



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB5915

by Rep. Chapin Rose

SYNOPSIS AS INTRODUCED:

New Act
5 ILCS 100/10-42 new

Creates the Burden of Proof Act and the Illinois Citizens' Grievance Panel Act of 2008 and amends the Illinois Administrative Procedure Act. Provides that, notwithstanding any law to the contrary, the burden of proof is on the State in any circuit court proceeding or administrative adjudication in which the State or a State agency is an adversary of a United States citizen or legal resident. Establishes the Citizens' Grievance Panel as an independent State agency to hear grievances brought against the State or a State agency by a United States citizen. Provides that the Panel's decisions may be introduced as evidence in subsequent administrative and judicial actions. Authorizes the Panel to negotiate grievances and to make its decision public when negotiation fails.

LRB095 19948 JAM 46370 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning government.

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

4 ARTICLE 1

5 Section 1-1. Short title. This Article may be cited as the
6 Burden of Proof Act.

7 Section 1-5. Burden of proof. In all civil proceedings in
8 the circuit courts of this State in which the State or any of
9 its agencies is an adversary of a citizen or legal resident of
10 the United States, the burden of proof shall be upon the State,
11 notwithstanding any law to the contrary.

12 ARTICLE 5

13 Section 5-1. Short title. This Article may be cited as the
14 Illinois Citizens' Grievance Panel Act of 2008.

15 Section 5-5. Definitions. As used in this Article:

16 "Panel" means the Illinois Citizens' Grievance Panel.

17 "State agency" has the meaning of that term in Section 1-5
18 of the State Officials and Employees Ethics Act.

1 Section 5-10. Panel established. The Illinois Citizens'
2 Grievance Panel is created as a separate and independent agency
3 within State government.

4 Section 5-15. Panelists.

5 (a) The Panel shall consist of 9 citizen members. Four of
6 the members shall be appointed one each by the Speaker and
7 Minority Leader of the House of Representatives and the
8 President and Minority Leader of the Senate. Five members shall
9 be appointed one each by the Lieutenant Governor, Attorney
10 General, Secretary of State, State Comptroller, and State
11 Treasurer.

12 (b) Panelists shall serve 2-year terms and may be
13 reappointed. A vacancy shall be filled by the appointing
14 authority for the remainder of the term.

15 (c) The Panel shall annually elect, by majority vote, one
16 of its members to serve as chairperson. Five panelists
17 constitute a quorum, and the affirmative vote of a majority of
18 panelists is necessary to take action.

19 (d) Panelists, other than the chairperson, appointed by a
20 legislative leader shall receive annual compensation equal to
21 the annual base compensation of a State Representative. The
22 other panelists, including the chairperson, shall receive
23 annual compensation equal to the annual base compensation of a
24 circuit judge.

1 Section 5-20. Executive director; staff.

2 (a) The Panel, by majority vote, shall appoint an executive
3 director who shall receive annual compensation equal to the
4 annual base compensation of a circuit judge.

5 (b) The executive director may employ and determine the
6 compensation of staff necessary for the Panel to perform its
7 functions.

8 Section 5-25. Hearing of grievances.

9 (a) The Panel is authorized to hear all grievances brought
10 before it by citizens of the United States against the State
11 and its agencies. Decisions of the Panel may be introduced as
12 evidence at a subsequent administrative or judicial action, and
13 the Panel may negotiate with State agencies in an effort to
14 redress grievances; should those negotiations fail with
15 respect to any grievance, the Panel may make its decision
16 public.

17 (b) The Panel may hear a citizen grievance as a whole or
18 may delegate that responsibility to individual panelists or to
19 sub panels composed of panelists. More than half of the
20 hearings conducted by any of these means annually must be
21 conducted in the State outside of the cities of Springfield and
22 Chicago.

23 Section 5-30. Website. Under the direction of the Panel,
24 the Panel staff shall establish and maintain an Internet

1 website that describes the Panel's work, the process of filing
2 a grievance, and a schedule of dates, times, and locations of
3 upcoming Panel hearings. The website shall not be under the
4 control or supervision of any other State officer or agency,
5 including without limitation the Governor and the Department of
6 Central Management Services.

7 Section 5-35. Freedom of Information Act. The books,
8 papers, and records of the Panel are specifically exempt from
9 the requirements of the Freedom of Information Act. The Panel
10 may make any record public upon its own initiative.

11 Section 5-40. Rules. The Panel shall adopt rules for its
12 operations in accordance with the Illinois Administrative
13 Procedure Act.

14 Section 5-45. Reports. By January 1 of each year, the Panel
15 shall report to the Governor and General Assembly upon its
16 operations and activities.

17 ARTICLE 95

18 Section 95-5. The Illinois Administrative Procedure Act is
19 amended by adding Section 10-42 as follows:

20 (5 ILCS 100/10-42 new)

1 Sec. 10-42. Burden of proof. In all administrative
2 adjudications in which the State of Illinois or any of its
3 agencies is an adversary of a citizen or legal resident of the
4 United States, including but not limited to tax adjudications
5 within the Department of Revenue, the burden of proof shall be
6 upon the State, notwithstanding any law to the contrary.