



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB4048

Introduced 2/28/2005, by Rep. Constance A. Howard

SYNOPSIS AS INTRODUCED:

5 ILCS 315/6
115 ILCS 5/11

from Ch. 48, par. 1606
from Ch. 48, par. 1711

Amends the Illinois Public Labor Relations Act and the Illinois Educational Labor Relations Act. Allows collective bargaining agreements to require non-members to pay a fair share of the exclusive representative's organizing expenses. Effective immediately.

LRB094 10681 JAM 41057 b

1 AN ACT concerning public labor.

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 6 as follows:

6 (5 ILCS 315/6) (from Ch. 48, par. 1606)

7 Sec. 6. Right to organize and bargain collectively;
8 exclusive representation; and fair share arrangements.

9 (a) Employees of the State and any political subdivision of
10 the State, excluding employees of the General Assembly of the
11 State of Illinois, have, and are protected in the exercise of,
12 the right of self-organization, and may form, join or assist
13 any labor organization, to bargain collectively through
14 representatives of their own choosing on questions of wages,
15 hours and other conditions of employment, not excluded by
16 Section 4 of this Act, and to engage in other concerted
17 activities not otherwise prohibited by law for the purposes of
18 collective bargaining or other mutual aid or protection, free
19 from interference, restraint or coercion. Employees also have,
20 and are protected in the exercise of, the right to refrain from
21 participating in any such concerted activities. Employees may
22 be required, pursuant to the terms of a lawful fair share
23 agreement, to pay a fee which shall be their proportionate
24 share of the costs of the collective bargaining process,
25 contract administration and pursuing matters affecting wages,
26 hours and other conditions of employment as defined in Section
27 3(g).

28 (b) Nothing in this Act prevents an employee from
29 presenting a grievance to the employer and having the grievance
30 heard and settled without the intervention of an employee
31 organization; provided that the exclusive bargaining
32 representative is afforded the opportunity to be present at

1 such conference and that any settlement made shall not be
2 inconsistent with the terms of any agreement in effect between
3 the employer and the exclusive bargaining representative.

4 (c) A labor organization designated by the Board as the
5 representative of the majority of public employees in an
6 appropriate unit in accordance with the procedures herein or
7 recognized by a public employer as the representative of the
8 majority of public employees in an appropriate unit is the
9 exclusive representative for the employees of such unit for the
10 purpose of collective bargaining with respect to rates of pay,
11 wages, hours and other conditions of employment not excluded by
12 Section 4 of this Act.

13 (d) Labor organizations recognized by a public employer as
14 the exclusive representative or so designated in accordance
15 with the provisions of this Act are responsible for
16 representing the interests of all public employees in the unit.
17 Nothing herein shall be construed to limit an exclusive
18 representative's right to exercise its discretion to refuse to
19 process grievances of employees that are unmeritorious.

20 (e) When a collective bargaining agreement is entered into
21 with an exclusive representative, it may include in the
22 agreement a provision requiring employees covered by the
23 agreement who are not members of the organization to pay their
24 proportionate share of the costs of the collective bargaining
25 process, contract administration and pursuing matters
26 affecting wages, hours and conditions of employment, as defined
27 in Section 3 (g), including organizing expenses, but not to
28 exceed the amount of dues uniformly required of members. The
29 organization shall certify to the employer the amount
30 constituting each nonmember employee's proportionate share
31 which shall not exceed dues uniformly required of members. In
32 such case, the proportionate share payment in this Section
33 shall be deducted by the employer from the earnings of the
34 nonmember employees and paid to the employee organization.

35 (f) Only the exclusive representative may negotiate
36 provisions in a collective bargaining agreement providing for

1 the payroll deduction of labor organization dues, fair share
2 payment, initiation fees and assessments. Except as provided in
3 subsection (e) of this Section, any such deductions shall only
4 be made upon an employee's written authorization, and continued
5 until revoked in writing in the same manner or until the
6 termination date of an applicable collective bargaining
7 agreement. Such payments shall be paid to the exclusive
8 representative.

9 Where a collective bargaining agreement is terminated, or
10 continues in effect beyond its scheduled expiration date
11 pending the negotiation of a successor agreement or the
12 resolution of an impasse under Section 14, the employer shall
13 continue to honor and abide by any dues deduction or fair share
14 clause contained therein until a new agreement is reached
15 including dues deduction or a fair share clause. For the
16 benefit of any successor exclusive representative certified
17 under this Act, this provision shall be applicable, provided
18 the successor exclusive representative:

19 (i) certifies to the employer the amount constituting
20 each non-member's proportionate share under subsection
21 (e); or

22 (ii) presents the employer with employee written
23 authorizations for the deduction of dues, assessments, and
24 fees under this subsection.

25 Failure to so honor and abide by dues deduction or fair
26 share clauses for the benefit of any exclusive representative,
27 including a successor, shall be a violation of the duty to
28 bargain and an unfair labor practice.

29 (g) Agreements containing a fair share agreement must
30 safeguard the right of nonassociation of employees based upon
31 bona fide religious tenets or teachings of a church or
32 religious body of which such employees are members. Such
33 employees may be required to pay an amount equal to their fair
34 share, determined under a lawful fair share agreement, to a
35 nonreligious charitable organization mutually agreed upon by
36 the employees affected and the exclusive bargaining

1 representative to which such employees would otherwise pay such
2 service fee. If the affected employees and the bargaining
3 representative are unable to reach an agreement on the matter,
4 the Board may establish an approved list of charitable
5 organizations to which such payments may be made.

6 (Source: P.A. 93-854, eff. 1-1-05.)

7 Section 10. The Illinois Educational Labor Relations Act is
8 amended by changing Section 11 as follows:

9 (115 ILCS 5/11) (from Ch. 48, par. 1711)

10 Sec. 11. Non-member fair share payments. When a collective
11 bargaining agreement is entered into with an exclusive
12 representative, it may include a provision requiring employees
13 covered by the agreement who are not members of the
14 organization to pay to the organization a fair share fee for
15 services rendered. The exclusive representative shall certify
16 to the employer an amount not to exceed the dues uniformly
17 required of members which shall constitute each non member
18 employee's fair share fee. The fair share fee payment shall be
19 deducted by the employer from the earnings of the non member
20 employees and paid to the exclusive representative.

21 The amount certified by the exclusive representative shall
22 not include any fees for contributions related to the election
23 or support of any candidate for political office, but may
24 include organizing expenses incurred by the exclusive
25 representative. Nothing in this Section shall preclude the non
26 member employee from making voluntary political contributions
27 in conjunction with his or her fair share payment.

28 Agreements containing a fair share agreement must
29 safeguard the right of non-association of employees based upon
30 bonafide religious tenets or teaching of a church or religious
31 body of which such employees are members. Such employees may be
32 required to pay an amount equal to their proportionate share,
33 determined under a proportionate share agreement, to a
34 non-religious charitable organization mutually agreed upon by

1 the employees affected and the exclusive representative to
2 which such employees would otherwise pay such fee. If the
3 affected employees and the exclusive representative are unable
4 to reach an agreement on the matter, the Illinois Educational
5 Labor Relations Board may establish an approved list of
6 charitable organizations to which such payments may be made.

7 The Board shall by rule require that in cases where an
8 employee files an objection to the amount of the fair share
9 fee, the employer shall continue to deduct the employee's fair
10 share fee from the employee's pay, but shall transmit the fee,
11 or some portion thereof, to the Board for deposit in an escrow
12 account maintained by the Board; provided, however, that if the
13 exclusive representative maintains an escrow account for the
14 purpose of holding fair share fees to which an employee has
15 objected, the employer shall transmit the entire fair share fee
16 to the exclusive representative, and the exclusive
17 representative shall hold in escrow that portion of the fee
18 that the employer would otherwise have been required to
19 transmit to the Board for escrow, provided that the escrow
20 account maintained by the exclusive representative complies
21 with rules to be promulgated by the Board within 30 days of the
22 effective date of this amendatory Act of 1989 or that the
23 collective bargaining agreement requiring the payment of the
24 fair share fee contains an indemnification provision for the
25 purpose of indemnifying the employer with respect to the
26 employer's transmission of fair share fees to the exclusive
27 representative.

28 (Source: P.A. 86-412.)

29 Section 99. Effective date. This Act takes effect upon
30 becoming law.