



93RD GENERAL ASSEMBLY

State of Illinois

2003 and 2004

HB4428

Introduced 2/3/2004, by Brandon W. Phelps

SYNOPSIS AS INTRODUCED:

820 ILCS 5/1.2 new
820 ILCS 5/1.3 new
820 ILCS 5/1.4 new
820 ILCS 5/1.5 new

Amends the Labor Dispute Act. Contains findings and a declaration. Provides that persons engaged in picketing in labor disputes may use public rights of way to apprise the public of the existence of a dispute for: "the purposes of picketing"; erection of temporary signs announcing their dispute; parking at least one vehicle on the public right of way; and erection of tents or other temporary shelter for the health, welfare, personal safety, and well-being of picketers. Provides that a sign, tent, or temporary shelter may not be erected or maintained so as to obscure or otherwise physically interfere with an official traffic sign, signal, or device or to obstruct or physically interfere with the driver's view of approaching, merging, or intersecting traffic. Provides that "the burden of proof shall rest on the unit of local government making such a claim". Provides that if a court determines that a sign, tent, or temporary shelter does not obscure or otherwise physically interfere with an official traffic sign, signal or device or to obstruct or physically interfere with the driver's view of approaching, merging or intersecting traffic, the unit of local government shall be liable for all costs, attorney's fees, and treble damages. Provides that an ordinance or resolution adopted before, on, or after the effective date of the new provisions by a unit of local government that imposes restrictions or limitations on the picketing of an employer in a manner inconsistent with this Act is invalid, and that a home rule unit may not regulate picketing.

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FISCAL NOTE ACT
MAY APPLY

HOME RULE NOTE
ACT MAY APPLY

STATE MANDATES
ACT MAY REQUIRE
REIMBURSEMENT

1 AN ACT concerning labor.

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

4 Section 5. The Labor Dispute Act is amended by adding
5 Sections 1.2, 1.3, 1.4, and 1.5 as follows:

6 (820 ILCS 5/1.2 new)

7 Sec. 1.2. Legislative findings and declaration. The
8 General Assembly finds that a union, union members,
9 sympathizers, and an employer's employees have a right to
10 communicate their dispute with a primary employer to the public
11 by picketing the primary employer wherever they happen to be.
12 The picketing may take place not only at the employer's main
13 facility, but at job sites as well. The General Assembly
14 recognizes that peaceful primary picketing of any type is
15 explicitly permitted by statute, regardless of the effect on an
16 employer's operations.

17 (820 ILCS 5/1.3 new)

18 Sec. 1.3. Definitions. As used in Section 1.2 through 1.5:

19 "Employee" means any individual permitted to work by an
20 employer in an occupation.

21 "Employer" means any individual, partnership, association,
22 corporation, business trust, governmental or
23 quasi-governmental body, or any person or group of persons that
24 employs any person to work, labor, or exercise skill in
25 connection with the operation of any business, industry,
26 vocation, or occupation.

27 "Picketing" means the stationing of a person for an
28 organization to apprise the public by signs or other means of
29 the existence of a dispute.

30 "Dispute" includes any controversy concerning terms or
31 conditions of employment, or concerning the association or

1 representation of persons in negotiating, fixing, maintaining,
2 changing, or seeking to arrange terms or conditions of
3 employment, regardless of whether or not the disputants stand
4 in the proximate relationship of employer and employee.

5 "Temporary sign" means a sign that is not permanently
6 affixed and is capable of being removed at the end of each day
7 or shift.

8 "Temporary shelter" means a tent or shelter that is not
9 permanently affixed and is capable of being removed at the end
10 of each day or shift.

11 (820 ILCS 5/1.4 new)

12 Sec. 1.4. Use of public right of way.

13 (a) Persons engaged in picketing shall be allowed to use
14 public rights of way to apprise the public of the existence of
15 a dispute for the following:

16 (1) The purposes of picketing.

17 (2) The erection of temporary signs announcing their
18 dispute.

19 (3) The parking of at least one vehicle on the public
20 right of way.

21 (4) The erection of tents or other temporary shelter
22 for the health, welfare, personal safety, and well-being of
23 picketers.

24 (b) No sign, tent, or temporary shelter may be erected or
25 maintained in such a manner as to obscure or otherwise
26 physically interfere with an official traffic sign, signal, or
27 device or to obstruct or physically interfere with a driver's
28 view of approaching, merging, or intersecting traffic. The
29 burden of proof shall rest on the unit of local government
30 making such a claim. If a court determines that a sign, tent,
31 or temporary shelter does not obscure or otherwise physically
32 interfere with an official traffic sign, signal, or device or
33 obstruct or physically interfere with a driver's view of
34 approaching, merging, or intersecting traffic, the unit of
35 local government is liable for all costs, attorney's fees, and

1 treble damages.

2 (820 ILCS 5/1.5 new)

3 Sec. 1.5. Preemption. The provisions of any ordinance or
4 resolution adopted before, on, or after the effective date of
5 this amendatory Act of the 93rd General Assembly by any unit of
6 local government that impose restrictions or limitations on the
7 picketing of an employer in a manner inconsistent with this Act
8 are invalid, and existing ordinances and resolutions, as they
9 apply to picketing, are void. It is declared to be the policy
10 of this State that the regulation of picketing is an exclusive
11 power and function of the State. A home rule unit may not
12 regulate picketing. This Section is a denial and limitation of
13 home rule powers and functions under subsection (h) of Section
14 6 of Article VII of the Illinois Constitution.