

1 AN ACT concerning labor relations.

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 Section 9 as follows:

6 (5 ILCS 315/9) (from Ch. 48, par. 1609)

7 Sec. 9. Elections; recognition.

8 (a) Whenever in accordance with such regulations as may  
9 be prescribed by the Board a petition has been filed:

10 (1) by a public employee or group of public  
11 employees or any labor organization acting in their  
12 behalf demonstrating that 30% of the public employees in  
13 an appropriate unit (A) wish to be represented for the  
14 purposes of collective bargaining by a labor  
15 organization as exclusive representative, or (B)  
16 asserting that the labor organization which has been  
17 certified or is currently recognized by the public  
18 employer as bargaining representative is no longer the  
19 representative of the majority of public employees in the  
20 unit; or

21 (2) by a public employer alleging that one or more  
22 labor organizations have presented to it a claim that  
23 they be recognized as the representative of a majority of  
24 the public employees in an appropriate unit,  
25 the Board shall investigate such petition, and if it has  
26 reasonable cause to believe that a question of representation  
27 exists, shall provide for an appropriate hearing upon due  
28 notice. Such hearing shall be held at the offices of the  
29 Board or such other location as the Board deems appropriate.  
30 If it finds upon the record of the hearing that a question of  
31 representation exists, it shall direct an election in

1 accordance with subsection (d) of this Section, which  
2 election shall be held not later than 120 days after the date  
3 the petition was filed regardless of whether that petition  
4 was filed before or after the effective date of this  
5 amendatory Act of 1987; provided, however, the Board may  
6 extend the time for holding an election by an additional 60  
7 days if, upon motion by a person who has filed a petition  
8 under this Section or is the subject of a petition filed  
9 under this Section and is a party to such hearing, or upon  
10 the Board's own motion, the Board finds that good cause has  
11 been shown for extending the election date; provided further,  
12 that nothing in this Section shall prohibit the Board, in its  
13 discretion, from extending the time for holding an election  
14 for so long as may be necessary under the circumstances,  
15 where the purpose for such extension is to permit resolution  
16 by the Board of an unfair labor practice charge filed by one  
17 of the parties to a representational proceeding against the  
18 other based upon conduct which may either affect the  
19 existence of a question concerning representation or have a  
20 tendency to interfere with a fair and free election, where  
21 the party filing the charge has not filed a request to  
22 proceed with the election; and provided further that prior to  
23 the expiration of the total time allotted for holding an  
24 election, a person who has filed a petition under this  
25 Section or is the subject of a petition filed under this  
26 Section and is a party to such hearing or the Board, may move  
27 for and obtain the entry of an order in the circuit court of  
28 the county in which the majority of the public employees  
29 sought to be represented by such person reside, such order  
30 extending the date upon which the election shall be held.  
31 Such order shall be issued by the circuit court only upon a  
32 judicial finding that there has been a sufficient showing  
33 that there is good cause to extend the election date beyond  
34 such period and shall require the Board to hold the election

1 as soon as is feasible given the totality of the  
2 circumstances. Such 120 day period may be extended one or  
3 more times by the agreement of all parties to the hearing to  
4 a date certain without the necessity of obtaining a court  
5 order. Nothing in this Section prohibits the waiving of  
6 hearings by stipulation for the purpose of a consent election  
7 in conformity with the rules and regulations of the Board or  
8 an election in a unit agreed upon by the parties. Other  
9 interested employee organizations may intervene in the  
10 proceedings in the manner and within the time period  
11 specified by rules and regulations of the Board. Interested  
12 parties who are necessary to the proceedings may also  
13 intervene in the proceedings in the manner and within the  
14 time period specified by the rules and regulations of the  
15 Board.

16 (a-5) The Board shall designate an exclusive  
17 representative for purposes of collective bargaining when the  
18 representative demonstrates a showing of majority interest by  
19 employees in the unit. If the parties to a dispute are  
20 without agreement on the means to ascertain the choice, if  
21 any, of employee organization as their representative, the  
22 Board shall ascertain the employees' choice of employee  
23 organization, on the basis of dues deduction authorization  
24 and other evidence, or, if necessary, by conducting an  
25 election. If either party provides to the Board, before the  
26 designation of a representative, clear and convincing  
27 evidence that the dues deduction authorizations, and other  
28 evidence upon which the Board would otherwise rely to  
29 ascertain the employees' choice of representative, are  
30 fraudulent or were obtained through coercion, the Board shall  
31 promptly thereafter conduct an election. The Board shall also  
32 investigate and consider a party's allegations that the dues  
33 deduction authorizations and other evidence submitted in  
34 support of a designation of representative without an

1 election were subsequently changed, altered, withdrawn, or  
2 withheld as a result of employer fraud, coercion, or any  
3 other unfair labor practice by the employer. If the Board  
4 determines that a labor organization would have had a  
5 majority interest but for an employer's fraud, coercion, or  
6 unfair labor practice, it shall designate the labor  
7 organization as an exclusive representative without  
8 conducting an election.

9 (b) The Board shall decide in each case, in order to  
10 assure public employees the fullest freedom in exercising the  
11 rights guaranteed by this Act, a unit appropriate for the  
12 purpose of collective bargaining, based upon but not limited  
13 to such factors as: historical pattern of recognition;  
14 community of interest including employee skills and  
15 functions; degree of functional integration;  
16 interchangeability and contact among employees; fragmentation  
17 of employee groups; common supervision, wages, hours and  
18 other working conditions of the employees involved; and the  
19 desires of the employees. For purposes of this subsection,  
20 fragmentation shall not be the sole or predominant factor  
21 used by the Board in determining an appropriate bargaining  
22 unit. Except with respect to non-State fire fighters and  
23 paramedics employed by fire departments and fire protection  
24 districts, non-State peace officers and peace officers in the  
25 State Department of State Police, a single bargaining unit  
26 determined by the Board may not include both supervisors and  
27 nonsupervisors, except for bargaining units in existence on  
28 the effective date of this Act. With respect to non-State  
29 fire fighters and paramedics employed by fire departments and  
30 fire protection districts, non-State peace officers and peace  
31 officers in the State Department of State Police, a single  
32 bargaining unit determined by the Board may not include both  
33 supervisors and nonsupervisors, except for bargaining units  
34 in existence on the effective date of this amendatory Act of

1 1985.

2 In cases involving an historical pattern of recognition,  
3 and in cases where the employer has recognized the union as  
4 the sole and exclusive bargaining agent for a specified  
5 existing unit, the Board shall find the employees in the unit  
6 then represented by the union pursuant to the recognition to  
7 be the appropriate unit.

8 Notwithstanding the above factors, where the majority of  
9 public employees of a craft so decide, the Board shall  
10 designate such craft as a unit appropriate for the purposes  
11 of collective bargaining.

12 The Board shall not decide that any unit is appropriate  
13 if such unit includes both professional and nonprofessional  
14 employees, unless a majority of each group votes for  
15 inclusion in such unit.

16 (c) Nothing in this Act shall interfere with or negate  
17 the current representation rights or patterns and practices  
18 of labor organizations which have historically represented  
19 public employees for the purpose of collective bargaining,  
20 including but not limited to the negotiations of wages, hours  
21 and working conditions, discussions of employees' grievances,  
22 resolution of jurisdictional disputes, or the establishment  
23 and maintenance of prevailing wage rates, unless a majority  
24 of employees so represented express a contrary desire  
25 pursuant to the procedures set forth in this Act.

26 (d) In instances where the employer does not voluntarily  
27 recognize a labor organization as the exclusive bargaining  
28 representative for a unit of employees, the Board shall  
29 determine the majority representative of the public employees  
30 in an appropriate collective bargaining unit by conducting a  
31 secret ballot election, except as otherwise provided in  
32 subsection (a-5). Within 7 days after the Board issues its  
33 bargaining unit determination and direction of election or  
34 the execution of a stipulation for the purpose of a consent

1 election, the public employer shall submit to the labor  
2 organization the complete names and addresses of those  
3 employees who are determined by the Board to be eligible to  
4 participate in the election. When the Board has determined  
5 that a labor organization has been fairly and freely chosen  
6 by a majority of employees in an appropriate unit, it shall  
7 certify such organization as the exclusive representative.  
8 If the Board determines that a majority of employees in an  
9 appropriate unit has fairly and freely chosen not to be  
10 represented by a labor organization, it shall so certify. The  
11 Board may also revoke the certification of the public  
12 employee organizations as exclusive bargaining  
13 representatives which have been found by a secret ballot  
14 election to be no longer the majority representative.

15 (e) The Board shall not conduct an election in any  
16 bargaining unit or any subdivision thereof within which a  
17 valid election has been held in the preceding 12-month  
18 period. The Board shall determine who is eligible to vote in  
19 an election and shall establish rules governing the conduct  
20 of the election or conduct affecting the results of the  
21 election. The Board shall include on a ballot in a  
22 representation election a choice of "no representation". A  
23 labor organization currently representing the bargaining unit  
24 of employees shall be placed on the ballot in any  
25 representation election. In any election where none of the  
26 choices on the ballot receives a majority, a runoff election  
27 shall be conducted between the 2 choices receiving the  
28 largest number of valid votes cast in the election. A labor  
29 organization which receives a majority of the votes cast in  
30 an election shall be certified by the Board as exclusive  
31 representative of all public employees in the unit.

32 (f) ~~Nothing--in--this--or--any---other---Act---prohibits~~  
33 ~~recognition--of~~ A labor organization shall be designated as  
34 the exclusive representative by a public employer ~~by--mutual~~

1 ~~consent--of-the-employer-and-the-labor-organization~~, provided  
2 that the labor organization represents a majority of the  
3 public employees in an appropriate unit. Any employee  
4 organization which is designated or selected by the majority  
5 of public employees, in a unit of the public employer having  
6 no other recognized or certified representative, as their  
7 representative for purposes of collective bargaining may  
8 request recognition by the public employer in writing. The  
9 public employer shall post such request for a period of at  
10 least 20 days following its receipt thereof on bulletin  
11 boards or other places used or reserved for employee notices.

12 (g) Within the 20-day period any other interested  
13 employee organization may petition the Board in the manner  
14 specified by rules and regulations of the Board, provided  
15 that such interested employee organization has been  
16 designated by at least 10% of the employees in an appropriate  
17 bargaining unit which includes all or some of the employees  
18 in the unit recognized by the employer. In such event, the  
19 Board shall proceed with the petition in the same manner as  
20 provided by paragraph (1) of subsection (a) of this Section.

21 (h) No election shall be directed by the Board in any  
22 bargaining unit where there is in force a valid collective  
23 bargaining agreement. The Board, however, may process an  
24 election petition filed between 90 and 60 days prior to the  
25 expiration of the date of an agreement, and may further  
26 refine, by rule or decision, the implementation of this  
27 provision. No collective bargaining agreement bars an  
28 election upon the petition of persons not parties thereto  
29 where more than 3 years have elapsed since the effective date  
30 of the agreement.

31 (i) An order of the Board dismissing a representation  
32 petition, determining and certifying that a labor  
33 organization has been fairly and freely chosen by a majority  
34 of employees in an appropriate bargaining unit, determining

1 and certifying that a labor organization has not been fairly  
2 and freely chosen by a majority of employees in the  
3 bargaining unit or certifying a labor organization as the  
4 exclusive representative of employees in an appropriate  
5 bargaining unit because of a determination by the Board that  
6 the labor organization is the historical bargaining  
7 representative of employees in the bargaining unit, is a  
8 final order. Any person aggrieved by any such order issued  
9 on or after the effective date of this amendatory Act of 1987  
10 may apply for and obtain judicial review in accordance with  
11 provisions of the Administrative Review Law, as now or  
12 hereafter amended, except that such review shall be afforded  
13 directly in the Appellate Court for the district in which the  
14 aggrieved party resides or transacts business. Any direct  
15 appeal to the Appellate Court shall be filed within 35 days  
16 from the date that a copy of the decision sought to be  
17 reviewed was served upon the party affected by the decision.

18 (Source: P.A. 87-736; 88-1.)

19 Section 10. The Illinois Educational Labor Relations Act  
20 is amended by changing Section 7 as follows:

21 (115 ILCS 5/7) (from Ch. 48, par. 1707)

22 Sec. 7. Recognition of exclusive bargaining  
23 representatives - unit determination. The Board is empowered  
24 to administer the recognition of bargaining representatives  
25 of employees of public school districts, including employees  
26 of districts which have entered into joint agreements, or  
27 employees of public community college districts, or any State  
28 college or university, and any State agency whose major  
29 function is providing educational services, making certain  
30 that each bargaining unit contains employees with an  
31 identifiable community of interest and that no unit includes  
32 both professional employees and nonprofessional employees



1 unless a majority of employees in each group vote for  
2 inclusion in the unit.

3 (a) In determining the appropriateness of a unit, the  
4 Board shall decide in each case, in order to ensure employees  
5 the fullest freedom in exercising the rights guaranteed by  
6 this Act, the unit appropriate for the purpose of collective  
7 bargaining, based upon but not limited to such factors as  
8 historical pattern of recognition, community of interest,  
9 including employee skills and functions, degree of functional  
10 integration, interchangeability and contact among employees,  
11 common supervision, wages, hours and other working conditions  
12 of the employees involved, and the desires of the employees.  
13 Nothing in this Act, except as herein provided, shall  
14 interfere with or negate the current representation rights or  
15 patterns and practices of employee organizations which have  
16 historically represented employees for the purposes of  
17 collective bargaining, including but not limited to the  
18 negotiations of wages, hours and working conditions,  
19 resolutions of employees' grievances, or resolution of  
20 jurisdictional disputes, or the establishment and maintenance  
21 of prevailing wage rates, unless a majority of the employees  
22 so represented expresses a contrary desire under the  
23 procedures set forth in this Act. This Section, however,  
24 does not prohibit multi-unit bargaining. Notwithstanding the  
25 above factors, where the majority of public employees of a  
26 craft so decide, the Board shall designate such craft as a  
27 unit appropriate for the purposes of collective bargaining.

28 The sole appropriate bargaining unit for academic faculty  
29 at the University of Illinois shall be a unit that is  
30 comprised of non-supervisory academic faculty employed more  
31 than half-time and that includes all tenured, tenure-track,  
32 and nontenure-track faculty employed by the board of trustees  
33 of that University in all of its undergraduate, graduate, and  
34 professional schools and degree and non-degree programs,

1 regardless of current or historical representation rights or  
2 patterns or the application of any other factors. Any  
3 decision, rule, or regulation, promulgated by the Board to  
4 the contrary shall be null and void.

5 (b) An educational employer shall ~~may~~ voluntarily  
6 recognize a labor organization for collective bargaining  
7 purposes if that organization appears to represent a majority  
8 of employees in the unit. The employer shall post notice of  
9 its intent to so recognize for a period of at least 20 school  
10 days on bulletin boards or other places used or reserved for  
11 employee notices. Thereafter, the employer, if satisfied as  
12 to the majority status of the employee organization, shall  
13 send written notification of such recognition to the Board  
14 for certification. Any dispute regarding the majority status  
15 of a labor organization shall be resolved by the Board which  
16 shall make the determination of majority status.

17 Within the 20 day notice period, however, any other  
18 interested employee organization may petition the Board to  
19 seek recognition as the exclusive representative of the unit  
20 in the manner specified by rules and regulations prescribed  
21 by the Board, if such interested employee organization has  
22 been designated by at least 15% of the employees in an  
23 appropriate bargaining unit which includes all or some of the  
24 employees in the unit intended to be recognized by the  
25 employer. In such event, the Board shall proceed with the  
26 petition in the same manner as provided in paragraph (c) of  
27 this Section.

28 (c) A labor organization may also gain recognition as  
29 the exclusive representative by an election of the employees  
30 in the unit. Petitions requesting an election may be filed  
31 with the Board:

32 (1) by an employee or group of employees or any  
33 labor organizations acting on their behalf alleging and  
34 presenting evidence that 30% or more of the employees in

1 a bargaining unit wish to be represented for collective  
2 bargaining or that the labor organization which has been  
3 acting as the exclusive bargaining representative is no  
4 longer representative of a majority of the employees in  
5 the unit; or

6 (2) by an employer alleging that one or more labor  
7 organizations have presented a claim to be recognized as  
8 an exclusive bargaining representative of a majority of  
9 the employees in an appropriate unit and that it doubts  
10 the majority status of any of the organizations or that  
11 it doubts the majority status of an exclusive bargaining  
12 representative.

13 The Board shall investigate the petition and if it has  
14 reasonable cause to suspect that a question of representation  
15 exists, it shall give notice and conduct a hearing. If it  
16 finds upon the record of the hearing that a question of  
17 representation exists, it shall direct an election, which  
18 shall be held no later than 90 days after the date the  
19 petition was filed. Nothing prohibits the waiving of  
20 hearings by the parties and the conduct of consent elections.

21 (c-5) The Board shall designate an exclusive  
22 representative for purposes of collective bargaining when the  
23 representative demonstrates a showing of majority interest by  
24 employees in the unit. If the parties to a dispute are  
25 without agreement on the means to ascertain the choice, if  
26 any, of employee organization as their representative, the  
27 Board shall ascertain the employees' choice of employee  
28 organization, on the basis of dues deduction authorization  
29 and other evidence, or, if necessary, by conducting an  
30 election. If either party provides to the Board, before the  
31 designation of a representative, clear and convincing  
32 evidence that the dues deduction authorizations, and other  
33 evidence upon which the Board would otherwise rely to  
34 ascertain the employees' choice of representative, are

1 fraudulent or were obtained through coercion, the Board shall  
2 promptly thereafter conduct an election. The Board shall also  
3 investigate and consider a party's allegations that the dues  
4 deduction authorizations and other evidence submitted in  
5 support of a designation of representative without an  
6 election were subsequently changed, altered, withdrawn, or  
7 withheld as a result of employer fraud, coercion, or any  
8 other unfair labor practice by the employer. If the Board  
9 determines that a labor organization would have had a  
10 majority interest but for an employer's fraud, coercion, or  
11 unfair labor practice, it shall designate the labor  
12 organization as an exclusive representative without  
13 conducting an election.

14 (d) An order of the Board dismissing a representation  
15 petition, determining and certifying that a labor  
16 organization has been fairly and freely chosen by a majority  
17 of employees in an appropriate bargaining unit, determining  
18 and certifying that a labor organization has not been fairly  
19 and freely chosen by a majority of employees in the  
20 bargaining unit or certifying a labor organization as the  
21 exclusive representative of employees in an appropriate  
22 bargaining unit because of a determination by the Board that  
23 the labor organization is the historical bargaining  
24 representative of employees in the bargaining unit, is a  
25 final order. Any person aggrieved by any such order issued  
26 on or after the effective date of this amendatory Act of 1987  
27 may apply for and obtain judicial review in accordance with  
28 provisions of the Administrative Review Law, as now or  
29 hereafter amended, except that such review shall be afforded  
30 directly in the Appellate Court of a judicial district in  
31 which the Board maintains an office. Any direct appeal to the  
32 Appellate Court shall be filed within 35 days from the date  
33 that a copy of the decision sought to be reviewed was served  
34 upon the party affected by the decision.

1           No election may be conducted in any bargaining unit  
2 during the term of a collective bargaining agreement covering  
3 such unit or subdivision thereof, except the Board may direct  
4 an election after the filing of a petition between January 15  
5 and March 1 of the final year of a collective bargaining  
6 agreement. Nothing in this Section prohibits the negotiation  
7 of a collective bargaining agreement covering a period not  
8 exceeding 3 years. A collective bargaining agreement of less  
9 than 3 years may be extended up to 3 years by the parties if  
10 the extension is agreed to in writing before the filing of a  
11 petition under this Section. In such case, the final year of  
12 the extension is the final year of the collective bargaining  
13 agreement. No election may be conducted in a bargaining  
14 unit, or subdivision thereof, in which a valid election has  
15 been held within the preceding 12 month period.

16           (Source: P.A. 88-1; 89-4, eff. 7-1-95 (eff. date changed from  
17 1-1-96 by P.A. 89-24).)

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