



## 98TH GENERAL ASSEMBLY

### State of Illinois

### 2013 and 2014

### HB3160

by Rep. Jeanne M Ives

#### SYNOPSIS AS INTRODUCED:

New Act

5 ILCS 315/6	from Ch. 48, par. 1606
5 ILCS 315/15	from Ch. 48, par. 1615
115 ILCS 5/11	from Ch. 48, par. 1711
115 ILCS 5/17	from Ch. 48, par. 1717

Creates the Workers Rights Act. Provides that no person shall be required as a condition of obtaining or continuing public-sector or private-sector employment to (1) resign or refrain from membership in, voluntary affiliation with, or voluntary financial support of, a labor organization; (2) become or remain a member of a labor organization; (3) pay any dues, fees, assessments, or other charges of any kind or amount, or provide anything else of value, to a labor organization; or (4) pay to any charity or other third party an amount equivalent to, or a portion of, dues, fees, assessments, or other charges required of members of a labor organization. Authorizes a person who suffers an injury or a threatened injury as a result of a violation of the Act to bring a civil action for damages, injunctive relief, or both and, if he or she prevails, to be awarded attorneys' fees and costs. Amends the Illinois Public Labor Relations Act and the Illinois Educational Labor Relations Act to make conforming changes. Effective immediately.

LRB098 08421 JDS 38527 b

1 AN ACT concerning employment.

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

4 Section 1. Short title. This Act may be cited as the  
5 Workers Rights Act.

6 Section 5. Definitions. As used in this Act, unless the  
7 context otherwise requires:

8 "Labor organization" means any agency, union, employee  
9 representation committee, or organization of any kind that  
10 exists for the purpose, in whole or in part, of dealing with  
11 employers concerning wages, rates of pay, hours of work, other  
12 conditions of employment, or other forms of compensation.

13 Section 10. Right to work.

14 (a) Notwithstanding any law to the contrary, no person  
15 shall be required as a condition of obtaining or continuing  
16 public-sector or private-sector employment to:

17 (1) resign or refrain from membership in, voluntary  
18 affiliation with, or voluntary financial support of, a  
19 labor organization;

20 (2) become or remain a member of a labor organization;

21 (3) pay any dues, fees, assessments, or other charges  
22 of any kind or amount, or provide anything else of value,

1 to a labor organization; or

2 (4) pay to any charity or other third party an amount  
3 equivalent to, or a portion of, dues, fees, assessments, or  
4 other charges required of members of a labor organization.

5 (b) Notwithstanding any law to the contrary, an agreement,  
6 contract, understanding, or practice between a labor  
7 organization and an employer that violates this Act is unlawful  
8 and unenforceable. This Act will apply only to those  
9 agreements, contracts, understandings, or practices that take  
10 force or are extended or renewed after this Act takes effect.

11 (c) Any person who suffers an injury or a threatened injury  
12 under this Act may bring a civil action for damages, injunctive  
13 relief, or both. In addition, the court shall award a  
14 prevailing plaintiff costs and reasonable attorneys' fees.

15 (d) If any part or parts of this Act are found to be in  
16 conflict with the United States Constitution or federal law,  
17 the Act shall be implemented to the maximum extent that the  
18 United States Constitution and federal law permit. Any  
19 provision held invalid or inoperative shall be severable from  
20 the remaining portions of this Act.

21 Section 90. The Illinois Public Labor Relations Act is  
22 amended by changing Sections 6 and 15 as follows:

23 (5 ILCS 315/6) (from Ch. 48, par. 1606)

24 Sec. 6. Right to organize and bargain collectively;

1 exclusive representation; and fair share arrangements.

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

21 (b) Nothing in this Act prevents an employee from  
22 presenting a grievance to the employer and having the grievance  
23 heard and settled without the intervention of an employee  
24 organization; provided that the exclusive bargaining  
25 representative is afforded the opportunity to be present at  
26 such conference and that any settlement made shall not be

1 inconsistent with the terms of any agreement in effect between  
2 the employer and the exclusive bargaining representative.

3 (c) A labor organization designated by the Board as the  
4 representative of the majority of public employees in an  
5 appropriate unit in accordance with the procedures herein or  
6 recognized by a public employer as the representative of the  
7 majority of public employees in an appropriate unit is the  
8 exclusive representative for the employees of such unit for the  
9 purpose of collective bargaining with respect to rates of pay,  
10 wages, hours and other conditions of employment not excluded by  
11 Section 4 of this Act. A public employer is required upon  
12 request to furnish the exclusive bargaining representative  
13 with a complete list of the names and addresses of the public  
14 employees in the bargaining unit, provided that a public  
15 employer shall not be required to furnish such a list more than  
16 once per payroll period. The exclusive bargaining  
17 representative shall use the list exclusively for bargaining  
18 representation purposes and shall not disclose any information  
19 contained in the list for any other purpose. Nothing in this  
20 Section, however, shall prohibit a bargaining representative  
21 from disseminating a list of its union members.

22 (d) Labor organizations recognized by a public employer as  
23 the exclusive representative or so designated in accordance  
24 with the provisions of this Act are responsible for  
25 representing the interests of all public employees in the unit.  
26 Nothing herein shall be construed to limit an exclusive

1 representative's right to exercise its discretion to refuse to  
2 process grievances of employees that are unmeritorious.

3 (e) When a collective bargaining agreement is entered into  
4 with an exclusive representative, it may include in the  
5 agreement a provision requiring employees covered by the  
6 agreement who are not members of the organization to pay their  
7 proportionate share of the costs of the collective bargaining  
8 process, contract administration and pursuing matters  
9 affecting wages, hours and conditions of employment, as defined  
10 in Section 3 (g), but not to exceed the amount of dues  
11 uniformly required of members. The organization shall certify  
12 to the employer the amount constituting each nonmember  
13 employee's proportionate share which shall not exceed dues  
14 uniformly required of members. In such case, the proportionate  
15 share payment in this Section shall be deducted by the employer  
16 from the earnings of the nonmember employees and paid to the  
17 employee organization.

18 (f) Only the exclusive representative may negotiate  
19 provisions in a collective bargaining agreement providing for  
20 the payroll deduction of labor organization dues, fair share  
21 payment, initiation fees and assessments. Except as provided in  
22 subsection (e) of this Section, any such deductions shall only  
23 be made upon an employee's written authorization, and continued  
24 until revoked in writing in the same manner or until the  
25 termination date of an applicable collective bargaining  
26 agreement. Such payments shall be paid to the exclusive

1 representative.

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

12 (i) certifies to the employer the amount constituting  
13 each non-member's proportionate share under subsection  
14 (e); or

15 (ii) presents the employer with employee written  
16 authorizations for the deduction of dues, assessments, and  
17 fees under this subsection.

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

22 (g) Agreements containing a fair share agreement must  
23 safeguard the right of nonassociation of employees based upon  
24 bona fide religious tenets or teachings of a church or  
25 religious body of which such employees are members. Such  
26 employees may be required to pay an amount equal to their fair

1 share, determined under a lawful fair share agreement, to a  
2 nonreligious charitable organization mutually agreed upon by  
3 the employees affected and the exclusive bargaining  
4 representative to which such employees would otherwise pay such  
5 service fee. If the affected employees and the bargaining  
6 representative are unable to reach an agreement on the matter,  
7 the Board may establish an approved list of charitable  
8 organizations to which such payments may be made.

9 (h) Notwithstanding any other provision of this Act, no  
10 fair share agreement may be entered into, modified, or renewed  
11 on or after the effective date of this amendatory Act of the  
12 98th General Assembly.

13 (Source: P.A. 93-854, eff. 1-1-05; 94-472, eff. 1-1-06.)

14 (5 ILCS 315/15) (from Ch. 48, par. 1615)

15 Sec. 15. Act Takes Precedence.

16 (a) In case of any conflict between the provisions of this  
17 Act and any other law (other than Section 5 of the State  
18 Employees Group Insurance Act of 1971, ~~and~~ other than the  
19 changes made to the Illinois Pension Code by Public Act 96-889,  
20 and other than the changes made by this amendatory Act of the  
21 98th ~~96th~~ General Assembly), executive order or administrative  
22 regulation relating to wages, hours and conditions of  
23 employment and employment relations, the provisions of this Act  
24 or any collective bargaining agreement negotiated thereunder  
25 shall prevail and control. Nothing in this Act shall be



1 construed to replace or diminish the rights of employees  
2 established by Sections 28 and 28a of the Metropolitan Transit  
3 Authority Act, Sections 2.15 through 2.19 of the Regional  
4 Transportation Authority Act. The provisions of this Act are  
5 subject to Section 5 of the State Employees Group Insurance Act  
6 of 1971 and the Workers Rights Act. Nothing in this Act shall  
7 be construed to replace the necessity of complaints against a  
8 sworn peace officer, as defined in Section 2(a) of the Uniform  
9 Peace Officer Disciplinary Act, from having a complaint  
10 supported by a sworn affidavit.

11 (b) Except as provided in subsection (a) above, any  
12 collective bargaining contract between a public employer and a  
13 labor organization executed pursuant to this Act shall  
14 supersede any contrary statutes, charters, ordinances, rules  
15 or regulations relating to wages, hours and conditions of  
16 employment and employment relations adopted by the public  
17 employer or its agents. Any collective bargaining agreement  
18 entered into prior to the effective date of this Act shall  
19 remain in full force during its duration.

20 (c) It is the public policy of this State, pursuant to  
21 paragraphs (h) and (i) of Section 6 of Article VII of the  
22 Illinois Constitution, that the provisions of this Act are the  
23 exclusive exercise by the State of powers and functions which  
24 might otherwise be exercised by home rule units. Such powers  
25 and functions may not be exercised concurrently, either  
26 directly or indirectly, by any unit of local government,

1 including any home rule unit, except as otherwise authorized by  
2 this Act.

3 (Source: P.A. 95-331, eff. 8-21-07; 96-889, eff. 1-1-11.)

4 Section 95. The Illinois Educational Labor Relations Act is  
5 amended by changing Sections 11 and 17 as follows:

6 (115 ILCS 5/11) (from Ch. 48, par. 1711)

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

18 The amount certified by the exclusive representative shall  
19 not include any fees for contributions related to the election  
20 or support of any candidate for political office. Nothing in  
21 this Section shall preclude the non member employee from making  
22 voluntary political contributions in conjunction with his or  
23 her fair share payment.

24 If a collective bargaining agreement that includes a fair

1 share clause expires or continues in effect beyond its  
2 scheduled expiration date pending the negotiation of a  
3 successor agreement, then the employer shall continue to honor  
4 and abide by the fair share clause until a new agreement that  
5 includes a fair share clause is reached. Failure to honor and  
6 abide by the fair share clause for the benefit of any exclusive  
7 representative as set forth in this paragraph shall be a  
8 violation of the duty to bargain and an unfair labor practice.

9 Agreements containing a fair share agreement must  
10 safeguard the right of non-association of employees based upon  
11 bonafide religious tenets or teaching of a church or religious  
12 body of which such employees are members. Such employees may be  
13 required to pay an amount equal to their proportionate share,  
14 determined under a proportionate share agreement, to a  
15 non-religious charitable organization mutually agreed upon by  
16 the employees affected and the exclusive representative to  
17 which such employees would otherwise pay such fee. If the  
18 affected employees and the exclusive representative are unable  
19 to reach an agreement on the matter, the Illinois Educational  
20 Labor Relations Board may establish an approved list of  
21 charitable organizations to which such payments may be made.

22 The Board shall by rule require that in cases where an  
23 employee files an objection to the amount of the fair share  
24 fee, the employer shall continue to deduct the employee's fair  
25 share fee from the employee's pay, but shall transmit the fee,  
26 or some portion thereof, to the Board for deposit in an escrow

1 account maintained by the Board; provided, however, that if the  
2 exclusive representative maintains an escrow account for the  
3 purpose of holding fair share fees to which an employee has  
4 objected, the employer shall transmit the entire fair share fee  
5 to the exclusive representative, and the exclusive  
6 representative shall hold in escrow that portion of the fee  
7 that the employer would otherwise have been required to  
8 transmit to the Board for escrow, provided that the escrow  
9 account maintained by the exclusive representative complies  
10 with rules to be promulgated by the Board within 30 days of the  
11 effective date of this amendatory Act of 1989 or that the  
12 collective bargaining agreement requiring the payment of the  
13 fair share fee contains an indemnification provision for the  
14 purpose of indemnifying the employer with respect to the  
15 employer's transmission of fair share fees to the exclusive  
16 representative.

17 Notwithstanding any other provision of this Act, no fair  
18 share agreement may be entered into, modified, or renewed on or  
19 after the effective date of this amendatory Act of the 98th  
20 General Assembly.

21 (Source: P.A. 94-210, eff. 7-14-05.)

22 (115 ILCS 5/17) (from Ch. 48, par. 1717)

23 Sec. 17. Effect on other laws. In case of any conflict  
24 between the provisions of this Act and any other law (other  
25 than the Workers Rights Act), executive order or administrative

1 regulation, the provisions of this Act shall prevail and  
2 control. Nothing in this Act shall be construed to replace or  
3 diminish the rights of employees established by Section 36d of  
4 "An Act to create the State Universities Civil Service System",  
5 approved May 11, 1905, as amended or modified.

6 (Source: P.A. 83-1014.)

7 Section 99. Effective date. This Act takes effect upon  
8 becoming law.