

Regular Session, 2014

HOUSE BILL NO. 922

BY REPRESENTATIVE STUART BISHOP

LABOR: Provides with respect to labor protest civility

1 AN ACT

2 To amend and reenact R.S. 23:841, 844 through 846, and 849 and to enact R.S. 23:821(4),
3 relative to labor organizations and labor disputes; to provide with respect to mass
4 picketing; to provide for definitions; to provide for injunctions and retraining orders;
5 and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 23:841, 844 through 846, and 849 are hereby amended and reenacted
8 and R.S. 23:821(A) is hereby enacted to read as follows:

9 §821. Definitions

10 When used in Parts I and II of this Chapter, and for the purposes thereof:

11 * * *

12 (4) "Mass picketing" shall include any of the following:

13 (a) Hindering or preventing any lawful work or employment by congregating
14 to protest and using unlawful threats or force.

15 (b) Obstructing or interfering with entrance to or egress from any place of
16 employment.

17 (c) Obstructing or interfering with free and uninterrupted use of public roads,
18 streets, highways, railways, airports, waterways, or other ways of travel or
19 conveyance by congregating to protest.

1 (d) Engaging in a protest at a private residence by any means or method.

2 * * *

3 §841. Injunctions; limitation on courts' authority to issue

4 A. No court shall issue any restraining order or temporary or permanent
5 injunction which in specific or general terms prohibits any person or persons from
6 doing, whether singly or in concert, any of the following acts:

7 (1) Ceasing or refusing to perform any work or to remain in any relation of
8 employment regardless of any promise, undertaking, contract or agreement to do
9 such work or to remain in such employment.

10 (2) Becoming or remaining a member of any labor organization or of any
11 employer organization, regardless of any such undertaking or promise as is described
12 in R.S. 23:823.

13 (3) Paying or giving to, or withholding from, any person any strike or
14 unemployment benefits or insurance or other moneys or things of value.

15 (4) Aiding any person by any lawful means, who is being proceeded against
16 in, or is prosecuting any action or suit in any court of the United States or of any
17 state.

18 (5) Giving publicity to and obtaining or communicating information
19 regarding the existence of, or the facts involved in, any dispute, whether by
20 advertising, speaking, patrolling any public street or any place where persons may
21 lawfully be, without intimidation or coercion, or by any other method not involving
22 fraud, violence, breach of the peace, or threat thereof.

23 (6) Ceasing to patronize or to employ any person or persons.

24 (7) Assembling peaceably to do or to organize to do any of the acts
25 heretofore specified or to promote lawful interests.

26 (8) Advising or notifying any person or persons of an intention to do any of
27 the acts heretofore specified.

28 (9) Agreeing with other persons to do or not to do any of the acts heretofore
29 specified.

1 (10) Advising, urging, or inducing without fraud, violence, or threat thereof,
2 others to do the acts heretofore specified, regardless of any such undertaking or
3 promise as is described in R.S. 23:823.

4 (11) Doing in concert of any or all the acts heretofore specified on the
5 ground that the persons engaged therein constitute an unlawful combination or
6 conspiracy.

7 B. Notwithstanding any provision of Subsection A to the contrary, a court
8 shall issue an injunction prohibiting a person from participating in mass picketing.

9 C. An employer or other person who is subject to mass picketing may bring
10 an action to enjoin in a court of competent jurisdiction. The court shall grant
11 injunctive relief if it finds that the defendant has engaged, or threatened to engage,
12 in mass picketing without regard to the existence of other remedies, demonstration
13 of irreparable harm, or other factors.

14 D. Nothing in Subsection B of this Section shall be construed to interfere
15 with the constitutionally granted freedom of assembly, freedom of speech, or
16 freedom of association.

17 * * *

18 §844. Injunctions and restraining orders, grounds for issuance; proof required

19 A. No court shall issue a temporary or permanent injunction in any case
20 involving or growing out of a labor dispute, as herein defined, except after hearing
21 the testimony of witnesses in open court, with opportunity for cross-examination, in
22 support of the allegations of a complaint made under oath, and testimony in
23 opposition thereto, if offered, and except after findings of fact by the court to the
24 effect:

25 (1) That unlawful acts have been threatened or committed and will be
26 executed or continued unless restrained;

27 (2) That substantial and irreparable injury to complainant's property will
28 follow unless the relief requested is granted;

1 (3) That as to each item of relief granted greater injury will be inflicted upon
2 complainant by the denial thereof than will be inflicted upon the defendants by the
3 granting thereof;

4 (4) That no item of relief granted is relief that a court has no authority to
5 restrain or enjoin under R.S. 23:841(A);

6 (5) That complainant has no adequate remedy by ordinary legal procedure;
7 and

8 (6) That the public officers charged with the duty to protect complainant's
9 property have failed or are unable to furnish adequate protection.

10 B. An employer or other person who is subject to mass picketing prohibited
11 pursuant to R.S. 23:841(B) shall not be required to furnish proof of any of the
12 following:

13 (1) That substantial and irreparable injury to complainant's property will
14 follow unless the relief requested is granted.

15 (2) That as to each item of relief granted greater injury will be inflicted upon
16 complainant by the denial thereof than will be inflicted upon the defendants by the
17 granting thereof.

18 (3) That no item of relief granted is relief that a court has no authority to
19 restrain or enjoin under R.S. 23:841(A).

20 (4) That complainant has no adequate remedy by ordinary legal procedure.

21 (5) That the public officers charged with the duty to protect complainant's
22 property have failed or are unable to furnish adequate protection.

23 C. Such hearing shall be held after due and personal notice thereof has been
24 given, in such manner as the court shall direct, to all known persons against whom
25 relief is sought, and also to those public officers charged with the duty to protect
26 complainant's property.

27 D. If a complainant shall also allege that unless a temporary restraining order
28 is issued before such hearing can be had a substantial and irreparable injury to
29 complainant's property will be unavoidable, such a temporary restraining order may

1 be granted upon the expiration of such reasonable notice of application therefor as
2 the court may direct by order to show cause, but in no case less than forty-eight
3 hours.

4 E. Such order to show cause shall be served upon such party or parties as are
5 sought to be restrained and as shall be specified in said order, and the restraining
6 order shall issue only upon testimony, or in the discretion of the court, upon
7 affidavits, sufficient, if sustained, to justify the court in issuing a temporary
8 injunction upon a hearing as herein provided for.

9 F. Such a temporary restraining order shall be effective for no longer than
10 five days, at the expiration of which time it shall become void and not subject to
11 renewal or extension; provided, that if the hearing for a temporary injunction shall
12 have been begun before the expiration of the said five days the restraining order may,
13 in the court's discretion, be continued until a decision is reached upon the issuance
14 of the temporary injunction.

15 G. ~~No~~ Except for temporary restraining orders or temporary injunctions
16 sought to enjoin prohibited mass picketing activities, no temporary restraining order
17 or temporary injunction shall be issued except on condition that complainant shall
18 first file an undertaking with adequate security sufficient to recompense those
19 enjoined for any loss, expense, or damage caused by the improvident or erroneous
20 issuance of such order or injunction, including all reasonable costs, together with a
21 reasonable attorney's fee, and expense against the order or against the granting of any
22 injunctive relief sought in the same proceeding and subsequently denied by the court.
23 Security shall not be required in a suit to enjoin prohibited mass picketing activities.

24 H. The undertaking herein mentioned shall be understood to signify an
25 agreement entered into by the complainant and the surety upon which a decree may
26 be rendered in the same suit or proceeding against the said complainant and surety,
27 the said complainant and surety submitting themselves to the jurisdiction of the court
28 for that purpose. But nothing herein contained shall deprive any party having a

1 claim or cause of action under or upon such undertaking from electing to pursue his
2 ordinary remedy by suit at law.

3 §845. Failure of complainant to attempt settlement of disputes; effect on right to
4 injunctive relief

5 ~~No~~ Except for in cases of mass picketing, no restraining order or injunctive
6 relief shall be granted to any complainant who has failed to comply with any
7 obligation imposed by law which is involved in the labor dispute in question, or who
8 has failed to make every reasonable effort to settle such dispute either by negotiation
9 or with the aid of any available machinery of governmental mediation or voluntary
10 arbitration, but nothing herein contained shall be deemed to require the court to await
11 the action of any such tribunal if irreparable injury is threatened.

12 §846. Findings of fact as basis for injunctive relief; persons affected

13 No restraining order or temporary or permanent injunction shall be granted
14 in a case involving or growing out of a labor dispute or involving mass picketing
15 activities, except on the basis of findings of fact made and filed by the court in the
16 record of the case prior to the issuance of such restraining order or injunction; and
17 every restraining order or injunction granted in a case involving or growing out of
18 a labor dispute shall include only a prohibition of such specific act or acts as may be
19 expressly complained of in the petition filed in such case and expressly included in
20 the findings of fact made and filed by the court as provided herein. The restraining
21 order, or temporary or permanent injunction shall be binding only upon the parties
22 to the suit, their agents, servants, employees and attorneys, or those in active concert
23 and participation with them, and who shall by personal service or otherwise have
24 received actual notice of the same.

25 * * *

26 §849. Punishment for contempt

27 ~~The~~ A. Except for injunctions issued for prohibited mass picketing activities,
28 the punishment for contempt under R.S. 23:848, may be by fine, not exceeding one
29 hundred dollars, or by imprisonment not exceeding fifteen days, or both. Where a

1 person is committed to jail, for the nonpayment of the fine he ~~must~~ shall be
 2 discharged at the expiration of fifteen days; but where he is also committed for a
 3 definite time, the fifteen days ~~must~~ shall be computed from the expiration of the
 4 definite time.

5 B. The punishment for contempt of an order enjoining prohibited mass
 6 picketing activities shall be a civil fine of one thousand dollars for each day of the
 7 violation. If a union or other organization continues to sponsor or assist in the
 8 prohibited activity in violation of the injunction, the union or organization shall be
 9 subject to a civil fine of ten thousand dollars for each day of the violation. The civil
 10 fine shall be paid to the court and upon a showing of damages to business sales,
 11 business opportunities, or property, the employer, union, organization, or other entity
 12 that was the subject of the prohibited activity shall be compensated from the payment
 13 made to the court.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Stuart Bishop

HB No. 922

Abstract: Provides for prohibitions on certain picketing activities and the procedures for violations.

Present law provides definitions relative to labor disputes and labor organizations.

Proposed law adds the term "mass picketing" to the list of definitions and provides that mass picketing includes:

- (1) Hindering or preventing any lawful work or employment by congregating to protest and using unlawful threats or force.
- (2) Obstructing or interfering with entrance to or egress from any place of employment.
- (3) Obstructing or interfering with free and uninterrupted use of public roads, streets, highways, railways, airports, waterways, or other ways of travel or conveyance by congregating to protest.
- (4) Engaging in a protest at a private residence by any means or method.

Present law prohibits a court from issuing an injunction to prohibit when an employee ceases to work, becomes a member of a labor organization, withholding or paying any strike or unemployment benefits, lawfully aiding someone who is being proceeded against or prosecuted, giving publicity to or obtaining or communicating information regarding a

dispute, ceasing to patronize or employ any person, assembling peaceably to promote lawful interests, or advising others to do or not to do any of the aforementioned acts.

Proposed law excepts the act of mass picketing from the list of acts for which an injunction or restraining order may not be granted.

Proposed law provides that an employer need not prove substantial and irreparable injury to his property to be granted relief.

Present law provides that no temporary restraining orders or temporary injunctions may be issued except when the complainant files an undertaking with adequate security sufficient to recompense those enjoined for any loss, expense, or damage.

Proposed law excepts temporary restraining orders or temporary injunctions sought to enjoin mass picketing activities from present law.

Present law provides that no restraining order or injunctive relief shall be granted to any complainant who has failed to make reasonable effort to settle disputes.

Proposed law excepts mass picketing activities from present law.

Present law provides that punishment for contempt may be by a fine not exceeding \$100 or by imprisonment not exceeding 15 days, or both.

Proposed law provides that the punishment for contempt of an order enjoining prohibited mass picketing activities shall be \$1,000 for each day of the violation.

Proposed law further provides that if a union or other organization continues to sponsor or assist in the prohibited activity, they shall be subject to a fine of \$10,000 for each day of violation. Proposed law further provides that the civil fine shall be paid to the court and upon a showing of damages to business sales, the damaged party shall be compensated.

Proposed law provides that proposed law shall not be construed to affect or limit any existing property rights.

Proposed law provides that proposed law shall not be construed to violate the right to freedom of speech, freedom of assembly, and freedom of association.

(Amends R.S. 23:841, 844-846, and 849; Adds R.S. 23:821(4))