



Sen. A. J. Wilhelmi

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09500SB2111sam001

LRB095 14369 WGH 48743 a

1 AMENDMENT TO SENATE BILL 2111

2 AMENDMENT NO. _____. Amend Senate Bill 2111 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Code of Civil Procedure is amended by
5 changing Sections 3-103, 3-105, 3-107, 3-111, and 3-113 as
6 follows:

7 (735 ILCS 5/3-103) (from Ch. 110, par. 3-103)

8 Sec. 3-103. Commencement of action. Every action to review
9 a final administrative decision shall be commenced by the
10 filing of a complaint and the issuance of summons within 35
11 days from the date that a copy of the decision sought to be
12 reviewed was served upon the party affected by the decision,
13 except that:

14 ~~(1)~~ in municipalities with a population of 500,000 or
15 less a complaint filed within the time limit established by
16 this Section may be subsequently amended to add a police

1 chief or a fire chief in cases brought under the Illinois
2 Municipal Code's provisions providing for the discipline
3 of fire fighters and police officers. ~~and~~

4 ~~(2) in other actions for review of a final~~
5 ~~administrative decision, a complaint filed within the time~~
6 ~~limit established by this Section may be amended to add an~~
7 ~~employee, agent, or member of an administrative agency,~~
8 ~~board, committee, or government entity, who acted in an~~
9 ~~official capacity as a party of record to the~~
10 ~~administrative proceeding, if the administrative agency,~~
11 ~~board, committee, or government entity is a party to the~~
12 ~~administrative review action. If the director or agency~~
13 ~~head, in his or her official capacity, is a party to the~~
14 ~~administrative review, a complaint filed within the time~~
15 ~~limit established by this Section may be amended to add the~~
16 ~~administrative agency, board, committee, or government~~
17 ~~entity.~~

18 The method of service of the decision shall be as provided
19 in the Act governing the procedure before the administrative
20 agency, but if no method is provided, a decision shall be
21 deemed to have been served either when a copy of the decision
22 is personally delivered or when a copy of the decision is
23 deposited in the United States mail, in a sealed envelope or
24 package, with postage prepaid, addressed to the party affected
25 by the decision at his or her last known residence or place of
26 business.

1 The form of the summons and the issuance of alias summons
2 shall be according to rules of the Supreme Court.

3 This amendatory Act of 1993 applies to all cases involving
4 discipline of fire fighters and police officers pending on its
5 effective date and to all cases filed on or after its effective
6 date.

7 The changes to this Section made by this amendatory Act of
8 the 95th General Assembly apply to all actions filed on or
9 after the effective date of this amendatory Act of the 95th
10 General Assembly.

11 (Source: P.A. 88-1; 88-110; 88-670, eff. 12-2-94; 89-685, eff.
12 6-1-97.)

13 (735 ILCS 5/3-105) (from Ch. 110, par. 3-105)

14 Sec. 3-105. Service of summons. Summons issued in any
15 action to review the final administrative decision of any
16 administrative agency shall be served by registered or
17 certified mail on the administrative agency and on each of the
18 other defendants except in the case of a review of a final
19 administrative decision of the regional board of school
20 trustees, regional superintendent of schools, or State
21 Superintendent of Education, as the case may be, when a
22 committee of 10 has been designated as provided in Section 7-6
23 of the School Code, and in such case only the administrative
24 agency involved and each of the committee of 10 shall be
25 served. The method of service shall be as provided in the Act

1 governing the procedure before the administrative agency, but
2 if no method is provided, summons shall be deemed to have been
3 served either when a copy of the summons is personally
4 delivered or when a copy of the decision is deposited in the
5 United States mail, in a sealed envelope or package, with
6 postage prepaid, addressed to the party affected by the
7 decision at his or her last known residence or place of
8 business. The form of the summons and the issuance of alias
9 summons shall be according to rules of the Supreme Court. No
10 action for administrative review shall be dismissed for lack of
11 jurisdiction based upon the failure to serve summons on an
12 employee, agent, or member of an administrative agency, board,
13 committee, or government entity, acting in his or her official
14 capacity, where the administrative agency, board, committee,
15 or government entity has been served as provided in this
16 Section. Service on the director or agency head, in his or her
17 official capacity, shall be deemed service on the
18 administrative agency, board, committee, or government entity.
19 No action for administrative review shall be dismissed for lack
20 of jurisdiction based upon the failure to serve summons on an
21 administrative agency, board, committee, or government entity,
22 acting, where the director or agency head, in his or her
23 official capacity, has been served as provided in this Section.
24 Service on the administrative agency shall be made by the clerk
25 of the court by sending a copy of the summons addressed to the
26 agency at its main office in the State. The clerk of the court

1 shall also mail a copy of the summons to each of the other
2 defendants, addressed to the last known place of residence or
3 principal place of business of each such defendant. The
4 plaintiff shall, by affidavit filed with the complaint,
5 designate the last known address of each defendant upon whom
6 service shall be made. The certificate of the clerk of the
7 court that he or she has served such summons in pursuance of
8 this Section shall be evidence that he or she has done so.

9 The changes to this Section made by this amendatory Act of
10 the 95th General Assembly apply to all actions filed on or
11 after the effective date of this amendatory Act of the 95th
12 General Assembly.

13 (Source: P.A. 88-1; 89-685, eff. 6-1-97.)

14 (735 ILCS 5/3-107) (from Ch. 110, par. 3-107)

15 Sec. 3-107. Defendants.

16 (a) Except as provided in subsection (b) or (c), in any
17 action to review any final decision of an administrative
18 agency, the administrative agency and all persons, other than
19 the plaintiff, who were parties of record to the proceedings
20 before the administrative agency shall be made defendants. The
21 method of service of the decision shall be as provided in the
22 Act governing the procedure before the administrative agency,
23 but if no method is provided, a decision shall be deemed to
24 have been served either when a copy of the decision is
25 personally delivered or when a copy of the decision is

1 deposited in the United States mail, in a sealed envelope or
2 package, with postage prepaid, addressed to the party affected
3 by the decision at his or her last known residence or place of
4 business. The form of the summons and the issuance of alias
5 summons shall be according to rules of the Supreme Court.

6 No action for administrative review shall be dismissed for
7 lack of jurisdiction based upon the failure to name an
8 employee, agent, or member, who acted in his or her official
9 capacity, of an administrative agency, board, committee, or
10 government entity, where the administrative agency, board,
11 committee, or government entity, has been named as a defendant
12 as provided in this Section. Naming the director or agency
13 head, in his or her official capacity, shall be deemed to
14 include as defendant the administrative agency, board,
15 committee, or government entity that the named defendants
16 direct or head. No action for administrative review shall be
17 dismissed for lack of jurisdiction based upon the failure to
18 name an administrative agency, board, committee, or government
19 entity, where the director or agency head, in his or her
20 official capacity, has been named as a defendant as provided in
21 this Section.

22 If, during the course of a review action, the court
23 determines that an agency or a party of record to the
24 administrative proceedings was not made a defendant as required
25 by the preceding paragraph, ~~and only if that party was not~~
26 ~~named by the administrative agency in its final order as a~~

1 ~~party of record,~~ then the court shall grant the plaintiff 35 ~~21~~
2 days from the date of the determination in which to name and
3 serve the unnamed agency or party as a defendant. The court
4 shall permit the newly served defendant to participate in the
5 proceedings to the extent the interests of justice may require.

6 (b) With respect to actions to review decisions of a zoning
7 board of appeals in a municipality with a population of 500,000
8 or more inhabitants under Division 13 of Article 11 of the
9 Illinois Municipal Code, "parties of record" means only the
10 zoning board of appeals and applicants before the zoning board
11 of appeals. The plaintiff shall send a notice of filing of the
12 action by certified mail to each other person who appeared
13 before and submitted oral testimony or written statements to
14 the zoning board of appeals with respect to the decision
15 appealed from. The notice shall be mailed within 2 days of the
16 filing of the action. The notice shall state the caption of the
17 action, the court in which the action is filed, and the names
18 of the plaintiff in the action and the applicant to the zoning
19 board of appeals. The notice shall inform the person of his or
20 her right to intervene. Each person who appeared before and
21 submitted oral testimony or written statements to the zoning
22 board of appeals with respect to the decision appealed from
23 shall have a right to intervene as a defendant in the action
24 upon application made to the court within 30 days of the
25 mailing of the notice.

26 (c) With respect to actions to review decisions of a

1 hearing officer or a county zoning board of appeals under
2 Division 5-12 of Article 5 of the Counties Code, "parties of
3 record" means only the hearing officer or the zoning board of
4 appeals and applicants before the hearing officer or the zoning
5 board of appeals. The plaintiff shall send a notice of filing
6 of the action by certified mail to each other person who
7 appeared before and submitted oral testimony or written
8 statements to the hearing officer or the zoning board of
9 appeals with respect to the decision appealed from. The notice
10 shall be mailed within 2 days of the filing of the action. The
11 notice shall state the caption of the action, the court in
12 which the action is filed, and the name of the plaintiff in the
13 action and the applicant to the hearing officer or the zoning
14 board of appeals. The notice shall inform the person of his or
15 her right to intervene. Each person who appeared before and
16 submitted oral testimony or written statements to the hearing
17 officer or the zoning board of appeals with respect to the
18 decision appealed from shall have a right to intervene as a
19 defendant in the action upon application made to the court
20 within 30 days of the mailing of the notice. This subsection
21 (c) applies to zoning proceedings commenced on or after the
22 effective date of this amendatory Act of the 95th General
23 Assembly.

24 (d) The changes to this Section made by this amendatory Act
25 of the 95th General Assembly apply to all actions filed on or
26 after the effective date of this amendatory Act of the 95th

1 General Assembly.

2 (Source: P.A. 95-321, eff. 8-21-07.)

3 (735 ILCS 5/3-111) (from Ch. 110, par. 3-111)

4 Sec. 3-111. Powers of circuit court.

5 (a) The Circuit Court has power:

6 (1) with or without requiring bond (except if otherwise
7 provided in the particular statute under authority of which
8 the administrative decision was entered), and before or
9 after answer filed, upon notice to the agency and good
10 cause shown, to stay the decision of the administrative
11 agency in whole or in part pending the final disposition of
12 the case. For the purpose of this subsection, "good cause"
13 requires the applicant to show (i) that an immediate stay
14 is required in order to preserve the status quo without
15 endangering the public, (ii) that it is not contrary to
16 public policy, and (iii) that there exists a reasonable
17 likelihood of success on the merits;

18 (2) to make any order that it deems proper for the
19 amendment, completion or filing of the record of
20 proceedings of the administrative agency;

21 (3) to allow substitution of parties by reason of
22 marriage, death, bankruptcy, assignment or other cause;

23 (4) to dismiss parties, to correct misnomers, ~~or~~ to
24 realign parties, or to join agencies or parties ~~plaintiffs~~
25 ~~and defendants;~~

1 (5) to affirm or reverse the decision in whole or in
2 part;

3 (6) where a hearing has been held by the agency, to
4 reverse and remand the decision in whole or in part, and,
5 in that case, to state the questions requiring further
6 hearing or proceedings and to give such other instructions
7 as may be proper;

8 (7) where a hearing has been held by the agency, to
9 remand for the purpose of taking additional evidence when
10 from the state of the record of the administrative agency
11 or otherwise it shall appear that such action is just.
12 However, no remandment shall be made on the ground of newly
13 discovered evidence unless it appears to the satisfaction
14 of the court that such evidence has in fact been discovered
15 subsequent to the termination of the proceedings before the
16 administrative agency and that it could not by the exercise
17 of reasonable diligence have been obtained at such
18 proceedings; and that such evidence is material to the
19 issues and is not cumulative;

20 (8) in case of affirmance or partial affirmance of an
21 administrative decision which requires the payment of
22 money, to enter judgment for the amount justified by the
23 record and for costs, which judgment may be enforced as
24 other judgments for the recovery of money;

25 (9) when the particular statute under authority of
26 which the administrative decision was entered requires the

1 plaintiff to file a satisfactory bond and provides for the
2 dismissal of the action for the plaintiff's failure to
3 comply with this requirement unless the court is authorized
4 by the particular statute to enter, and does enter, an
5 order imposing a lien upon the plaintiff's property, to
6 take such proofs and to enter such orders as may be
7 appropriate to carry out the provisions of the particular
8 statute. However, the court shall not approve the bond, nor
9 enter an order for the lien, in any amount which is less
10 than that prescribed by the particular statute under
11 authority of which the administrative decision was entered
12 if the statute provides what the minimum amount of the bond
13 or lien shall be or provides how said minimum amount shall
14 be determined. No such bond shall be approved by the court
15 without notice to, and an opportunity to be heard thereon
16 by, the administrative agency affected. The lien, created
17 by the entry of a court order in lieu of a bond, shall not
18 apply to property exempted from the lien by the particular
19 statute under authority of which the administrative
20 decision was entered. The lien shall not be effective
21 against real property whose title is registered under the
22 provisions of the Registered Titles (Torrens) Act until the
23 provisions of Section 85 of that Act are complied with.

24 (b) Technical errors in the proceedings before the
25 administrative agency or its failure to observe the technical
26 rules of evidence shall not constitute grounds for the reversal

1 of the administrative decision unless it appears to the court
2 that such error or failure materially affected the rights of
3 any party and resulted in substantial injustice to him or her.

4 (c) On motion of either party, the circuit court shall make
5 findings of fact or state the propositions of law upon which
6 its judgment is based.

7 (d) The changes to this Section made by this amendatory Act
8 of the 95th General Assembly apply to all actions filed on or
9 after the effective date of this amendatory Act of the 95th
10 General Assembly.

11 (Source: P.A. 88-1; 88-184; 88-670, eff. 12-2-94.)

12 (735 ILCS 5/3-113)

13 Sec. 3-113. Direct review of administrative orders by the
14 appellate court.

15 (a) Unless another time is provided specifically by the law
16 authorizing the review, an action for direct review of a final
17 administrative decision of an administrative agency by the
18 appellate court shall be commenced by the filing of a petition
19 for review in the appellate court within 35 days from the date
20 that a copy of the decision sought to be reviewed was served
21 upon the party affected by the decision. The method of service
22 of the decision shall be as provided in the Act governing the
23 procedure before the administrative agency, but if no method is
24 provided, a decision shall be deemed to have been served either
25 when a copy of the decision is personally delivered or when a

1 copy of the decision is deposited in the United States mail, in
2 a sealed envelope or package, with postage prepaid, addressed
3 to the party affected by the decision at his or her last known
4 residence or place of business.

5 (b) The petition for review shall be filed in the appellate
6 court and shall specify the parties seeking review and shall
7 designate the respondent and the order or part thereof to be
8 reviewed. The administrative agency and all persons, other than
9 the petitioner, who were ~~other~~ parties of record to the
10 proceedings before the administrative agency shall be made
11 named respondents. The method of service of the decision shall
12 be as provided in the Act governing the procedure before the
13 administrative agency, but if no method is provided, a decision
14 shall be deemed to have been served either when a copy of the
15 decision is personally delivered or when a copy of the decision
16 is deposited in the United States mail, in a sealed envelope or
17 package, with postage prepaid, addressed to the party affected
18 by the decision at his or her last known residence or place of
19 business. The form of the summons and the issuance of alias
20 summons shall be according to rules of the Supreme Court.

21 If, during the course of a review action, the court
22 determines that an agency or a party of record to the
23 administrative proceedings was not made a defendant as required
24 by the preceding paragraph, ~~and only if that party was not~~
25 ~~named by the administrative agency in its final order as a~~
26 ~~party of record,~~ then the court shall grant the plaintiff 35 21

1 days from the date of the determination in which to name and
2 serve the unnamed agency or party as a defendant. The court
3 shall permit the newly served defendant to participate in the
4 proceedings to the extent the interests of justice may require.

5 (c) The changes to this Section made by this amendatory Act
6 of the 95th General Assembly apply to all actions filed on or
7 after the effective date of this amendatory Act of the 95th
8 General Assembly.

9 (Source: P.A. 88-1; 89-438, eff. 12-15-95.)

10 Section 99. Effective date. This Act takes effect upon
11 becoming law.".