



93RD GENERAL ASSEMBLY
State of Illinois
2003 and 2004
HB4375

Introduced 02/03/04, by Larry McKeon

SYNOPSIS AS INTRODUCED:

5 ILCS 315/14

from Ch. 48, par. 1614

Amends the Illinois Public Labor Relations Act by re-enacting the amendatory changes to the Act made by Public Act 90-385. Adds validation provisions. Effective immediately.

LRB093 19394 LRD 45132 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning employment.

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

4 Section 1. Purpose. The General Assembly finds and
5 declares that:

6 (1) "An Act in relation to governmental functions, amending
7 named Acts", Public Act 90-385, approved August 15, 1997,
8 contained provisions amending the Illinois Public Labor
9 Relations Act. Public Act 90-385 also contained other
10 provisions.

11 (2) It is the purpose of this Act to re-enact the
12 provisions of Public Act 90-385 amending the Illinois Public
13 Labor Relations Act, including subsequent amendments. This
14 re-enactment is intended to remove any question as to the
15 validity or content of those provisions.

16 (3) This Act re-enacts various provisions of Public Act
17 90-385 amending the Illinois Public Labor Relations Act,
18 including subsequent amendments, to remove any question as to
19 the validity or content of those provisions; it is not intended
20 to supersede any other Public Act that amends the text of the
21 Sections as set forth in this Act. The material is shown as
22 existing text (i.e., without underscoring).

23 Section 5. The Illinois Public Labor Relations Act is
24 amended by re-enacting Section 14 as follows:

25 (5 ILCS 315/14) (from Ch. 48, par. 1614)

26 Sec. 14. Security Employee, Peace Officer and Fire Fighter
27 Disputes.

28 (a) In the case of collective bargaining agreements
29 involving units of security employees of a public employer,
30 Peace Officer Units, or units of fire fighters or paramedics,
31 and in the case of disputes under Section 18, unless the

1 parties mutually agree to some other time limit, mediation
2 shall commence 30 days prior to the expiration date of such
3 agreement or at such later time as the mediation services
4 chosen under subsection (b) of Section 12 can be provided to
5 the parties. In the case of negotiations for an initial
6 collective bargaining agreement, mediation shall commence upon
7 15 days notice from either party or at such later time as the
8 mediation services chosen pursuant to subsection (b) of Section
9 12 can be provided to the parties. In mediation under this
10 Section, if either party requests the use of mediation services
11 from the Federal Mediation and Conciliation Service, the other
12 party shall either join in such request or bear the additional
13 cost of mediation services from another source. The mediator
14 shall have a duty to keep the Board informed on the progress of
15 the mediation. If any dispute has not been resolved within 15
16 days after the first meeting of the parties and the mediator,
17 or within such other time limit as may be mutually agreed upon
18 by the parties, either the exclusive representative or employer
19 may request of the other, in writing, arbitration, and shall
20 submit a copy of the request to the Board.

21 (b) Within 10 days after such a request for arbitration has
22 been made, the employer shall choose a delegate and the
23 employees' exclusive representative shall choose a delegate to
24 a panel of arbitration as provided in this Section. The
25 employer and employees shall forthwith advise the other and the
26 Board of their selections.

27 (c) Within 7 days of the request of either party, the Board
28 shall select from the Public Employees Labor Mediation Roster 7
29 persons who are on the labor arbitration panels of either the
30 American Arbitration Association or the Federal Mediation and
31 Conciliation Service, or who are members of the National
32 Academy of Arbitrators, as nominees for impartial arbitrator of
33 the arbitration panel. The parties may select an individual on
34 the list provided by the Board or any other individual mutually
35 agreed upon by the parties. Within 7 days following the receipt
36 of the list, the parties shall notify the Board of the person

1 they have selected. Unless the parties agree on an alternate
2 selection procedure, they shall alternatively strike one name
3 from the list provided by the Board until only one name
4 remains. A coin toss shall determine which party shall strike
5 the first name. If the parties fail to notify the Board in a
6 timely manner of their selection for neutral chairman, the
7 Board shall appoint a neutral chairman from the Illinois Public
8 Employees Mediation/Arbitration Roster.

9 (d) The chairman shall call a hearing to begin within 15
10 days and give reasonable notice of the time and place of the
11 hearing. The hearing shall be held at the offices of the Board
12 or at such other location as the Board deems appropriate. The
13 chairman shall preside over the hearing and shall take
14 testimony. Any oral or documentary evidence and other data
15 deemed relevant by the arbitration panel may be received in
16 evidence. The proceedings shall be informal. Technical rules of
17 evidence shall not apply and the competency of the evidence
18 shall not thereby be deemed impaired. A verbatim record of the
19 proceedings shall be made and the arbitrator shall arrange for
20 the necessary recording service. Transcripts may be ordered at
21 the expense of the party ordering them, but the transcripts
22 shall not be necessary for a decision by the arbitration panel.
23 The expense of the proceedings, including a fee for the
24 chairman, established in advance by the Board, shall be borne
25 equally by each of the parties to the dispute. The delegates,
26 if public officers or employees, shall continue on the payroll
27 of the public employer without loss of pay. The hearing
28 conducted by the arbitration panel may be adjourned from time
29 to time, but unless otherwise agreed by the parties, shall be
30 concluded within 30 days of the time of its commencement.
31 Majority actions and rulings shall constitute the actions and
32 rulings of the arbitration panel. Arbitration proceedings
33 under this Section shall not be interrupted or terminated by
34 reason of any unfair labor practice charge filed by either
35 party at any time.

36 (e) The arbitration panel may administer oaths, require the

1 attendance of witnesses, and the production of such books,
2 papers, contracts, agreements and documents as may be deemed by
3 it material to a just determination of the issues in dispute,
4 and for such purpose may issue subpoenas. If any person refuses
5 to obey a subpoena, or refuses to be sworn or to testify, or if
6 any witness, party or attorney is guilty of any contempt while
7 in attendance at any hearing, the arbitration panel may, or the
8 attorney general if requested shall, invoke the aid of any
9 circuit court within the jurisdiction in which the hearing is
10 being held, which court shall issue an appropriate order. Any
11 failure to obey the order may be punished by the court as
12 contempt.

13 (f) At any time before the rendering of an award, the
14 chairman of the arbitration panel, if he is of the opinion that
15 it would be useful or beneficial to do so, may remand the
16 dispute to the parties for further collective bargaining for a
17 period not to exceed 2 weeks. If the dispute is remanded for
18 further collective bargaining the time provisions of this Act
19 shall be extended for a time period equal to that of the
20 remand. The chairman of the panel of arbitration shall notify
21 the Board of the remand.

22 (g) At or before the conclusion of the hearing held
23 pursuant to subsection (d), the arbitration panel shall
24 identify the economic issues in dispute, and direct each of the
25 parties to submit, within such time limit as the panel shall
26 prescribe, to the arbitration panel and to each other its last
27 offer of settlement on each economic issue. The determination
28 of the arbitration panel as to the issues in dispute and as to
29 which of these issues are economic shall be conclusive. The
30 arbitration panel, within 30 days after the conclusion of the
31 hearing, or such further additional periods to which the
32 parties may agree, shall make written findings of fact and
33 promulgate a written opinion and shall mail or otherwise
34 deliver a true copy thereof to the parties and their
35 representatives and to the Board. As to each economic issue,
36 the arbitration panel shall adopt the last offer of settlement

1 which, in the opinion of the arbitration panel, more nearly
2 complies with the applicable factors prescribed in subsection
3 (h). The findings, opinions and order as to all other issues
4 shall be based upon the applicable factors prescribed in
5 subsection (h).

6 (h) Where there is no agreement between the parties, or
7 where there is an agreement but the parties have begun
8 negotiations or discussions looking to a new agreement or
9 amendment of the existing agreement, and wage rates or other
10 conditions of employment under the proposed new or amended
11 agreement are in dispute, the arbitration panel shall base its
12 findings, opinions and order upon the following factors, as
13 applicable:

14 (1) The lawful authority of the employer.

15 (2) Stipulations of the parties.

16 (3) The interests and welfare of the public and the
17 financial ability of the unit of government to meet those
18 costs.

19 (4) Comparison of the wages, hours and conditions of
20 employment of the employees involved in the arbitration
21 proceeding with the wages, hours and conditions of
22 employment of other employees performing similar services
23 and with other employees generally:

24 (A) In public employment in comparable
25 communities.

26 (B) In private employment in comparable
27 communities.

28 (5) The average consumer prices for goods and services,
29 commonly known as the cost of living.

30 (6) The overall compensation presently received by the
31 employees, including direct wage compensation, vacations,
32 holidays and other excused time, insurance and pensions,
33 medical and hospitalization benefits, the continuity and
34 stability of employment and all other benefits received.

35 (7) Changes in any of the foregoing circumstances
36 during the pendency of the arbitration proceedings.

1 (8) Such other factors, not confined to the foregoing,
2 which are normally or traditionally taken into
3 consideration in the determination of wages, hours and
4 conditions of employment through voluntary collective
5 bargaining, mediation, fact-finding, arbitration or
6 otherwise between the parties, in the public service or in
7 private employment.

8 (i) In the case of peace officers, the arbitration decision
9 shall be limited to wages, hours, and conditions of employment
10 (which may include residency requirements in municipalities
11 with a population under 1,000,000, but those residency
12 requirements shall not allow residency outside of Illinois) and
13 shall not include the following: i) residency requirements in
14 municipalities with a population of at least 1,000,000; ii) the
15 type of equipment, other than uniforms, issued or used; iii)
16 manning; iv) the total number of employees employed by the
17 department; v) mutual aid and assistance agreements to other
18 units of government; and vi) the criterion pursuant to which
19 force, including deadly force, can be used; provided, nothing
20 herein shall preclude an arbitration decision regarding
21 equipment or manning levels if such decision is based on a
22 finding that the equipment or manning considerations in a
23 specific work assignment involve a serious risk to the safety
24 of a peace officer beyond that which is inherent in the normal
25 performance of police duties. Limitation of the terms of the
26 arbitration decision pursuant to this subsection shall not be
27 construed to limit the factors upon which the decision may be
28 based, as set forth in subsection (h).

29 In the case of fire fighter, and fire department or fire
30 district paramedic matters, the arbitration decision shall be
31 limited to wages, hours, and conditions of employment (which
32 may include residency requirements in municipalities with a
33 population under 1,000,000, but those residency requirements
34 shall not allow residency outside of Illinois) and shall not
35 include the following matters: i) residency requirements in
36 municipalities with a population of at least 1,000,000; ii) the

1 type of equipment (other than uniforms and fire fighter turnout
2 gear) issued or used; iii) the total number of employees
3 employed by the department; iv) mutual aid and assistance
4 agreements to other units of government; and v) the criterion
5 pursuant to which force, including deadly force, can be used;
6 provided, however, nothing herein shall preclude an
7 arbitration decision regarding equipment levels if such
8 decision is based on a finding that the equipment
9 considerations in a specific work assignment involve a serious
10 risk to the safety of a fire fighter beyond that which is
11 inherent in the normal performance of fire fighter duties.
12 Limitation of the terms of the arbitration decision pursuant to
13 this subsection shall not be construed to limit the facts upon
14 which the decision may be based, as set forth in subsection
15 (h).

16 The changes to this subsection (i) made by Public Act
17 90-385 (relating to residency requirements) do not apply to
18 persons who are employed by a combined department that performs
19 both police and firefighting services; these persons shall be
20 governed by the provisions of this subsection (i) relating to
21 peace officers, as they existed before the amendment by Public
22 Act 90-385.

23 To preserve historical bargaining rights, this subsection
24 shall not apply to any provision of a fire fighter collective
25 bargaining agreement in effect and applicable on the effective
26 date of this Act; provided, however, nothing herein shall
27 preclude arbitration with respect to any such provision.

28 (j) Arbitration procedures shall be deemed to be initiated
29 by the filing of a letter requesting mediation as required
30 under subsection (a) of this Section. The commencement of a new
31 municipal fiscal year after the initiation of arbitration
32 procedures under this Act, but before the arbitration decision,
33 or its enforcement, shall not be deemed to render a dispute
34 moot, or to otherwise impair the jurisdiction or authority of
35 the arbitration panel or its decision. Increases in rates of
36 compensation awarded by the arbitration panel may be effective

1 only at the start of the fiscal year next commencing after the
2 date of the arbitration award. If a new fiscal year has
3 commenced either since the initiation of arbitration
4 procedures under this Act or since any mutually agreed
5 extension of the statutorily required period of mediation under
6 this Act by the parties to the labor dispute causing a delay in
7 the initiation of arbitration, the foregoing limitations shall
8 be inapplicable, and such awarded increases may be retroactive
9 to the commencement of the fiscal year, any other statute or
10 charter provisions to the contrary, notwithstanding. At any
11 time the parties, by stipulation, may amend or modify an award
12 of arbitration.

13 (k) Orders of the arbitration panel shall be reviewable,
14 upon appropriate petition by either the public employer or the
15 exclusive bargaining representative, by the circuit court for
16 the county in which the dispute arose or in which a majority of
17 the affected employees reside, but only for reasons that the
18 arbitration panel was without or exceeded its statutory
19 authority; the order is arbitrary, or capricious; or the order
20 was procured by fraud, collusion or other similar and unlawful
21 means. Such petitions for review must be filed with the
22 appropriate circuit court within 90 days following the issuance
23 of the arbitration order. The pendency of such proceeding for
24 review shall not automatically stay the order of the
25 arbitration panel. The party against whom the final decision of
26 any such court shall be adverse, if such court finds such
27 appeal or petition to be frivolous, shall pay reasonable
28 attorneys' fees and costs to the successful party as determined
29 by said court in its discretion. If said court's decision
30 affirms the award of money, such award, if retroactive, shall
31 bear interest at the rate of 12 percent per annum from the
32 effective retroactive date.

33 (l) During the pendency of proceedings before the
34 arbitration panel, existing wages, hours, and other conditions
35 of employment shall not be changed by action of either party
36 without the consent of the other but a party may so consent

1 without prejudice to his rights or position under this Act. The
2 proceedings are deemed to be pending before the arbitration
3 panel upon the initiation of arbitration procedures under this
4 Act.

5 (m) Security officers of public employers, and Peace
6 Officers, Fire Fighters and fire department and fire protection
7 district paramedics, covered by this Section may not withhold
8 services, nor may public employers lock out or prevent such
9 employees from performing services at any time.

10 (n) All of the terms decided upon by the arbitration panel
11 shall be included in an agreement to be submitted to the public
12 employer's governing body for ratification and adoption by law,
13 ordinance or the equivalent appropriate means.

14 The governing body shall review each term decided by the
15 arbitration panel. If the governing body fails to reject one or
16 more terms of the arbitration panel's decision by a 3/5 vote of
17 those duly elected and qualified members of the governing body,
18 within 20 days of issuance, or in the case of firefighters
19 employed by a state university, at the next regularly scheduled
20 meeting of the governing body after issuance, such term or
21 terms shall become a part of the collective bargaining
22 agreement of the parties. If the governing body affirmatively
23 rejects one or more terms of the arbitration panel's decision,
24 it must provide reasons for such rejection with respect to each
25 term so rejected, within 20 days of such rejection and the
26 parties shall return to the arbitration panel for further
27 proceedings and issuance of a supplemental decision with
28 respect to the rejected terms. Any supplemental decision by an
29 arbitration panel or other decision maker agreed to by the
30 parties shall be submitted to the governing body for
31 ratification and adoption in accordance with the procedures and
32 voting requirements set forth in this Section. The voting
33 requirements of this subsection shall apply to all disputes
34 submitted to arbitration pursuant to this Section
35 notwithstanding any contrary voting requirements contained in
36 any existing collective bargaining agreement between the

1 parties.

2 (o) If the governing body of the employer votes to reject
3 the panel's decision, the parties shall return to the panel
4 within 30 days from the issuance of the reasons for rejection
5 for further proceedings and issuance of a supplemental
6 decision. All reasonable costs of such supplemental proceeding
7 including the exclusive representative's reasonable attorney's
8 fees, as established by the Board, shall be paid by the
9 employer.

10 (p) Notwithstanding the provisions of this Section the
11 employer and exclusive representative may agree to submit
12 unresolved disputes concerning wages, hours, terms and
13 conditions of employment to an alternative form of impasse
14 resolution.

15 (Source: P.A. 89-195, eff. 7-21-95; 90-202, eff. 7-24-97;
16 90-385, eff. 8-15-97; 90-655, eff. 7-30-98.)

17 Section 99. Effective date. This Act takes effect upon
18 becoming law.