



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB3952

Introduced 1/21/2022, by Sen. Melinda Bush

SYNOPSIS AS INTRODUCED:

5 ILCS 315/11

from Ch. 48, par. 1611

Amends the Illinois Public Labor Relations Act. Provides that if the Illinois Labor Relations Board finds that there has been an unfair labor practice violation for refusal of an employer to bargain collectively in good faith with a labor organization that is the exclusive representative of public employees, then upon request of the charging party, the parties shall be required to participate in impasse arbitration procedures, except that: (i) the right to strike shall not be considered waived until the actual convening of the arbitration hearing and; (ii) the commencement of a new fiscal year shall not be deemed to impair the jurisdiction or authority of the arbitration panel or its decision.

LRB102 23765 RJF 32956 b

1 AN ACT concerning government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Public Labor Relations Act is
5 amended by changing Section 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,
17 accompanied by a notice of hearing before the Board or a member
18 thereof designated by the Board, or before a qualified hearing
19 officer designated by the Board at the offices of the Board or
20 such other location as the Board deems appropriate, not less
21 than 5 days after serving of such complaint provided that no
22 complaint shall issue based upon any unfair labor practice
23 occurring more than six months prior to the filing of a charge

1 with the Board and the service of a copy thereof upon the
2 person against whom the charge is made, unless the person
3 aggrieved thereby did not reasonably have knowledge of the
4 alleged unfair labor practice or was prevented from filing
5 such a charge by reason of service in the armed forces, in
6 which event the six month period shall be computed from the
7 date of his discharge. Any such complaint may be amended by the
8 member or hearing officer conducting the hearing for the Board
9 in his discretion at any time prior to the issuance of an order
10 based thereon. The person who is the subject of the complaint
11 has the right to file an answer to the original or amended
12 complaint and to appear in person or by a representative and
13 give testimony at the place and time fixed in the complaint. In
14 the discretion of the member or hearing officer conducting the
15 hearing or the Board, any other person may be allowed to
16 intervene in the proceeding and to present testimony. In any
17 hearing conducted by the Board, neither the Board nor the
18 member or agent conducting the hearing shall be bound by the
19 rules of evidence applicable to courts, except as to the rules
20 of privilege recognized by law.

21 (b) The Board shall have the power to issue subpoenas and
22 administer oaths. If any party wilfully fails or neglects to
23 appear or testify or to produce books, papers and records
24 pursuant to the issuance of a subpoena by the Board, the Board
25 may apply to a court of competent jurisdiction to request that
26 such party be ordered to appear before the Board to testify or

1 produce the requested evidence.

2 (c) Any testimony taken by the Board, or a member
3 designated by the Board or a hearing officer thereof, must be
4 reduced to writing and filed with the Board. A full and
5 complete record shall be kept of all proceedings before the
6 Board, and all proceedings shall be transcribed by a reporter
7 appointed by the Board. The party on whom the burden of proof
8 rests shall be required to sustain such burden by a
9 preponderance of the evidence. If, upon a preponderance of the
10 evidence taken, the Board is of the opinion that any person
11 named in the charge has engaged in or is engaging in an unfair
12 labor practice, then it shall state its findings of fact and
13 shall issue and cause to be served upon the person an order
14 requiring him to cease and desist from the unfair labor
15 practice, and to take such affirmative action, including
16 reinstatement of public employees with or without back pay, as
17 will effectuate the policies of this Act. If the Board finds
18 that there has been a violation of paragraph (4) of subsection
19 (a) of Section 10, then upon request of the charging party, the
20 parties shall be required to participate in the impasse
21 arbitration procedures set forth in Section 14, except that:
22 (i) the right to strike shall not be considered waived
23 pursuant to Section 17 until the actual convening of the
24 arbitration hearing and; (ii) the commencement of a new fiscal
25 year shall not be deemed to impair the jurisdiction or
26 authority of the arbitration panel or its decision. If the

1 Board awards back pay, it shall also award interest at the rate
2 of 7% per annum. The Board's order may further require the
3 person to make reports from time to time, and demonstrate the
4 extent to which he has complied with the order. If there is no
5 preponderance of evidence to indicate to the Board that the
6 person named in the charge has engaged in or is engaging in the
7 unfair labor practice, then the Board shall state its findings
8 of fact and shall issue an order dismissing the complaint. The
9 Board's order may in its discretion also include an
10 appropriate sanction, based on the Board's rules and
11 regulations, and the sanction may include an order to pay the
12 other party or parties' reasonable expenses including costs
13 and reasonable attorney's fee, if the other party has made
14 allegations or denials without reasonable cause and found to
15 be untrue or has engaged in frivolous litigation for the
16 purpose of delay or needless increase in the cost of
17 litigation; the State of Illinois or any agency thereof shall
18 be subject to the provisions of this sentence in the same
19 manner as any other party.

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

24 (e) A charging party or any person aggrieved by a final
25 order of the Board granting or denying in whole or in part the
26 relief sought may apply for and obtain judicial review of an

1 order of the Board entered under this Act, in accordance with
2 the provisions of the Administrative Review Law, as now or
3 hereafter amended, except that such judicial review shall be
4 afforded directly in the appellate court for the district in
5 which the aggrieved party resides or transacts business, and
6 provided, that such judicial review shall not be available for
7 the purpose of challenging a final order issued by the Board
8 pursuant to Section 9 of this Act for which judicial review has
9 been petitioned pursuant to subsection (i) of Section 9. Any
10 direct appeal to the Appellate Court shall be filed within 35
11 days from the date that a copy of the decision sought to be
12 reviewed was served upon the party affected by the decision.
13 The filing of such an appeal to the Appellate Court shall not
14 automatically stay the enforcement of the Board's order. An
15 aggrieved party may apply to the Appellate Court for a stay of
16 the enforcement of the Board's order after the aggrieved party
17 has followed the procedure prescribed by Supreme Court Rule
18 335. The Board in proceedings under this Section may obtain an
19 order of the court for the enforcement of its order.

20 (f) Whenever it appears that any person has violated a
21 final order of the Board issued pursuant to this Section, the
22 Board must commence an action in the name of the People of the
23 State of Illinois by petition, alleging the violation,
24 attaching a copy of the order of the Board, and praying for the
25 issuance of an order directing the person, his officers,
26 agents, servants, successors, and assigns to comply with the

1 order of the Board. The Board shall be represented in this
2 action by the Attorney General in accordance with the Attorney
3 General Act. The court may grant or refuse, in whole or in
4 part, the relief sought, provided that the court may stay an
5 order of the Board in accordance with the Administrative
6 Review Law, pending disposition of the proceedings. The court
7 may punish a violation of its order as in civil contempt.

8 (g) The proceedings provided in paragraph (f) of this
9 Section shall be commenced in the Appellate Court for the
10 district where the unfair labor practice which is the subject
11 of the Board's order was committed, or where a person required
12 to cease and desist by such order resides or transacts
13 business.

14 (h) The Board through the Attorney General, shall have
15 power, upon issuance of an unfair labor practice complaint
16 alleging that a person has engaged in or is engaging in an
17 unfair labor practice, to petition the circuit court where the
18 alleged unfair labor practice which is the subject of the
19 Board's complaint was allegedly committed, or where a person
20 required to cease and desist from such alleged unfair labor
21 practice resides or transacts business, for appropriate
22 temporary relief or restraining order. Upon the filing of any
23 such petition, the court shall cause notice thereof to be
24 served upon such persons, and thereupon shall have
25 jurisdiction to grant to the Board such temporary relief or
26 restraining order as it deems just and proper.

1 (i) If an unfair labor practice charge involves the
2 interpretation or application of a collective bargaining
3 agreement and said agreement contains a grievance procedure
4 with binding arbitration as its terminal step, the Board may
5 defer the resolution of such dispute to the grievance and
6 arbitration procedure contained in said agreement.

7 (Source: P.A. 100-516, eff. 9-22-17.)