



Sen. Dale A. Righter

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1 AMENDMENT TO SENATE BILL 2506

2 AMENDMENT NO. _____. Amend Senate Bill 2506, AS AMENDED,
3 by replacing everything after the enacting clause with the
4 following:

5 "Section 5. The Illinois Human Rights Act is amended by
6 changing Sections 7-109.1, 7A-102, and 8-103 as follows:

7 (775 ILCS 5/7-109.1) (from Ch. 68, par. 7-109.1)

8 Sec. 7-109.1. Administrative closure of charges ~~Federal or~~
9 ~~State Court Proceedings.~~

10 (a) For charges filed under Article 7A, if the charging
11 party has initiated litigation for the purpose of seeking final
12 relief in a State or federal court or before an administrative
13 law judge or hearing officer in an administrative proceeding
14 before a local government administrative agency, and if a final
15 decision on the merits in that litigation or administrative
16 hearing would preclude the charging party from bringing another

1 action based on the pending charge, the Department shall cease
2 its investigation and dismiss the pending charge by order of
3 the Director, who shall provide the complainant notice of his
4 or her right to commence a civil action in the appropriate
5 circuit court or other appropriate court of competent
6 jurisdiction. The Director shall also provide the complainant
7 notice of his or her right to seek review of the dismissal
8 order before the Commission. Any review by the Commission of
9 the dismissal shall be limited to the question of whether the
10 charge was properly dismissed pursuant to this Section. Nothing
11 in this Section shall preclude the Department from continuing
12 to investigate an allegation in a charge that is unique to this
13 Act or otherwise could not have been included in the litigation
14 or administrative proceeding.

15 (b) For charges filed under Article 7B, the ~~The~~ Department
16 may administratively close a charge pending before the
17 Department if the issues that ~~which~~ are the basis of the charge
18 are being litigated in a State or federal court proceeding.

19 (Source: P.A. 86-1343.)

20 (775 ILCS 5/7A-102) (from Ch. 68, par. 7A-102)

21 Sec. 7A-102. Procedures.

22 (A) Charge.

23 (1) Within 180 days after the date that a civil rights
24 violation allegedly has been committed, a charge in writing
25 under oath or affirmation may be filed with the Department

1 by an aggrieved party or issued by the Department itself
2 under the signature of the Director.

3 (2) The charge shall be in such detail as to
4 substantially apprise any party properly concerned as to
5 the time, place, and facts surrounding the alleged civil
6 rights violation.

7 (3) Charges deemed filed with the Department pursuant
8 to subsection (A-1) of this Section shall be deemed to be
9 in compliance with this subsection.

10 (A-1) Equal Employment Opportunity Commission Charges.

11 (1) If a charge is filed with the Equal Employment
12 Opportunity Commission (EEOC) within 180 days after the
13 date of the alleged civil rights violation, the charge
14 shall be deemed filed with the Department on the date filed
15 with the EEOC. If the EEOC is the governmental agency
16 designated to investigate the charge first, the Department
17 shall take no action until the EEOC makes a determination
18 on the charge and after the complainant notifies the
19 Department of the EEOC's determination. In such cases,
20 after receiving notice from the EEOC that a charge was
21 filed, the Department shall notify the parties that (i) a
22 charge has been received by the EEOC and has been sent to
23 the Department for dual filing purposes; (ii) the EEOC is
24 the governmental agency responsible for investigating the
25 charge and that the investigation shall be conducted
26 pursuant to the rules and procedures adopted by the EEOC;

1 (iii) it will take no action on the charge until the EEOC
2 issues its determination; (iv) the complainant must submit
3 a copy of the EEOC's determination within 30 days after
4 service of the determination by the EEOC on complainant;
5 and (v) that the time period to investigate the charge
6 contained in subsection (G) of this Section is tolled from
7 the date on which the charge is filed with the EEOC until
8 the EEOC issues its determination.

9 (2) If the EEOC finds reasonable cause to believe that
10 there has been a violation of federal law and if the
11 Department is timely notified of the EEOC's findings by
12 complainant, the Department shall notify complainant that
13 the Department has adopted the EEOC's determination of
14 reasonable cause and that complainant has the right, within
15 90 days after receipt of the Department's notice, to either
16 file his or her own complaint with the Illinois Human
17 Rights Commission or commence a civil action in the
18 appropriate circuit court or other appropriate court of
19 competent jurisdiction. The Department's notice to
20 complainant that the Department has adopted the EEOC's
21 determination of reasonable cause shall constitute the
22 Department's Report for purposes of subparagraph (D) of
23 this Section.

24 (3) For those charges alleging violations within the
25 jurisdiction of both the EEOC and the Department and for
26 which the EEOC either (i) does not issue a determination,

1 but does issue the complainant a notice of a right to sue,
2 including when the right to sue is issued at the request of
3 the complainant, or (ii) determines that it is unable to
4 establish that illegal discrimination has occurred and
5 issues the complainant a right to sue notice, and if the
6 Department is timely notified of the EEOC's determination
7 by complainant, the Department shall notify the parties
8 that the Department will adopt the EEOC's determination as
9 a dismissal for lack of substantial evidence unless the
10 complainant requests in writing within 35 days after
11 receipt of the Department's notice that the Department
12 review the EEOC's determination.

13 (a) If the complainant does not file a written
14 request with the Department to review the EEOC's
15 determination within 35 days after receipt of the
16 Department's notice, the Department shall notify
17 complainant that the decision of the EEOC has been
18 adopted by the Department as a dismissal for lack of
19 substantial evidence and that the complainant has the
20 right, within 90 days after receipt of the Department's
21 notice, to commence a civil action in the appropriate
22 circuit court or other appropriate court of competent
23 jurisdiction. The Department's notice to complainant
24 that the Department has adopted the EEOC's
25 determination shall constitute the Department's report
26 for purposes of subparagraph (D) of this Section.

1 (b) If the complainant does file a written request
2 with the Department to review the EEOC's
3 determination, the Department shall review the EEOC's
4 determination and any evidence obtained by the EEOC
5 during its investigation. If, after reviewing the
6 EEOC's determination and any evidence obtained by the
7 EEOC, the Department determines there is no need for
8 further investigation of the charge, the Department
9 shall issue a report and the Director shall determine
10 whether there is substantial evidence that the alleged
11 civil rights violation has been committed pursuant to
12 subsection (D) of Section 7A-102. If, after reviewing
13 the EEOC's determination and any evidence obtained by
14 the EEOC, the Department determines there is a need for
15 further investigation of the charge, the Department
16 may conduct any further investigation it deems
17 necessary. After reviewing the EEOC's determination,
18 the evidence obtained by the EEOC, and any additional
19 investigation conducted by the Department, the
20 Department shall issue a report and the Director shall
21 determine whether there is substantial evidence that
22 the alleged civil rights violation has been committed
23 pursuant to subsection (D) of Section 7A-102 of this
24 Act.

25 (4) Pursuant to this Section, if the EEOC dismisses the
26 charge or a portion of the charge of discrimination

1 because, under federal law, the EEOC lacks jurisdiction
2 over the charge, and if, under this Act, the Department has
3 jurisdiction over the charge of discrimination, the
4 Department shall investigate the charge or portion of the
5 charge dismissed by the EEOC for lack of jurisdiction
6 pursuant to subsections (A), (A-1), (B), (B-1), (C), (D),
7 (E), (F), (G), (H), (I), (J), and (K) of Section 7A-102 of
8 this Act.

9 (5) The time limit set out in subsection (G) of this
10 Section is tolled from the date on which the charge is
11 filed with the EEOC to the date on which the EEOC issues
12 its determination.

13 (B) Notice and Response to Charge. The Department shall,
14 within 10 days of the date on which the charge was filed, serve
15 a copy of the charge on the respondent. This period shall not
16 be construed to be jurisdictional. The charging party and the
17 respondent may each file a position statement and other
18 materials with the Department regarding the charge of alleged
19 discrimination within 60 days of receipt of the notice of the
20 charge. The position statements and other materials filed shall
21 remain confidential unless otherwise agreed to by the party
22 providing the information and shall not be served on or made
23 available to the other party during pendency of a charge with
24 the Department. The Department shall require the respondent to
25 file a verified response to the allegations contained in the
26 charge within 60 days of receipt of the notice of the charge.

1 The respondent shall serve a copy of its response on the
2 complainant or his representative. All allegations contained
3 in the charge not timely denied by the respondent shall be
4 deemed admitted, unless the respondent states that it is
5 without sufficient information to form a belief with respect to
6 such allegation. The Department may issue a notice of default
7 directed to any respondent who fails to file a verified
8 response to a charge within 60 days of receipt of the notice of
9 the charge, unless the respondent can demonstrate good cause as
10 to why such notice should not issue. The term "good cause"
11 shall be defined by rule promulgated by the Department. Within
12 30 days of receipt of the respondent's response, the
13 complainant may file a reply to said response and shall serve a
14 copy of said reply on the respondent or his representative. A
15 party shall have the right to supplement his response or reply
16 at any time that the investigation of the charge is pending.
17 The Department shall, within 10 days of the date on which the
18 charge was filed, and again no later than 335 days thereafter,
19 send by certified or registered mail written notice to the
20 complainant and to the respondent informing the complainant of
21 the complainant's right to either file a complaint with the
22 Human Rights Commission or commence a civil action in the
23 appropriate circuit court under subparagraph (2) of paragraph
24 (G), including in such notice the dates within which the
25 complainant may exercise this right. In the notice the
26 Department shall notify the complainant that the charge of

1 civil rights violation will be dismissed with prejudice and
2 with no right to further proceed if a written complaint is not
3 timely filed with the Commission or with the appropriate
4 circuit court by the complainant pursuant to subparagraph (2)
5 of paragraph (G) or by the Department pursuant to subparagraph
6 (1) of paragraph (G).

7 (B-1) Mediation. The complainant and respondent may agree
8 to voluntarily submit the charge to mediation without waiving
9 any rights that are otherwise available to either party
10 pursuant to this Act and without incurring any obligation to
11 accept the result of the mediation process. Nothing occurring
12 in mediation shall be disclosed by the Department or admissible
13 in evidence in any subsequent proceeding unless the complainant
14 and the respondent agree in writing that such disclosure be
15 made.

16 (C) Investigation.

17 (1) After the respondent has been notified, the
18 Department shall conduct a full investigation of the
19 allegations set forth in the charge.

20 (2) The Director or his or her designated
21 representatives shall have authority to request any member
22 of the Commission to issue subpoenas to compel the
23 attendance of a witness or the production for examination
24 of any books, records or documents whatsoever.

25 (3) If any witness whose testimony is required for any
26 investigation resides outside the State, or through

1 illness or any other good cause as determined by the
2 Director is unable to be interviewed by the investigator or
3 appear at a fact finding conference, his or her testimony
4 or deposition may be taken, within or without the State, in
5 the same manner as is provided for in the taking of
6 depositions in civil cases in circuit courts.

7 (4) Upon reasonable notice to the complainant and the
8 respondent, the Department shall conduct a fact finding
9 conference, unless prior to 365 days after the date on
10 which the charge was filed the Director has determined
11 whether there is substantial evidence that the alleged
12 civil rights violation has been committed, the charge has
13 been dismissed for lack of jurisdiction, or the parties
14 voluntarily and in writing agree to waive the fact finding
15 conference. Any party's failure to attend the conference
16 without good cause shall result in dismissal or default.
17 The term "good cause" shall be defined by rule promulgated
18 by the Department. A notice of dismissal or default shall
19 be issued by the Director. The notice of default issued by
20 the Director shall notify the respondent that a request for
21 review may be filed in writing with the Commission within
22 30 days of receipt of notice of default. The notice of
23 dismissal issued by the Director shall give the complainant
24 notice of his or her right to seek review of the dismissal
25 before the Human Rights Commission or commence a civil
26 action in the appropriate circuit court. If the complainant

1 chooses to have the Human Rights Commission review the
2 dismissal order, he or she shall file a request for review
3 with the Commission within 90 days after receipt of the
4 Director's notice. If the complainant chooses to file a
5 request for review with the Commission, he or she may not
6 later commence a civil action in a circuit court. If the
7 complainant chooses to commence a civil action in a circuit
8 court, he or she must do so within 90 days after receipt of
9 the Director's notice.

10 (D) Report.

11 (1) Each charge shall be the subject of a report to the
12 Director. The report shall be a confidential document
13 subject to review by the Director, authorized Department
14 employees, the parties, and, where indicated by this Act,
15 members of the Commission or their designated hearing
16 officers.

17 (2) Upon review of the report, the Director shall
18 determine whether there is substantial evidence that the
19 alleged civil rights violation has been committed. The
20 determination of substantial evidence is limited to
21 determining the need for further consideration of the
22 charge pursuant to this Act and includes, but is not
23 limited to, findings of fact and conclusions, as well as
24 the reasons for the determinations on all material issues.
25 Substantial evidence is evidence which a reasonable mind
26 accepts as sufficient to support a particular conclusion

1 and which consists of more than a mere scintilla but may be
2 somewhat less than a preponderance.

3 (3) If the Director determines that there is no
4 substantial evidence, the charge shall be dismissed by
5 order of the Director and the Director shall give the
6 complainant notice of his or her right to seek review of
7 the dismissal order before the Commission or commence a
8 civil action in the appropriate circuit court. If the
9 complainant chooses to have the Human Rights Commission
10 review the dismissal order, he or she shall file a request
11 for review with the Commission within 90 days after receipt
12 of the Director's notice. If the complainant chooses to
13 file a request for review with the Commission, he or she
14 may not later commence a civil action in a circuit court.
15 If the complainant chooses to commence a civil action in a
16 circuit court, he or she must do so within 90 days after
17 receipt of the Director's notice.

18 (4) If the Director determines that there is
19 substantial evidence, he or she shall notify the
20 complainant and respondent of that determination. The
21 Director shall also notify the parties that the complainant
22 has the right to either commence a civil action in the
23 appropriate circuit court or request that the Department of
24 Human Rights file a complaint with the Human Rights
25 Commission on his or her behalf. Any such complaint shall
26 be filed within 90 days after receipt of the Director's

1 notice. If the complainant chooses to have the Department
2 file a complaint with the Human Rights Commission on his or
3 her behalf, the complainant must, within 30 days after
4 receipt of the Director's notice, request in writing that
5 the Department file the complaint. If the complainant
6 timely requests that the Department file the complaint, the
7 Department shall file the complaint on his or her behalf.
8 If the complainant fails to timely request that the
9 Department file the complaint, the complainant may file his
10 or her complaint with the Commission or commence a civil
11 action in the appropriate circuit court. If the complainant
12 files a complaint with the Human Rights Commission, the
13 complainant shall give notice to the Department of the
14 filing of the complaint with the Human Rights Commission.

15 (E) Conciliation.

16 (1) When there is a finding of substantial evidence,
17 the Department may designate a Department employee who is
18 an attorney licensed to practice in Illinois to endeavor to
19 eliminate the effect of the alleged civil rights violation
20 and to prevent its repetition by means of conference and
21 conciliation.

22 (2) When the Department determines that a formal
23 conciliation conference is necessary, the complainant and
24 respondent shall be notified of the time and place of the
25 conference by registered or certified mail at least 10 days
26 prior thereto and either or both parties shall appear at

1 the conference in person or by attorney.

2 (3) The place fixed for the conference shall be within
3 35 miles of the place where the civil rights violation is
4 alleged to have been committed.

5 (4) Nothing occurring at the conference shall be
6 disclosed by the Department unless the complainant and
7 respondent agree in writing that such disclosure be made.

8 (5) The Department's efforts to conciliate the matter
9 shall not stay or extend the time for filing the complaint
10 with the Commission or the circuit court.

11 (F) Complaint.

12 (1) When the complainant requests that the Department
13 file a complaint with the Commission on his or her behalf,
14 the Department shall prepare a written complaint, under
15 oath or affirmation, stating the nature of the civil rights
16 violation substantially as alleged in the charge
17 previously filed and the relief sought on behalf of the
18 aggrieved party. The Department shall file the complaint
19 with the Commission.

20 (2) If the complainant chooses to commence a civil
21 action in a circuit court, he or she must do so in the
22 circuit court in the county wherein the civil rights
23 violation was allegedly committed. The form of the
24 complaint in any such civil action shall be in accordance
25 with the Illinois Code of Civil Procedure.

26 (G) Time Limit.

1 (1) When a charge of a civil rights violation has been
2 properly filed, the Department, within 365 days thereof or
3 within any extension of that period agreed to in writing by
4 all parties, shall issue its report as required by
5 subparagraph (D). Any such report shall be duly served upon
6 both the complainant and the respondent.

7 (2) If the Department has not issued its report within
8 365 days after the charge is filed, or any such longer
9 period agreed to in writing by all the parties, the
10 complainant shall have 90 days to either file his or her
11 own complaint with the Human Rights Commission or commence
12 a civil action in the appropriate circuit court. If the
13 complainant files a complaint with the Commission, the form
14 of the complaint shall be in accordance with the provisions
15 of paragraph (F)(1). If the complainant commences a civil
16 action in a circuit court, the form of the complaint shall
17 be in accordance with the Illinois Code of Civil Procedure.
18 The aggrieved party shall notify the Department that a
19 complaint has been filed and shall serve a copy of the
20 complaint on the Department on the same date that the
21 complaint is filed with the Commission or in circuit court.
22 If the complainant files a complaint with the Commission,
23 he or she may not later commence a civil action in circuit
24 court.

25 (3) If an aggrieved party files a complaint with the
26 Human Rights Commission or commences a civil action in

1 circuit court pursuant to paragraph (2) of this subsection,
2 or if the time period for filing a complaint has expired,
3 the Department shall immediately cease its investigation
4 and dismiss the charge of civil rights violation. Any final
5 order entered by the Commission under this Section is
6 appealable in accordance with paragraph (B)(1) of Section
7 8-111. Failure to immediately cease an investigation and
8 dismiss the charge of civil rights violation as provided in
9 this paragraph (3) constitutes grounds for entry of an
10 order by the circuit court permanently enjoining the
11 investigation. The Department may also be liable for any
12 costs and other damages incurred by the respondent as a
13 result of the action of the Department.

14 (4) (Blank) ~~The Department shall stay any~~
15 ~~administrative proceedings under this Section after the~~
16 ~~filing of a civil action by or on behalf of the aggrieved~~
17 ~~party under any federal or State law seeking relief with~~
18 ~~respect to the alleged civil rights violation.~~

19 (H) This amendatory Act of 1995 applies to causes of action
20 filed on or after January 1, 1996.

21 (I) This amendatory Act of 1996 applies to causes of action
22 filed on or after January 1, 1996.

23 (J) The changes made to this Section by Public Act 95-243
24 apply to charges filed on or after the effective date of those
25 changes.

26 (K) The changes made to this Section by this amendatory Act

1 of the 96th General Assembly apply to charges filed on or after
2 the effective date of those changes.

3 (Source: P.A. 96-876, eff. 2-2-10; 97-22, eff. 1-1-12; 97-596,
4 eff. 8-26-11; 97-813, eff. 7-13-12.)

5 (775 ILCS 5/8-103) (from Ch. 68, par. 8-103)

6 Sec. 8-103. Request for Review.

7 (A) Jurisdiction. The Commission, through a panel of three
8 members, shall have jurisdiction to hear and determine requests
9 for review of (1) decisions of the Department to dismiss a
10 charge; and (2) notices of default issued by the Department.

11 In each instance, the Department shall be the respondent.

12 (B) Review. When a request for review is properly filed,
13 the Commission may consider the Department's report, any
14 argument and supplemental evidence timely submitted, and the
15 results of any additional investigation conducted by the
16 Department in response to the request. However, if the
17 Commission is reviewing a dismissal order entered pursuant to
18 subsection (a) of Section 7-109.1 of this Act, the Commission's
19 review shall be limited to the question whether the charge was
20 properly dismissed pursuant to that Section. In its discretion,
21 the Commission may designate a hearing officer to conduct a
22 hearing into the factual basis of the matter at issue.

23 (C) Default Order. When a respondent fails to file a timely
24 request for review of a notice of default, or the default is
25 sustained on review, the Commission shall enter a default order

1 and notify the parties that the complainant has the right to
2 either commence a civil action in the appropriate circuit court
3 to determine the complainant's damages or request that the
4 Commission set a hearing on damages before one of its hearing
5 officers. The complainant shall have 90 days after receipt of
6 the Commission's default order to either commence a civil
7 action in the appropriate circuit court or request that the
8 Commission set a hearing on damages.

9 (C-5) Priority. Requests for review of dismissals ordered
10 pursuant to subsection (a) of Section 7-109.1 of this Act shall
11 have priority over all other requests for review and shall be
12 resolved as quickly as possible.

13 (D) Time Period Toll. Proceedings on requests for review
14 shall toll the time limitation established in paragraph (G) of
15 Section 7A-102 from the date on which the Department's notice
16 of dismissal or default is issued to the date on which the
17 Commission's order is entered.

18 (E) The changes made to this Section by Public Act 95-243
19 apply to charges or complaints filed with the Department or
20 Commission on or after the effective date of those changes.

21 (F) The changes made to this Section by this amendatory Act
22 of the 96th General Assembly apply to charges or complaints
23 filed with the Department or Commission on or after the
24 effective date of those changes.

25 (Source: P.A. 95-243, eff. 1-1-08; 96-876, eff. 2-2-10.)".