

SHORT TITLE: Civil procedure; restricting use of restraining orders and injunctions in labor disputes; providing for strict construction. Emergency.

STATE OF OKLAHOMA

2nd Session of the 46th Legislature (1998)

SENATE BILL NO. 1337

By: Brown

AS INTRODUCED

An Act relating to civil procedure; requiring record of finding of certain facts and holding of certain hearing prior to issuance of an injunction; providing for certain petition and notice of hearing; specifying hearing procedures; barring use of certain affidavits; stating certain conditions for issuance of injunction or order; requiring certain undertaking; making filing of undertaking a appearance; stating certain action not depriving any party of certain claim or cause of action; prohibiting granting of injunctive relief under certain circumstances; limiting application of injunctive relief; prohibiting certain actions, suits, or criminal prosecutions against certain parties under certain circumstances; providing for expiration of certain injunctions; providing definition; providing for strict construction; providing for codification; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1382.1 of Title 12, unless there is created a duplication in numbering, reads as follows:

A. No court nor any judge or judges thereof shall have jurisdiction to issue any restraining order or a temporary or permanent injunction in any case involving or growing out of a labor dispute, as hereinafter defined, except after a hearing, and except after findings of all the following facts by the court or judge or judges thereof to be filed in the record of the case:

1. That unlawful acts have or a breach of any contract not contrary to public policy has been threatened or committed and that such acts or breach will be executed or continued unless restrained;

2. That substantial and irreparable injury to plaintiff's property will follow unless the relief requested is granted;

3. That as to each item of relief granted greater injury will be inflicted upon plaintiff by the denial thereof than will be inflicted upon plaintiff by the granting thereof;

4. That plaintiff has no adequate remedy at law;

5. That the public officers charged with the duty to protect plaintiff's property have failed or are unable to furnish adequate protection; and

6. That no form of relief granted prohibits directly or indirectly any person or persons from doing, whether singly or in concert, any of the following acts:

- a. ceasing or refusing to perform any work or to remain in any relation of employment,
- b. becoming or remaining a member of any labor organization or of any employer organization, regardless of any agreement, undertaking, or promise,
- c. paying or giving to, or withholding from, any person any strike or unemployment benefits or insurance or other moneys or things of value,

- d. by all lawful means, aiding any person who is being proceeded against in, or is prosecuting any action or suit in, any court of the United States or of any state,
- e. giving publicity to and obtaining or communicating information regarding the existence of, or the facts involved in, any dispute, whether by advertising, speaking, picketing, patrolling any public street or any place where any person or persons may lawfully be, or by any other method not involving fraud, violence, or breach of the peace,
- f. ceasing to patronize or to employ any person or persons,
- g. assembling peaceably to do or to organize to do any of the acts heretofore specified or to promote lawful interests,
- h. advising or notifying any person or persons of any intention to do any of the acts heretofore specified,
- i. agreeing with other persons to do or not to do any of the acts heretofore specified,
- j. advising, urging, or inducing without fraud, violence, or threat thereof, others to do the acts heretofore specified, and
- k. doing in concert any or all of the acts heretofore specified on the ground that the persons engaged therein constitute an unlawful combination or conspiracy or on any other grounds whatsoever.

B. Hearings shall be held only after a verified petition specifying in detail the time, place, and nature of the acts complained of and the names of the persons alleged to have committed the same or participated therein, has been served and after due and personal service, in such manner as the court shall direct, has been

given to all known persons against whom relief is sought and also to the public officers charged with the duty to protect the complainant's property. The hearing shall consist of the taking of testimony in open court with opportunity for cross-examination and testimony in opposition thereto, if offered, and no affidavits shall be received in support of any of the allegations of the petition.

C. No temporary injunction or restraining order shall be issued except on condition that plaintiff shall first file a minimum undertaking in an amount set by the court but in no event less than One Thousand Dollars (\$1,000.00). Where an injunction or restraining order is sought against more than a single individual, the court shall make a finding of the number of individuals sought to be enjoined and the undertaking shall be increased by the sum of Twenty Dollars (\$20.00) for each additional member of a local or national body sought to be enjoined. The maximum undertaking which may be required shall not exceed Ten Thousand Dollars (\$10,000.00). The undertaking shall be sufficient to compensate those enjoined for any loss, expense, or damage caused by the improvident or improper issuance of an injunction, including all reasonable costs, together with reasonable attorney's fees, and expenses against the granting of any injunctive relief sought in the same proceeding and subsequently denied by the court. The undertaking shall constitute an agreement on the part of the plaintiff and the surety upon which a judgment may be entered in the same action or proceeding against the plaintiff and surety. The filing of the undertaking shall be deemed an appearance by the surety for that purpose. Nothing herein shall deprive any party having a claim or cause of action on the undertaking from electing to pursue an ordinary remedy by suit at law or in equity.

D. No injunctive relief shall be granted to any plaintiff who has failed to plead and prove compliance with all obligations imposed by law which are involved in the labor dispute in question,

or who has failed to allege and prove that he or she has made every reasonable effort to settle the dispute either by negotiation or with the aid of mediation or voluntary arbitration provided for by law or contract between the parties.

E. No injunctive relief shall be granted except to prohibit a specific act or acts as may be expressly complained of in the petition and the bill of particulars filed in the case and expressly included in the findings of fact made and filed by the court. Injunctive relief shall be binding only upon the parties to the suit, their agents, servants, employees, or those in active concert or participation with them and who shall by personal service or otherwise have received actual notice thereof.

F. No officer or member of any association or organization, and no association or organization participating or interested in a labor dispute, shall be liable in any civil action, or in any criminal prosecution, for the unlawful acts of individual officers, members, or agents, except upon proof by a preponderance of the evidence and without the aid of any presumptions of law or fact, of:

1. The doing of any acts by persons who are officers, members, or agents of an association or organization; and

2. Actual participation in, or actual authorization of, such acts, or ratification of such acts after actual knowledge thereof by the association or organization.

G. Every temporary injunction and restraining order shall by its terms expire within such time after entry as the court or judge may fix, not to exceed ten (10) days, unless the plaintiff is ready by the expiration of that period to proceed to trial and shall pay the necessary court costs.

H. No permanent injunction shall remain in force for more than six (6) months from the date on which the judgment is signed; provided, however, that the duration of the injunction may be extended for another six (6) months, if after a further hearing

initiated and conducted in the same manner as the original hearing, the court shall determine that the injunction shall be continued or modified in accordance with the findings of fact on the subsequent hearing.

I. For the purposes of this section, the term "labor dispute" means any controversy between an employer and the employees of a collective bargaining unit concerning the right or process or detail of collective bargaining or the designation of representatives.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1382.2 of Title 12, unless there is created a duplication in numbering, reads as follows:

The provisions of this act shall be strictly construed to effect the purpose and object hereof.

SECTION 3. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

46-2-2153

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