

**RHODE ISLAND GENERAL ASSEMBLY
HOUSE COMMITTEE ON LABOR
ROOM 101 – STATE HOUSE**

February 12, 2025

Re: Testimony in Support of House bill Number H 5187, titled AN ACT RELATING TO LABOR AND LABOR RELATIONS -- LABOR RELATIONS ACT {LC633/1}

Dear Chairman Corvese and members of the House Labor Committee:

My name is Elizabeth Wiens. I'm a union-side labor attorney in Warwick, Rhode Island. I'm here to testify in support of House Bill 5187.

I've been practicing union-side labor law in Rhode for over twenty years. The majority of my job is representing labor unions in arbitrations, contract negotiations and before the RI State Labor Relations Board.

In my twenty-one years of practice, there have been many incidents of a public sector employer violating the law without penalty. For example, if an Employer illegally implements a new policy without bargaining with the Union, changes work schedules or platoon structure, and orders employees back to work during a global pandemic while refusing to bargain over ways to keep them safe, the Union's only remedy is to file an unfair labor practice charge with the Board. Public sector unions cannot strike, so the only tool for them to fight illegal behavior is through the Labor Board. So, it's important that the Board have the tools to expeditiously evaluate, stop and remedy these violations. However, (through no fault of the Board, they are fantastic), it usually takes 6-12 months to get a decision from the Board. And when that decision issues, if the Union is successful, the decision will be an order for the Employer to bargain with the Union. The Board generally does not award attorneys' fees or any type of monetary penalty for the time spent/wasted by the Employer's violations. In the meantime, the Employer will have gotten away with its violation for months, and the Union will (many times) have been forced to expend thousands in legal fees. Often times, because of this, it's simply not worth it for a Union to file a charge with the Labor Board and the Employer gets away with violating the law.

The amendments contained in this Bill, in my opinion, constitute significant steps towards leveling the playing field by ensuring that unfair labor practice charges get heard and decided in a reasonable amount of time and that the Board has sufficient tools to remedy the violations, while deterring future bad behavior. Some of these changes include:

1. **Temporary Injunctive Relief.** Currently, if a Union needs an injunction to stop illegal behavior pending the outcome of an unfair labor practice, it has to hire a lawyer, file a lawsuit in Superior Court and explain labor law to the Judge that gets assigned the case. It would be much better if the Board had the authority to hear and issue preliminary injunctions pending adjudication of the unfair labor practice charge on the merits, just like

a court can do. If the Employer refuses to comply, the Board's attorney can go to Court to enforce the injunctions (if necessary). See RIGL 28-7-20(b).

2. **Reimbursement of Attorneys' Fees.** Unfortunately, Employers sometimes take illegal actions (e.g. fail to bargain) because they know that, after a full hearing and many months of waiting, the worst that will happen is they will be ordered to bargain. This allows them to violate the law for months and undermine unions with no meaningful remedy for the Union at the end. Permitting the Union to recoup any legal fees will not only ensure that the Union is not punished for seeking relief (by having to expend fees on an attorney), but it will act as a deterrent to illegal behavior by Employers. It is not automatic. It's within the discretion of the Board. There is also a provision providing that the Board can recoup its legal fees for successfully defending its Decision, which could act as another deterrent factor for Employers who appeal labor board decisions merely to extend their ability to violate the law and force unions to pay thousands more in legal fees. See RIGL 28-7-22 (c)(v).
3. **Adopt the *Collyer* standard.** Currently, there is some inconsistent case law in RI as to whether a union can file both a grievance and an unfair labor practice for the same or similar violation. Under the National Labor Relations Act (in a case called *Collyer Insulated Wire, A Gulf and Western Systems Co.*, 192 NLRB 837 (1971) a Union can file both, and the Board will usually pause its proceedings until the outcome of the arbitration. There are some Superior Court decisions that say *Collyer* applies in this State, but there are other decisions that have concluded differently. This Bill makes it clear that the Board has jurisdiction to hear any and all unfair labor practices, even if the violation of law may also be a contract violation. See RIGL 28-7-21(b).
4. **Interest.** The statute (28-7-22) authorizes the Board to issue remedies, including back pay. It does not specifically mention interest. This Bill makes it clear that the Board has that make-whole authority.

Thank you for your time and consideration.

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