



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB1480

Introduced 02/10/05, by Rep. 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 tents or other temporary shelter covered by the new provisions shall not be larger than 300 square feet. Provides that signs, tents, or temporary shelters shall be removed at the end of each day when the picketing has ceased but that signs, tents, or temporary shelters may be maintained while individuals participating in the labor dispute are present. Prohibits blocking of fire hydrants. Requires water mains, sewers and other utilities to be accessible for maintenance and emergency repair work. Requires picketers to ensure that a reasonable walkway exists for pedestrians and others to pass by the picketing activities and make reasonable attempts to keep the area free from garbage and significant damage. Provides that the new provisions do not allow the erection of a tent or shelter on the right of way of any Class I highway. 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 and attorney's fees. 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.

LRB094 10718 RLC 41125 b

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 pursuant to the National Labor
16 Relations Act, 29 U.S.C. 151 et seq., and the Labor Management
17 Relations Act, 29 U.S.C. 141 et seq., including the right to
18 engage in other concerted activities for the purpose of
19 collective bargaining or other mutual aid or protection as
20 provided in 29 U.S.C. 157 et seq.

21 (820 ILCS 5/1.3 new)

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

23 "Employee" means any individual permitted to work by an
24 employer in an occupation.

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

31 "Picketing" means the stationing of a person for an

1 organization to apprise the public by signs or other means of
2 the existence of a dispute pursuant to the National Labor
3 Relations Act, 29 U.S.C. 151 et seq., and the Labor Management
4 Relations Act, 29 U.S.C. 141 et seq.

5 "Dispute" includes any controversy concerning terms or
6 conditions of employment, or concerning the association or
7 representation of persons in negotiating, fixing, maintaining,
8 changing, or seeking to arrange terms or conditions of
9 employment or other protest, regardless of whether or not the
10 disputants stand in the proximate relationship of employer and
11 employee.

12 "Public right of way" means that portion of the highway or
13 street adjacent to the roadway for accommodating stopped
14 vehicles or for emergency use; or that portion of a street
15 between the curb lines, or the lateral lines of a roadway, and
16 the adjacent property lines.

17 "Temporary sign" means a sign or other display or device
18 that is not permanently affixed and is capable of being removed
19 at the end of each day or shift.

20 "Temporary shelter" means a tent or shelter that is not
21 permanently affixed and is capable of being removed at the end
22 of each day or shift, not to exceed 300 square feet in size.

23 (820 ILCS 5/1.4 new)

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

25 (a) Persons engaged in picketing shall be allowed to use
26 public rights of way to apprise the public of the existence of
27 a dispute for the following:

28 (1) The purposes of picketing.

29 (2) The erection of temporary signs announcing their
30 dispute.

31 (3) The parking of at least one vehicle on the public
32 right of way. Nothing in this Section shall require the
33 accommodation of parking more than 10 vehicles on the
34 public right of way. This Section shall not be construed to
35 allow the blocking of fire hydrants. Picketers shall ensure

1 that water mains, sewers, and other utilities are
2 accessible for maintenance and emergency repair work.

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

6 (b) Any signs, tents, or temporary shelters shall be
7 removed at the end of each day when the picketing has ceased.
8 Signs, tents, or temporary shelters may be maintained so long
9 as individuals participating in the labor dispute are present.

10 (c) This Section shall not be construed to allow the
11 erection of a tent or shelter or parking of a vehicle where
12 there is insufficient space on the public right of way. This
13 Section shall not be construed to allow the erection of a tent
14 or shelter on the right of way of any Class I highway as
15 defined in Section 1-126.1 of the Illinois Vehicle Code.
16 Picketers shall ensure that a reasonable walkway exists for
17 pedestrians and others to pass by the picketing activities.
18 Persons using the right of way under this Section shall make
19 reasonable attempts to keep the area free from garbage and
20 significant damage.

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

33 (820 ILCS 5/1.5 new)

34 Sec. 1.5. Preemption. The provisions of any ordinance or
35 resolution adopted before, on, or after the effective date of

1 this amendatory Act of the 94th General Assembly by any unit of
2 local government that impose restrictions or limitations on the
3 picketing of an employer in a manner inconsistent with this Act
4 are invalid, and existing ordinances and resolutions, as they
5 apply to picketing, are void. It is declared to be the policy
6 of this State that the regulation of picketing is an exclusive
7 power and function of the State. A home rule unit may not
8 regulate picketing. This Section is a denial and limitation of
9 home rule powers and functions under subsection (h) of Section
10 6 of Article VII of the Illinois Constitution.