



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

**HB4441**

Introduced 1/30/2012, by Rep. Chris Nybo

#### SYNOPSIS AS INTRODUCED:

5 ILCS 315/4	from Ch. 48, par. 1604
5 ILCS 315/14	from Ch. 48, par. 1614

Amends the Illinois Public Labor Relations Act. Provides that employers shall not be required to bargain over manning levels. In arbitration decisions affecting fire fighters, and fire department or fire district paramedic matters, prohibits the consideration of manning levels in arbitration decisions.

LRB097 18574 JDS 63806 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning government.

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

4 Section 5. The Illinois Public Labor Relations Act is  
5 amended by changing Sections 4 and 14 as follows:

6 (5 ILCS 315/4) (from Ch. 48, par. 1604)

7 Sec. 4. Management Rights. Employers shall not be required  
8 to bargain over matters of inherent managerial policy, which  
9 shall include such areas of discretion or policy as the  
10 functions of the employer, standards of services, its overall  
11 budget, the organizational structure and selection of new  
12 employees, examination techniques, manning, and direction of  
13 employees. Employers, however, shall be required to bargain  
14 collectively with regard to policy matters directly affecting  
15 wages, hours and terms and conditions of employment as well as  
16 the impact thereon upon request by employee representatives.

17 To preserve the rights of employers and exclusive  
18 representatives which have established collective bargaining  
19 relationships or negotiated collective bargaining agreements  
20 prior to the effective date of this Act, employers shall be  
21 required to bargain collectively with regard to any matter  
22 concerning wages, hours or conditions of employment about which  
23 they have bargained for and agreed to in a collective

1 bargaining agreement prior to the effective date of this Act.

2 The chief judge of the judicial circuit that employs a  
3 public employee who is a court reporter, as defined in the  
4 Court Reporters Act, has the authority to hire, appoint,  
5 promote, evaluate, discipline, and discharge court reporters  
6 within that judicial circuit.

7 Nothing in this amendatory Act of the 94th General Assembly  
8 shall be construed to intrude upon the judicial functions of  
9 any court. This amendatory Act of the 94th General Assembly  
10 applies only to nonjudicial administrative matters relating to  
11 the collective bargaining rights of court reporters.

12 (Source: P.A. 94-98, eff. 7-1-05.)

13 (5 ILCS 315/14) (from Ch. 48, par. 1614)

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

16 (a) In the case of collective bargaining agreements  
17 involving units of security employees of a public employer,  
18 Peace Officer Units, or units of fire fighters or paramedics,  
19 and in the case of disputes under Section 18, unless the  
20 parties mutually agree to some other time limit, mediation  
21 shall commence 30 days prior to the expiration date of such  
22 agreement or at such later time as the mediation services  
23 chosen under subsection (b) of Section 12 can be provided to  
24 the parties. In the case of negotiations for an initial  
25 collective bargaining agreement, mediation shall commence upon

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

15 (b) Within 10 days after such a request for arbitration has  
16 been made, the employer shall choose a delegate and the  
17 employees' exclusive representative shall choose a delegate to  
18 a panel of arbitration as provided in this Section. The  
19 employer and employees shall forthwith advise the other and the  
20 Board of their selections.

21 (c) Within 7 days after the request of either party, the  
22 parties shall request a panel of impartial arbitrators from  
23 which they shall select the neutral chairman according to the  
24 procedures provided in this Section. If the parties have agreed  
25 to a contract that contains a grievance resolution procedure as  
26 provided in Section 8, the chairman shall be selected using

1 their agreed contract procedure unless they mutually agree to  
2 another procedure. If the parties fail to notify the Board of  
3 their selection of neutral chairman within 7 days after receipt  
4 of the list of impartial arbitrators, the Board shall appoint,  
5 at random, a neutral chairman from the list. In the absence of  
6 an agreed contract procedure for selecting an impartial  
7 arbitrator, either party may request a panel from the Board.  
8 Within 7 days of the request of either party, the Board shall  
9 select from the Public Employees Labor Mediation Roster 7  
10 persons who are on the labor arbitration panels of either the  
11 American Arbitration Association or the Federal Mediation and  
12 Conciliation Service, or who are members of the National  
13 Academy of Arbitrators, as nominees for impartial arbitrator of  
14 the arbitration panel. The parties may select an individual on  
15 the list provided by the Board or any other individual mutually  
16 agreed upon by the parties. Within 7 days following the receipt  
17 of the list, the parties shall notify the Board of the person  
18 they have selected. Unless the parties agree on an alternate  
19 selection procedure, they shall alternatively strike one name  
20 from the list provided by the Board until only one name  
21 remains. A coin toss shall determine which party shall strike  
22 the first name. If the parties fail to notify the Board in a  
23 timely manner of their selection for neutral chairman, the  
24 Board shall appoint a neutral chairman from the Illinois Public  
25 Employees Mediation/Arbitration Roster.

26 (d) The chairman shall call a hearing to begin within 15

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

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

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

23           (g) At or before the conclusion of the hearing held  
24 pursuant to subsection (d), the arbitration panel shall  
25 identify the economic issues in dispute, and direct each of the  
26 parties to submit, within such time limit as the panel shall

1 prescribe, to the arbitration panel and to each other its last  
2 offer of settlement on each economic issue. The determination  
3 of the arbitration panel as to the issues in dispute and as to  
4 which of these issues are economic shall be conclusive. The  
5 arbitration panel, within 30 days after the conclusion of the  
6 hearing, or such further additional periods to which the  
7 parties may agree, shall make written findings of fact and  
8 promulgate a written opinion and shall mail or otherwise  
9 deliver a true copy thereof to the parties and their  
10 representatives and to the Board. As to each economic issue,  
11 the arbitration panel shall adopt the last offer of settlement  
12 which, in the opinion of the arbitration panel, more nearly  
13 complies with the applicable factors prescribed in subsection  
14 (h). The findings, opinions and order as to all other issues  
15 shall be based upon the applicable factors prescribed in  
16 subsection (h).

17 (h) Where there is no agreement between the parties, or  
18 where there is an agreement but the parties have begun  
19 negotiations or discussions looking to a new agreement or  
20 amendment of the existing agreement, and wage rates or other  
21 conditions of employment under the proposed new or amended  
22 agreement are in dispute, the arbitration panel shall base its  
23 findings, opinions and order upon the following factors, as  
24 applicable:

25 (1) The lawful authority of the employer.

26 (2) Stipulations of the parties.



1           (3) The interests and welfare of the public and the  
2 financial ability of the unit of government to meet those  
3 costs.

4           (4) Comparison of the wages, hours and conditions of  
5 employment of the employees involved in the arbitration  
6 proceeding with the wages, hours and conditions of  
7 employment of other employees performing similar services  
8 and with other employees generally:

9           (A) In public employment in comparable  
10 communities.

11           (B) In private employment in comparable  
12 communities.

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

15           (6) The overall compensation presently received by the  
16 employees, including direct wage compensation, vacations,  
17 holidays and other excused time, insurance and pensions,  
18 medical and hospitalization benefits, the continuity and  
19 stability of employment and all other benefits received.

20           (7) Changes in any of the foregoing circumstances  
21 during the pendency of the arbitration proceedings.

22           (8) Such other factors, not confined to the foregoing,  
23 which are normally or traditionally taken into  
24 consideration in the determination of wages, hours and  
25 conditions of employment through voluntary collective  
26 bargaining, mediation, fact-finding, arbitration or

1 otherwise between the parties, in the public service or in  
2 private employment.

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

24 In the case of fire fighter, and fire department or fire  
25 district paramedic matters, the arbitration decision shall be  
26 limited to wages, hours, and conditions of employment (which

1 may include residency requirements in municipalities with a  
2 population under 1,000,000, but those residency requirements  
3 shall not allow residency outside of Illinois) and shall not  
4 include the following matters: i) residency requirements in  
5 municipalities with a population of at least 1,000,000; ii) the  
6 type of equipment (other than uniforms and fire fighter turnout  
7 gear) issued or used; iii) manning; iv) the total number of  
8 employees employed by the department; v) ~~iv)~~ mutual aid and  
9 assistance agreements to other units of government; and vi) ~~v)~~  
10 the criterion pursuant to which force, including deadly force,  
11 can be used; provided, however, nothing herein shall preclude  
12 an arbitration decision regarding equipment levels if such  
13 decision is based on a finding that the equipment  
14 considerations in a specific work assignment involve a serious  
15 risk to the safety of a fire fighter beyond that which is  
16 inherent in the normal performance of fire fighter duties.  
17 Limitation of the terms of the arbitration decision pursuant to  
18 this subsection shall not be construed to limit the facts upon  
19 which the decision may be based, as set forth in subsection  
20 (h).

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

1 Act 90-385.

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

7 (j) Arbitration procedures shall be deemed to be initiated  
8 by the filing of a letter requesting mediation as required  
9 under subsection (a) of this Section. The commencement of a new  
10 municipal fiscal year after the initiation of arbitration  
11 procedures under this Act, but before the arbitration decision,  
12 or its enforcement, shall not be deemed to render a dispute  
13 moot, or to otherwise impair the jurisdiction or authority of  
14 the arbitration panel or its decision. Increases in rates of  
15 compensation awarded by the arbitration panel may be effective  
16 only at the start of the fiscal year next commencing after the  
17 date of the arbitration award. If a new fiscal year has  
18 commenced either since the initiation of arbitration  
19 procedures under this Act or since any mutually agreed  
20 extension of the statutorily required period of mediation under  
21 this Act by the parties to the labor dispute causing a delay in  
22 the initiation of arbitration, the foregoing limitations shall  
23 be inapplicable, and such awarded increases may be retroactive  
24 to the commencement of the fiscal year, any other statute or  
25 charter provisions to the contrary, notwithstanding. At any  
26 time the parties, by stipulation, may amend or modify an award

1 of arbitration.

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

22 (l) During the pendency of proceedings before the  
23 arbitration panel, existing wages, hours, and other conditions  
24 of employment shall not be changed by action of either party  
25 without the consent of the other but a party may so consent  
26 without prejudice to his rights or position under this Act. The

1 proceedings are deemed to be pending before the arbitration  
2 panel upon the initiation of arbitration procedures under this  
3 Act.

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

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

13 The governing body shall review each term decided by the  
14 arbitration panel. If the governing body fails to reject one or  
15 more terms of the arbitration panel's decision by a 3/5 vote of  
16 those duly elected and qualified members of the governing body,  
17 within 20 days of issuance, or in the case of firefighters  
18 employed by a state university, at the next regularly scheduled  
19 meeting of the governing body after issuance, such term or  
20 terms shall become a part of the collective bargaining  
21 agreement of the parties. If the governing body affirmatively  
22 rejects one or more terms of the arbitration panel's decision,  
23 it must provide reasons for such rejection with respect to each  
24 term so rejected, within 20 days of such rejection and the  
25 parties shall return to the arbitration panel for further  
26 proceedings and issuance of a supplemental decision with

1 respect to the rejected terms. Any supplemental decision by an  
2 arbitration panel or other decision maker agreed to by the  
3 parties shall be submitted to the governing body for  
4 ratification and adoption in accordance with the procedures and  
5 voting requirements set forth in this Section. The voting  
6 requirements of this subsection shall apply to all disputes  
7 submitted to arbitration pursuant to this Section  
8 notwithstanding any contrary voting requirements contained in  
9 any existing collective bargaining agreement between the  
10 parties.

11 (o) If the governing body of the employer votes to reject  
12 the panel's decision, the parties shall return to the panel  
13 within 30 days from the issuance of the reasons for rejection  
14 for further proceedings and issuance of a supplemental  
15 decision. All reasonable costs of such supplemental proceeding  
16 including the exclusive representative's reasonable attorney's  
17 fees, as established by the Board, shall be paid by the  
18 employer.

19 (p) Notwithstanding the provisions of this Section the  
20 employer and exclusive representative may agree to submit  
21 unresolved disputes concerning wages, hours, terms and  
22 conditions of employment to an alternative form of impasse  
23 resolution.

24 (Source: P.A. 96-813, eff. 10-30-09.)