or consulting
7 co-workers. An employer must disclose in advance to employees
8 any electronic monitoring or data collection at a workplace,
9 disclose the purposes for which the data will be used, and
10 provide employees meaningful opportunities to challenge any
11 electronic monitoring or data systems. However, data gathered
12 through electronic monitoring may be used in the following
13 circumstances: for non-employment-related purposes; for
14 discharging or disciplining an employee in cases of egregious
15 misconduct or involving threats to the health or safety of
16 other persons; or where required by State or federal law.
17 Provided further, information on employee tardiness or
18 absenteeism from electronic time-keeping systems that are used
19 to measure employee work shifts for payroll purposes may be
20 considered for purposes of employee discharge and discipline.

21 Section 45. Discharge; short-term position. Discharge at
22 the end of a short-term position shall not require a showing of
23 just cause and shall not entitle an employee to severance pay.
24 A position shall not be deemed to be a short-term position

1 where the employer hires another employee, including another
2 employee who is a day or temporary laborer, to perform
3 substantially the same work within 90 days before or after the
4 discharge. However, discharge prior to the end of the term of a
5 short-term position shall require a showing of just cause and
6 shall entitle the employee to severance pay.

7 Section 50. Severance pay. An employee shall accrue an
8 entitlement to one hour of severance pay for every 12.5 hours
9 worked during his or her first 2,080 hours of employment, and
10 for every 50 hours worked thereafter. Within 14 days of
11 discharge, the employer shall pay the employee his or her
12 accrued severance pay, calculated based on the number of hours
13 accrued multiplied by the employee's rate of pay upon
14 discharge. However, an employee who is discharged at the end
15 of a short-term position shall not be entitled to severance
16 pay. Severance pay shall be exclusive of final compensation
17 due an employee upon separation, as provided for under Section
18 2 of the Illinois Wage Payment and Collection Act. For
19 purposes of determining an employee's hours of employment,
20 tenure, or seniority, multiple periods worked for the
21 employer, including through a day and temporary services
22 agency, and any time worked for a predecessor employer shall
23 be aggregated.

24 Section 55. Employment through day and temporary labor

1 services agencies.

2 (a) Where an employee is a day or temporary laborer who has
3 worked 100 hours or more for a single third party client, the
4 third party client shall be deemed his or her employer, shall
5 become subject to the protections of this Act as regards the
6 employee, and may not discharge the employee without just
7 cause. However, if the employee's employment with the third
8 party client qualifies as a short-term position, then a
9 showing of just cause for discharge at the end of the
10 position's defined term shall not be required, nor shall
11 payment of severance pay at the end of the position's defined
12 term be required. In such a case the third party client must
13 show that all of the criteria and conditions for a short-term
14 position in Section 45 and in the definition of short-term
15 position are satisfied in order for the employment of the day
16 or temporary laborer to qualify as a short-term position.

17 (b) Where an employee is a day or temporary laborer who has
18 not worked 100 hours or more for a single third party client
19 but has worked 100 hours or more for a temporary labor services
20 agency, aggregating all hours worked for multiple third party
21 clients, the employee shall become subject to more limited
22 protection under the Act. Such an employee shall be given
23 priority by the temporary labor services agency for future
24 work assignments over employees who have not worked 100 hours
25 or more for the agency. When such an employee is discharged by
26 the day and temporary labor services agency, the employee

1 shall be entitled to payment of severance pay, as determined
2 under Section 50. Such an employee shall be deemed discharged
3 if he or she receives no work assignment offers from the
4 temporary labor services agency for a period of 21 days or
5 more. However, if such an employee's employment with the
6 temporary labor services agency ends in order for the employee
7 to commence direct employment with a third party client, then
8 no payment of severance pay shall be required.

9 (c) Employers that are third party clients and employers
10 that are day and temporary labor services agencies shall be
11 jointly and severally responsible with one another for
12 compliance with the Act's requirements.

13 Section 60. Collective bargaining agreement exemption. The
14 requirements of this Act shall not apply to employees who are
15 covered by a valid collective bargaining agreement.

16 Section 65. Retaliation prohibited. No employer or any
17 other person shall threaten, intimidate, discipline,
18 discharge, demote, suspend, or harass an employee, reduce the
19 hours or pay of an employee, inform another employer that an
20 employee has alleged that the employer violated this Act or
21 any other law, discriminate against an employee, or take any
22 other adverse action that penalizes an employee for, or is
23 reasonably likely to deter an employee from, exercising or
24 attempting to exercise any right protected under this Act or

1 any other law, including informing other employees or persons
2 of their rights under this Act or any other law, assisting in
3 any way with any complaint or investigation involving this
4 Act, including another workers' case, or sharing information
5 about workplace issues with other employees or the public,
6 including on social media. Threats or any other adverse action
7 related to perceived immigration status or work authorization
8 shall constitute threats or adverse actions as those terms are
9 used in this Section. An employee need not explicitly refer to
10 this Act or any other law or the rights enumerated herein to be
11 protected from retaliation. The protections afforded by this
12 Section shall apply to any person who mistakenly but in good
13 faith alleges violations of this Act.

14 Section 70. Protection of former employees from
15 blacklisting. An employer shall not prevent or attempt to
16 prevent, by word or writing of any kind, a former employee from
17 obtaining employment with any other employer. An employer is
18 not prohibited from providing by word or writing to any other
19 employer to whom the discharged employee has applied for
20 employment a truthful statement of the reason for discharge.

21 Section 75. Notice and posting of rights.

22 (a) The Department shall publish and make available
23 notices informing employees of their rights protected under
24 this Act. Employers shall post such notices in a conspicuous

1 location in the workplace or at any job site, and shall give a
2 notice to each employee at the time of hiring and on an annual
3 basis. The notices shall be made available in a downloadable
4 format on the Department's website in English, Spanish,
5 Polish, Mandarin, and Cantonese.

6 (b) Every employer shall conspicuously post at any
7 workplace or job site where any employee works the notices
8 described in subsection (a) that apply to the particular
9 workplace or job site. The notices shall be in English and any
10 language spoken as a primary language by at least 5% of the
11 employees at that location if the Department has made the
12 notice available in that language.

13 Section 80. Recordkeeping.

14 (a) Employers shall retain records documenting their
15 compliance with the applicable requirements of this Act. In
16 addition, day and temporary labor services agencies shall
17 maintain records of each individual day or temporary laborer's
18 start date with such day and temporary labor services agency
19 and the dates on which that laborer was placed with a third
20 party client. Employers shall retain such records for a period
21 of 3 years and shall allow the Department access to such
22 records and other information, in accordance with applicable
23 law and with appropriate notice, in furtherance of an
24 investigation conducted in accordance with this Act.

25 (b) In addition, employers shall report annually to the

1 Department, and any person who requests a copy of:

2 (1) the employer's total employment each year broken
3 down by full-time employment (defined as at least 30 hours
4 per week), part-time employment (defined as less than 30
5 hours per week), short-term employment, and employment
6 through a temp or staffing agency; and

7 (2) the employer's total number of separations each
8 year broken down by whether the separation was a discharge
9 for cause, a discharge for bona fide economic reasons, a
10 separation as a result of the end of a short-term
11 position, an employee resignation, or an employee
12 retirement.

13 Within 14 days of a request for such records, employers
14 shall make requested records available for review and copying.

15 (c) An employer's failure to maintain, retain, or produce
16 a record or other information required to be maintained by
17 this Section relevant to a material fact alleged by an
18 employee in a complaint brought pursuant to this Section or
19 requested by the Department pursuant to an investigation,
20 creates a rebuttable presumption that such fact is true.

21 Section 85. Administrative implementation and enforcement.

22 (a) The Department shall administer and enforce the
23 provisions of this Act and shall, within 120 days after its
24 effective date, adopt rules necessary to administer and
25 enforce the provisions of this Act. The rules shall include

1 the procedures for investigations and hearings under this Act.
2 The adoption, amendment, or rescission of rules shall be in
3 conformity with the requirements of the Illinois
4 Administrative Procedure Act.

5 (b) An aggrieved employee or his or her duly authorized
6 representative may file a complaint with the Department
7 regarding violations by an employer of this Act or of any
8 implementing rules. Upon receiving a complaint or on its own
9 initiative, the Department shall investigate potential
10 violations, make a determination whether a violation has
11 occurred, and take appropriate action to enforce the
12 provisions of this Act and any implementing rules.

13 (c) If an employer is found by the Department to have
14 violated this Act or any rules adopted under this Act, the
15 Department shall order the following, in addition to any other
16 remedy provided by law:

17 (1) In the case of unlawful discharge, retaliation,
18 blacklisting, or unlawful electronic monitoring, actual
19 and liquidated damages payable to each aggrieved worker
20 equal to, at the aggrieved party's election, \$10,000 or 3
21 times the actual damages including, but not limited to,
22 unpaid wages, benefits, other remuneration owed, and
23 compensation for emotional pain, suffering, inconvenience,
24 and mental anguish, unless an adjudicator finds that
25 mitigating circumstances are present, in which case the
26 adjudicator may order that the preceding liquidated

1 damages amount be reduced as circumstances make
2 appropriate, as well as reinstatement, restoration of
3 hours, other injunctive relief (including to rectify
4 conditions that led to constructive discharge), punitive
5 damages, and such other remedies as may be appropriate.

6 (2) In the case of discharge where severance pay was
7 not provided, payment of severance pay together with an
8 additional 2 times that amount as liquidated damages, and
9 such other remedies as may be appropriate including
10 punitive damages.

11 (3) In the case of failure to provide a timely written
12 explanation for a discharge, injunctive relief and
13 liquidated damages in an amount equal to \$5,000, unless an
14 adjudicator finds that mitigating circumstances are
15 present, in which case the adjudicator may order that the
16 preceding liquidated damage amount be reduced as
17 circumstances make appropriate, and such other remedies as
18 may be appropriate, including punitive damages.

19 (4) Payment of a further sum to the Department as a
20 civil penalty in an amount of \$10,000 for unlawful
21 discharge, retaliation, or blacklisting in violation of
22 this Act, or unlawful electronic monitoring, in an amount
23 of \$5,000 for or failure to provide a timely written
24 explanation for a discharge, or in an amount of \$1,000 for
25 other violations of this Act, including the Act's
26 recordkeeping requirements or failure to produce records

1 requested in an investigation. However, if an adjudicator
2 finds that mitigating circumstances are present, the
3 adjudicator may order that the preceding civil penalty
4 amounts be reduced as circumstances make appropriate. The
5 civil penalties imposed in accordance with this Section
6 shall be imposed on a per employee and per instance basis
7 for each violation.

8 (5) Payment of the complainant's reasonable attorneys'
9 fees, expert fees, and other costs. For the purposes of
10 this provision, a complainant shall be deemed to have
11 prevailed and entitled to an award of fees and costs if
12 commencement of a complaint has acted as a catalyst to
13 effect policy change on the part of the respondent,
14 regardless of whether that change has been implemented
15 voluntarily, as a result of a settlement, or as a result of
16 a judgment in such party's favor.

17 (6) In assessing an appropriate remedy, due
18 consideration shall be given to the gravity of the
19 violation, the history of previous violations, and the
20 good faith of the employer.

21 (7) All amounts specified in this Act shall be updated
22 annually to keep pace with the rising cost of living by
23 increasing each amount in proportion to the increase over
24 the most recent 12-month period for which data are
25 available in the value of the Consumer Price Index for All
26 Urban Consumers (CPI-U), as calculated by the Bureau of

1 Labor Statistics of the United States Department of Labor,
2 and rounding the new amounts to the nearest multiple of
3 \$5. Such increased amounts shall be announced by October 1
4 of each year, and shall take effect on January 1.

5 (8) Either party may bring an administrative appeal to
6 enforce, vacate, or modify the order, determination, or
7 other disposition.

8 (9) No procedure or remedy set forth in this Section
9 is exclusive or a prerequisite for asserting a claim for
10 relief to enforce any rights under this Act in a court of
11 law.

12 (10) Any employer who has been ordered by the
13 Department or ordered by a court to pay unpaid backpay,
14 front pay and benefits, severance pay, liquidated or
15 punitive damages, or civil penalties, and who fails to
16 seek timely review of such a demand or order as provided
17 for under this Act and who fails to comply within 15
18 calendar days after such demand or within 35 days of an
19 administrative or court order is entered shall also be
20 liable to pay a penalty to the Department of 20% of the
21 amount found owing and a penalty to the employee of 1% per
22 calendar day of the amount found owing for each day of
23 delay in paying such wages to the employee. All moneys
24 recovered as fees and civil penalties under this Act,
25 except those owing to the affected employee, shall be
26 deposited into the Wrongful Discharge Enforcement Fund, a

1 special fund which is hereby created in the State
2 treasury. Moneys in the Fund may be used only for
3 enforcement of this Act.

4 Section 90. Civil action. Except as otherwise provided by
5 law, any person claiming to be aggrieved by an employer's
6 violation of this Act has a cause of action in any court and,
7 upon prevailing, shall be awarded the relief specified in
8 Section 85 and, if the court finds in favor of the plaintiff,
9 it shall award such prevailing party, in addition to other
10 relief, his or her reasonable attorneys' fees, expert fees,
11 and other costs. As used in this Section, "prevailing" party
12 includes a party whose commencement of litigation has acted as
13 a catalyst to effect policy change on the part of the
14 defendant, regardless of whether that change has been
15 implemented voluntarily, as a result of a settlement, or as a
16 result of a judgment in such party's favor. Penalties and fees
17 under this Act may be assessed by the Department and recovered
18 in a civil action brought by the Department in any court or in
19 any administrative adjudicative proceeding under this Act. In
20 any such civil action or administrative adjudicative
21 proceeding under this Act, the Department shall be represented
22 by the Attorney General.

23 Section 95. Public enforcement action. A relator or
24 representative organization may initiate a public enforcement

1 action in any court to pursue civil penalties, injunctive
2 relief, and declaratory relief, as specified in Section 85, on
3 behalf of the Department, for a violation of the provisions of
4 this Act affecting the relator and other current or former
5 employees, according to the following procedures:

6 (a) The relator or representative organization shall
7 give written notice to the Department of the specific
8 provisions of this Act alleged to have been violated,
9 including the facts and theories to support the alleged
10 violation. The notice shall be given in such a manner as
11 the Department may prescribe by rule.

12 (b) If the Department intends to investigate the
13 alleged violation, it shall notify the relator or
14 representative organization of its decision within 65
15 calendar days of the postmark date of the notice. Within
16 60 calendar days of that decision, the Department may
17 investigate the alleged violation and take any enforcement
18 action authorized by law. If the Department determines
19 that additional time is necessary to complete the
20 investigation, it may extend the time by not more than 60
21 additional calendar days and shall notify the relator or
22 representative organization of the extension.

23 (c) Notwithstanding any other provision of law, a
24 public enforcement action brought under this Act must be
25 commenced within the limitations period specified in
26 Section 100. The statute of limitations for bringing a

1 public enforcement action under this Act shall be tolled
2 from the date a relator or representative organization
3 files a notice under this Section with the Department, or
4 the Department commences an investigation, whichever is
5 earlier.

6 (d) The relator or representative organization may
7 commence a civil action under this Act if the Department
8 determines that no enforcement action will be taken, or if
9 no enforcement action is taken by the Department within
10 the time limits prescribed.

11 (e) The Department may intervene in an action brought
12 under this Act and proceed with any and all claims in the
13 action as of right within 30 days after the filing of the
14 action, or for good cause, as determined by the court, at
15 any time after the 30-day period after the filing of the
16 action.

17 (f) Civil penalties recovered in a public enforcement
18 action brought under this Act shall be distributed as
19 follows:

20 (1) If the Department does not intervene in the
21 action, 60% to the Department, and 40% to the relator
22 or representative organization, to be distributed to
23 the employees affected by the violation, including a
24 service award that reflects the burdens and risks
25 assumed by the employee or representative organization
26 in prosecuting the action.

1 (2) If the Department does intervene in the
2 action, 70% to the Department, and 30% to the relator
3 or representative organization, the latter of which
4 shall be distributed to the employees affected by the
5 violation, including a service award that reflects the
6 burdens and risks assumed by the employee or
7 representative organization in prosecuting the action.

8 (3) The share of penalties recovered for the
9 Department under this Act shall be used solely to
10 support the Department's education and enforcement
11 activities relating to this Act, with approximately
12 25% of these penalties reserved for grants to
13 community organizations for outreach and education
14 about employee rights under this Act.

15 (g) In any public enforcement action commenced under
16 this Act, the court shall allow a prevailing relator or
17 representative organization to recover all reasonable
18 attorneys' fees, expert fees, and other costs. For the
19 purposes of this provision, a "prevailing" relator or
20 representative organization includes a relator or
21 representative organization whose commencement of
22 litigation has acted as a catalyst to effect policy change
23 on the part of the defendant, regardless of whether that
24 change has been implemented voluntarily, as a result of a
25 settlement, or as a result of a judgment in such relator or
26 representative organization's favor.

1 (h) No public enforcement action brought under this
2 Act shall be required to meet class action certification
3 requirements under Part 8 of Article II of the Code of
4 Civil Procedure or Rule 23(a) of the Federal Rules of
5 Civil Procedure.

6 (i) The relator or representative organization may not
7 recover compensatory damages or back pay, or seek
8 reinstatement, in a public enforcement action. But the
9 filing of a public enforcement action does not preclude an
10 employee from pursuing these remedies in another forum.

11 (j) The right to bring a public enforcement action
12 under this Act shall not be impaired by any private
13 contract.

14 Section 100. Limitation of actions. Notwithstanding any
15 other provision of law, an action under this Act must be filed
16 within 3 years after the complainant knew or should have known
17 of the alleged violation. However, this statute of limitations
18 period shall be tolled for the duration of any state of
19 emergency declared by the State or by any city or county in
20 which the action is commenced.

21 Section 105. Non-preemption. This Act does not preempt,
22 limit, or otherwise affect the authority of any other unit of
23 government to adopt laws, rules, requirements, policies, or
24 standards providing additional employment or workplace

1 protections.

2 Section 110. Violations. An employer that violates this
3 Act is guilty of a Class A misdemeanor.

4 Section 115. Severability. The provisions of this Act are
5 severable under Section 1.31 of the Statute on Statutes.

6 Section 120. The State Finance Act is amended by adding
7 Section 5.935 as follows:

8 (30 ILCS 105/5.935 new)

9 Sec. 5.935. The Wrongful Discharge Enforcement Fund.

10 Section 999. Effective date. This Act takes effect January
11 1, 2022."