

# SB2397



## 95TH GENERAL ASSEMBLY

### State of Illinois

2007 and 2008

SB2397

Introduced 2/14/2008, by Sen. John J. Cullerton

#### SYNOPSIS AS INTRODUCED:

5 ILCS 315/3	from Ch. 48, par. 1603
5 ILCS 315/14	from Ch. 48, par. 1614
5 ILCS 315/17	from Ch. 48, par. 1617

Amends the Illinois Public Labor Relations Act. With respect to the Act's provisions applicable to security employees, peace officers, fire fighters, and paramedics, includes emergency service support staff.

LRB095 17446 JAM 43518 b

FISCAL NOTE ACT  
MAY APPLY

STATE MANDATES  
ACT MAY REQUIRE  
REIMBURSEMENT

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 3, 14, and 17 as follows:

6 (5 ILCS 315/3) (from Ch. 48, par. 1603)

7 Sec. 3. Definitions. As used in this Act, unless the  
8 context otherwise requires:

9 (a) "Board" means the Illinois Labor Relations Board or,  
10 with respect to a matter over which the jurisdiction of the  
11 Board is assigned to the State Panel or the Local Panel under  
12 Section 5, the panel having jurisdiction over the matter.

13 (b) "Collective bargaining" means bargaining over terms  
14 and conditions of employment, including hours, wages, and other  
15 conditions of employment, as detailed in Section 7 and which  
16 are not excluded by Section 4.

17 (c) "Confidential employee" means an employee who, in the  
18 regular course of his or her duties, assists and acts in a  
19 confidential capacity to persons who formulate, determine, and  
20 effectuate management policies with regard to labor relations  
21 or who, in the regular course of his or her duties, has  
22 authorized access to information relating to the effectuation  
23 or review of the employer's collective bargaining policies.

1 (d) "Craft employees" means skilled journeymen, crafts  
2 persons, and their apprentices and helpers.

3 (d-1) "Emergency service support staff" means, for the  
4 purposes of this Act only, any persons who have been or are  
5 hereafter employed as a clerk, dispatcher, or telecommunicator  
6 of a police, sheriff, or fire department, community service  
7 officer, bailiff, deputy coroner, or court security officer,  
8 excluding part-time employees.

9 (e) "Essential services employees" means those public  
10 employees performing functions so essential that the  
11 interruption or termination of the function will constitute a  
12 clear and present danger to the health and safety of the  
13 persons in the affected community.

14 (f) "Exclusive representative", except with respect to  
15 non-State fire fighters and paramedics employed by fire  
16 departments and fire protection districts, non-State peace  
17 officers, and peace officers in the Department of State Police,  
18 means the labor organization that has been (i) designated by  
19 the Board as the representative of a majority of public  
20 employees in an appropriate bargaining unit in accordance with  
21 the procedures contained in this Act, (ii) historically  
22 recognized by the State of Illinois or any political  
23 subdivision of the State before July 1, 1984 (the effective  
24 date of this Act) as the exclusive representative of the  
25 employees in an appropriate bargaining unit, (iii) after July  
26 1, 1984 (the effective date of this Act) recognized by an

1 employer upon evidence, acceptable to the Board, that the labor  
2 organization has been designated as the exclusive  
3 representative by a majority of the employees in an appropriate  
4 bargaining unit; (iv) recognized as the exclusive  
5 representative of personal care attendants or personal  
6 assistants under Executive Order 2003-8 prior to the effective  
7 date of this amendatory Act of the 93rd General Assembly, and  
8 the organization shall be considered to be the exclusive  
9 representative of the personal care attendants or personal  
10 assistants as defined in this Section; or (v) recognized as the  
11 exclusive representative of child and day care home providers,  
12 including licensed and license exempt providers, pursuant to an  
13 election held under Executive Order 2005-1 prior to the  
14 effective date of this amendatory Act of the 94th General  
15 Assembly, and the organization shall be considered to be the  
16 exclusive representative of the child and day care home  
17 providers as defined in this Section.

18 With respect to non-State fire fighters and paramedics  
19 employed by fire departments and fire protection districts,  
20 non-State peace officers, and peace officers in the Department  
21 of State Police, "exclusive representative" means the labor  
22 organization that has been (i) designated by the Board as the  
23 representative of a majority of peace officers or fire fighters  
24 in an appropriate bargaining unit in accordance with the  
25 procedures contained in this Act, (ii) historically recognized  
26 by the State of Illinois or any political subdivision of the

1 State before January 1, 1986 (the effective date of this  
2 amendatory Act of 1985) as the exclusive representative by a  
3 majority of the peace officers or fire fighters in an  
4 appropriate bargaining unit, or (iii) after January 1, 1986  
5 (the effective date of this amendatory Act of 1985) recognized  
6 by an employer upon evidence, acceptable to the Board, that the  
7 labor organization has been designated as the exclusive  
8 representative by a majority of the peace officers or fire  
9 fighters in an appropriate bargaining unit.

10 (g) "Fair share agreement" means an agreement between the  
11 employer and an employee organization under which all or any of  
12 the employees in a collective bargaining unit are required to  
13 pay their proportionate share of the costs of the collective  
14 bargaining process, contract administration, and pursuing  
15 matters affecting wages, hours, and other conditions of  
16 employment, but not to exceed the amount of dues uniformly  
17 required of members. The amount certified by the exclusive  
18 representative shall not include any fees for contributions  
19 related to the election or support of any candidate for  
20 political office. Nothing in this subsection (g) shall preclude  
21 an employee from making voluntary political contributions in  
22 conjunction with his or her fair share payment.

23 (g-1) "Fire fighter" means, for the purposes of this Act  
24 only, any person who has been or is hereafter appointed to a  
25 fire department or fire protection district or employed by a  
26 state university and sworn or commissioned to perform fire

1 fighter duties or paramedic duties, except that the following  
2 persons are not included: part-time fire fighters, auxiliary,  
3 reserve or voluntary fire fighters, including paid on-call fire  
4 fighters, clerks and dispatchers or other civilian employees of  
5 a fire department or fire protection district who are not  
6 routinely expected to perform fire fighter duties, or elected  
7 officials.

8 (g-2) "General Assembly of the State of Illinois" means the  
9 legislative branch of the government of the State of Illinois,  
10 as provided for under Article IV of the Constitution of the  
11 State of Illinois, and includes but is not limited to the House  
12 of Representatives, the Senate, the Speaker of the House of  
13 Representatives, the Minority Leader of the House of  
14 Representatives, the President of the Senate, the Minority  
15 Leader of the Senate, the Joint Committee on Legislative  
16 Support Services and any legislative support services agency  
17 listed in the Legislative Commission Reorganization Act of  
18 1984.

19 (h) "Governing body" means, in the case of the State, the  
20 State Panel of the Illinois Labor Relations Board, the Director  
21 of the Department of Central Management Services, and the  
22 Director of the Department of Labor; the county board in the  
23 case of a county; the corporate authorities in the case of a  
24 municipality; and the appropriate body authorized to provide  
25 for expenditures of its funds in the case of any other unit of  
26 government.

1           (i) "Labor organization" means any organization in which  
2 public employees participate and that exists for the purpose,  
3 in whole or in part, of dealing with a public employer  
4 concerning wages, hours, and other terms and conditions of  
5 employment, including the settlement of grievances.

6           (j) "Managerial employee" means an individual who is  
7 engaged predominantly in executive and management functions  
8 and is charged with the responsibility of directing the  
9 effectuation of management policies and practices.

10          (k) "Peace officer" means, for the purposes of this Act  
11 only, any persons who have been or are hereafter appointed to a  
12 police force, department, or agency and sworn or commissioned  
13 to perform police duties, except that the following persons are  
14 not included: part-time police officers, special police  
15 officers, auxiliary police as defined by Section 3.1-30-20 of  
16 the Illinois Municipal Code, night watchmen, "merchant  
17 police", court security officers as defined by Section 3-6012.1  
18 of the Counties Code, temporary employees, traffic guards or  
19 wardens, civilian parking meter and parking facilities  
20 personnel or other individuals specially appointed to aid or  
21 direct traffic at or near schools or public functions or to aid  
22 in civil defense or disaster, parking enforcement employees who  
23 are not commissioned as peace officers and who are not armed  
24 and who are not routinely expected to effect arrests, parking  
25 lot attendants, clerks and dispatchers or other civilian  
26 employees of a police department who are not routinely expected

1 to effect arrests, or elected officials.

2 (l) "Person" includes one or more individuals, labor  
3 organizations, public employees, associations, corporations,  
4 legal representatives, trustees, trustees in bankruptcy,  
5 receivers, or the State of Illinois or any political  
6 subdivision of the State or governing body, but does not  
7 include the General Assembly of the State of Illinois or any  
8 individual employed by the General Assembly of the State of  
9 Illinois.

10 (m) "Professional employee" means any employee engaged in  
11 work predominantly intellectual and varied in character rather  
12 than routine mental, manual, mechanical or physical work;  
13 involving the consistent exercise of discretion and adjustment  
14 in its performance; of such a character that the output  
15 produced or the result accomplished cannot be standardized in  
16 relation to a given period of time; and requiring advanced  
17 knowledge in a field of science or learning customarily  
18 acquired by a prolonged course of specialized intellectual  
19 instruction and study in an institution of higher learning or a  
20 hospital, as distinguished from a general academic education or  
21 from apprenticeship or from training in the performance of  
22 routine mental, manual, or physical processes; or any employee  
23 who has completed the courses of specialized intellectual  
24 instruction and study prescribed in this subsection (m) and is  
25 performing related work under the supervision of a professional  
26 person to qualify to become a professional employee as defined



1 in this subsection (m).

2 (n) "Public employee" or "employee", for the purposes of  
3 this Act, means any individual employed by a public employer,  
4 including (i) interns and residents at public hospitals, (ii)  
5 as of the effective date of this amendatory Act of the 93rd  
6 General Assembly, but not before, personal care attendants and  
7 personal assistants working under the Home Services Program  
8 under Section 3 of the Disabled Persons Rehabilitation Act,  
9 subject to the limitations set forth in this Act and in the  
10 Disabled Persons Rehabilitation Act, and (iii) as of the  
11 effective date of this amendatory Act of the 94th General  
12 Assembly, but not before, child and day care home providers  
13 participating in the child care assistance program under  
14 Section 9A-11 of the Illinois Public Aid Code, subject to the  
15 limitations set forth in this Act and in Section 9A-11 of the  
16 Illinois Public Aid Code, but excluding all of the following:  
17 employees of the General Assembly of the State of Illinois;  
18 elected officials; executive heads of a department; members of  
19 boards or commissions; the Executive Inspectors General; any  
20 special Executive Inspectors General; employees of each Office  
21 of an Executive Inspector General; commissioners and employees  
22 of the Executive Ethics Commission; the Auditor General's  
23 Inspector General; employees of the Office of the Auditor  
24 General's Inspector General; the Legislative Inspector  
25 General; any special Legislative Inspectors General; employees  
26 of the Office of the Legislative Inspector General;

1 commissioners and employees of the Legislative Ethics  
2 Commission; employees of any agency, board or commission  
3 created by this Act; employees appointed to State positions of  
4 a temporary or emergency nature; all employees of school  
5 districts and higher education institutions except  
6 firefighters and peace officers employed by a state university;  
7 managerial employees; short-term employees; confidential  
8 employees; independent contractors; and supervisors except as  
9 provided in this Act.

10 Personal care attendants and personal assistants shall not  
11 be considered public employees for any purposes not  
12 specifically provided for in the amendatory Act of the 93rd  
13 General Assembly, including but not limited to, purposes of  
14 vicarious liability in tort and purposes of statutory  
15 retirement or health insurance benefits. Personal care  
16 attendants and personal assistants shall not be covered by the  
17 State Employees Group Insurance Act of 1971 (5 ILCS 375/).

18 Child and day care home providers shall not be considered  
19 public employees for any purposes not specifically provided for  
20 in this amendatory Act of the 94th General Assembly, including  
21 but not limited to, purposes of vicarious liability in tort and  
22 purposes of statutory retirement or health insurance benefits.  
23 Child and day care home providers shall not be covered by the  
24 State Employees Group Insurance Act of 1971.

25 Notwithstanding Section 9, subsection (c), or any other  
26 provisions of this Act, all peace officers above the rank of

1 captain in municipalities with more than 1,000,000 inhabitants  
2 shall be excluded from this Act.

3 (o) Except as otherwise in subsection (o-5), "public  
4 employer" or "employer" means the State of Illinois; any  
5 political subdivision of the State, unit of local government or  
6 school district; authorities including departments, divisions,  
7 bureaus, boards, commissions, or other agencies of the  
8 foregoing entities; and any person acting within the scope of  
9 his or her authority, express or implied, on behalf of those  
10 entities in dealing with its employees. As of the effective  
11 date of the amendatory Act of the 93rd General Assembly, but  
12 not before, the State of Illinois shall be considered the  
13 employer of the personal care attendants and personal  
14 assistants working under the Home Services Program under  
15 Section 3 of the Disabled Persons Rehabilitation Act, subject  
16 to the limitations set forth in this Act and in the Disabled  
17 Persons Rehabilitation Act. The State shall not be considered  
18 to be the employer of personal care attendants and personal  
19 assistants for any purposes not specifically provided for in  
20 this amendatory Act of the 93rd General Assembly, including but  
21 not limited to, purposes of vicarious liability in tort and  
22 purposes of statutory retirement or health insurance benefits.  
23 Personal care attendants and personal assistants shall not be  
24 covered by the State Employees Group Insurance Act of 1971 (5  
25 ILCS 375/). As of the effective date of this amendatory Act of  
26 the 94th General Assembly but not before, the State of Illinois

1 shall be considered the employer of the day and child care home  
2 providers participating in the child care assistance program  
3 under Section 9A-11 of the Illinois Public Aid Code, subject to  
4 the limitations set forth in this Act and in Section 9A-11 of  
5 the Illinois Public Aid Code. The State shall not be considered  
6 to be the employer of child and day care home providers for any  
7 purposes not specifically provided for in this amendatory Act  
8 of the 94th General Assembly, including but not limited to,  
9 purposes of vicarious liability in tort and purposes of  
10 statutory retirement or health insurance benefits. Child and  
11 day care home providers shall not be covered by the State  
12 Employees Group Insurance Act of 1971.

13 "Public employer" or "employer" as used in this Act,  
14 however, does not mean and shall not include the General  
15 Assembly of the State of Illinois, the Executive Ethics  
16 Commission, the Offices of the Executive Inspectors General,  
17 the Legislative Ethics Commission, the Office of the  
18 Legislative Inspector General, the Office of the Auditor  
19 General's Inspector General, and educational employers or  
20 employers as defined in the Illinois Educational Labor  
21 Relations Act, except with respect to a state university in its  
22 employment of firefighters and peace officers. County boards  
23 and county sheriffs shall be designated as joint or  
24 co-employers of county peace officers appointed under the  
25 authority of a county sheriff. Nothing in this subsection (o)  
26 shall be construed to prevent the State Panel or the Local

1 Panel from determining that employers are joint or  
2 co-employers.

3 (o-5) With respect to wages, fringe benefits, hours,  
4 holidays, vacations, proficiency examinations, sick leave, and  
5 other conditions of employment, the public employer of public  
6 employees who are court reporters, as defined in the Court  
7 Reporters Act, shall be determined as follows:

8 (1) For court reporters employed by the Cook County  
9 Judicial Circuit, the chief judge of the Cook County  
10 Circuit Court is the public employer and employer  
11 representative.

12 (2) For court reporters employed by the 12th, 18th,  
13 19th, and, on and after December 4, 2006, the 22nd judicial  
14 circuits, a group consisting of the chief judges of those  
15 circuits, acting jointly by majority vote, is the public  
16 employer and employer representative.

17 (3) For court reporters employed by all other judicial  
18 circuits, a group consisting of the chief judges of those  
19 circuits, acting jointly by majority vote, is the public  
20 employer and employer representative.

21 (p) "Security employee" means an employee who is  
22 responsible for the supervision and control of inmates at  
23 correctional facilities. The term also includes other  
24 non-security employees in bargaining units having the majority  
25 of employees being responsible for the supervision and control  
26 of inmates at correctional facilities.

1           (q) "Short-term employee" means an employee who is employed  
2 for less than 2 consecutive calendar quarters during a calendar  
3 year and who does not have a reasonable assurance that he or  
4 she will be rehired by the same employer for the same service  
5 in a subsequent calendar year.

6           (r) "Supervisor" is an employee whose principal work is  
7 substantially different from that of his or her subordinates  
8 and who has authority, in the interest of the employer, to  
9 hire, transfer, suspend, lay off, recall, promote, discharge,  
10 direct, reward, or discipline employees, to adjust their  
11 grievances, or to effectively recommend any of those actions,  
12 if the exercise of that authority is not of a merely routine or  
13 clerical nature, but requires the consistent use of independent  
14 judgment. Except with respect to police employment, the term  
15 "supervisor" includes only those individuals who devote a  
16 preponderance of their employment time to exercising that  
17 authority, State supervisors notwithstanding. In addition, in  
18 determining supervisory status in police employment, rank  
19 shall not be determinative. The Board shall consider, as  
20 evidence of bargaining unit inclusion or exclusion, the common  
21 law enforcement policies and relationships between police  
22 officer ranks and certification under applicable civil service  
23 law, ordinances, personnel codes, or Division 2.1 of Article 10  
24 of the Illinois Municipal Code, but these factors shall not be  
25 the sole or predominant factors considered by the Board in  
26 determining police supervisory status.

1           Notwithstanding the provisions of the preceding paragraph,  
2           in determining supervisory status in fire fighter employment,  
3           no fire fighter shall be excluded as a supervisor who has  
4           established representation rights under Section 9 of this Act.  
5           Further, in new fire fighter units, employees shall consist of  
6           fire fighters of the rank of company officer and below. If a  
7           company officer otherwise qualifies as a supervisor under the  
8           preceding paragraph, however, he or she shall not be included  
9           in the fire fighter unit. If there is no rank between that of  
10          chief and the highest company officer, the employer may  
11          designate a position on each shift as a Shift Commander, and  
12          the persons occupying those positions shall be supervisors. All  
13          other ranks above that of company officer shall be supervisors.

14          (s) (1) "Unit" means a class of jobs or positions that are  
15          held by employees whose collective interests may suitably  
16          be represented by a labor organization for collective  
17          bargaining. Except with respect to non-State fire fighters  
18          and paramedics employed by fire departments and fire  
19          protection districts, non-State peace officers, and peace  
20          officers in the Department of State Police, a bargaining  
21          unit determined by the Board shall not include both  
22          employees and supervisors, or supervisors only, except as  
23          provided in paragraph (2) of this subsection (s) and except  
24          for bargaining units in existence on July 1, 1984 (the  
25          effective date of this Act). With respect to non-State fire  
26          fighters and paramedics employed by fire departments and

1 fire protection districts, non-State peace officers, and  
2 peace officers in the Department of State Police, a  
3 bargaining unit determined by the Board shall not include  
4 both supervisors and nonsupervisors, or supervisors only,  
5 except as provided in paragraph (2) of this subsection (s)  
6 and except for bargaining units in existence on January 1,  
7 1986 (the effective date of this amendatory Act of 1985). A  
8 bargaining unit determined by the Board to contain peace  
9 officers shall contain no employees other than peace  
10 officers unless otherwise agreed to by the employer and the  
11 labor organization or labor organizations involved.  
12 Notwithstanding any other provision of this Act, a  
13 bargaining unit, including a historical bargaining unit,  
14 containing sworn peace officers of the Department of  
15 Natural Resources (formerly designated the Department of  
16 Conservation) shall contain no employees other than such  
17 sworn peace officers upon the effective date of this  
18 amendatory Act of 1990 or upon the expiration date of any  
19 collective bargaining agreement in effect upon the  
20 effective date of this amendatory Act of 1990 covering both  
21 such sworn peace officers and other employees.

22 (2) Notwithstanding the exclusion of supervisors from  
23 bargaining units as provided in paragraph (1) of this  
24 subsection (s), a public employer may agree to permit its  
25 supervisory employees to form bargaining units and may  
26 bargain with those units. This Act shall apply if the



1 public employer chooses to bargain under this subsection.

2 (3) Public employees who are court reporters, as  
3 defined in the Court Reporters Act, shall be divided into 3  
4 units for collective bargaining purposes. One unit shall be  
5 court reporters employed by the Cook County Judicial  
6 Circuit; one unit shall be court reporters employed by the  
7 12th, 18th, 19th, and, on and after December 4, 2006, the  
8 22nd judicial circuits; and one unit shall be court  
9 reporters employed by all other judicial circuits.

10 (Source: P.A. 94-98, eff. 7-1-05; 94-320, eff. 1-1-06; 95-331,  
11 eff. 8-21-07.)

12 (5 ILCS 315/14) (from Ch. 48, par. 1614)

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

15 (a) In the case of collective bargaining agreements  
16 involving units of security employees of a public employer,  
17 Peace Officer Units, ~~or~~ units of fire fighters or paramedics,  
18 or units of emergency service support staff, and in the case of  
19 disputes under Section 18, unless the parties mutually agree to  
20 some other time limit, mediation shall commence 30 days prior  
21 to the expiration date of such agreement or at such later time  
22 as the mediation services chosen under subsection (b) of  
23 Section 12 can be provided to the parties. In the case of  
24 negotiations for an initial collective bargaining agreement,  
25 mediation shall commence upon 15 days notice from either party

1 or at such later time as the mediation services chosen pursuant  
2 to subsection (b) of Section 12 can be provided to the parties.  
3 In mediation under this Section, if either party requests the  
4 use of mediation services from the Federal Mediation and  
5 Conciliation Service, the other party shall either join in such  
6 request or bear the additional cost of mediation services from  
7 another source. The mediator shall have a duty to keep the  
8 Board informed on the progress of the mediation. If any dispute  
9 has not been resolved within 15 days after the first meeting of  
10 the parties and the mediator, or within such other time limit  
11 as may be mutually agreed upon by the parties, either the  
12 exclusive representative or employer may request of the other,  
13 in writing, arbitration, and shall submit a copy of the request  
14 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 of the request of either party, the Board  
22 shall select from the Public Employees Labor Mediation Roster 7  
23 persons who are on the labor arbitration panels of either the  
24 American Arbitration Association or the Federal Mediation and  
25 Conciliation Service, or who are members of the National  
26 Academy of Arbitrators, as nominees for impartial arbitrator of

1 the arbitration panel. The parties may select an individual on  
2 the list provided by the Board or any other individual mutually  
3 agreed upon by the parties. Within 7 days following the receipt  
4 of the list, the parties shall notify the Board of the person  
5 they have selected. Unless the parties agree on an alternate  
6 selection procedure, they shall alternatively strike one name  
7 from the list provided by the Board until only one name  
8 remains. A coin toss shall determine which party shall strike  
9 the first name. If the parties fail to notify the Board in a  
10 timely manner of their selection for neutral chairman, the  
11 Board shall appoint a neutral chairman from the Illinois Public  
12 Employees Mediation/Arbitration Roster.

13 (d) The chairman shall call a hearing to begin within 15  
14 days and give reasonable notice of the time and place of the  
15 hearing. The hearing shall be held at the offices of the Board  
16 or at such other location as the Board deems appropriate. The  
17 chairman shall preside over the hearing and shall take  
18 testimony. Any oral or documentary evidence and other data  
19 deemed relevant by the arbitration panel may be received in  
20 evidence. The proceedings shall be informal. Technical rules of  
21 evidence shall not apply and the competency of the evidence  
22 shall not thereby be deemed impaired. A verbatim record of the  
23 proceedings shall be made and the arbitrator shall arrange for  
24 the necessary recording service. Transcripts may be ordered at  
25 the expense of the party ordering them, but the transcripts  
26 shall not be necessary for a decision by the arbitration panel.

1 The expense of the proceedings, including a fee for the  
2 chairman, established in advance by the Board, shall be borne  
3 equally by each of the parties to the dispute. The delegates,  
4 if public officers or employees, shall continue on the payroll  
5 of the public employer without loss of pay. The hearing  
6 conducted by the arbitration panel may be adjourned from time  
7 to time, but unless otherwise agreed by the parties, shall be  
8 concluded within 30 days of the time of its commencement.  
9 Majority actions and rulings shall constitute the actions and  
10 rulings of the arbitration panel. Arbitration proceedings  
11 under this Section shall not be interrupted or terminated by  
12 reason of any unfair labor practice charge filed by either  
13 party at any time.

14 (e) The arbitration panel may administer oaths, require the  
15 attendance of witnesses, and the production of such books,  
16 papers, contracts, agreements and documents as may be deemed by  
17 it material to a just determination of the issues in dispute,  
18 and for such purpose may issue subpoenas. If any person refuses  
19 to obey a subpoena, or refuses to be sworn or to testify, or if  
20 any witness, party or attorney is guilty of any contempt while  
21 in attendance at any hearing, the arbitration panel may, or the  
22 attorney general if requested shall, invoke the aid of any  
23 circuit court within the jurisdiction in which the hearing is  
24 being held, which court shall issue an appropriate order. Any  
25 failure to obey the order may be punished by the court as  
26 contempt.

1           (f) At any time before the rendering of an award, the  
2 chairman of the arbitration panel, if he is of the opinion that  
3 it would be useful or beneficial to do so, may remand the  
4 dispute to the parties for further collective bargaining for a  
5 period not to exceed 2 weeks. If the dispute is remanded for  
6 further collective bargaining the time provisions of this Act  
7 shall be extended for a time period equal to that of the  
8 remand. The chairman of the panel of arbitration shall notify  
9 the Board of the remand.

10          (g) At or before the conclusion of the hearing held  
11 pursuant to subsection (d), the arbitration panel shall  
12 identify the economic issues in dispute, and direct each of the  
13 parties to submit, within such time limit as the panel shall  
14 prescribe, to the arbitration panel and to each other its last  
15 offer of settlement on each economic issue. The determination  
16 of the arbitration panel as to the issues in dispute and as to  
17 which of these issues are economic shall be conclusive. The  
18 arbitration panel, within 30 days after the conclusion of the  
19 hearing, or such further additional periods to which the  
20 parties may agree, shall make written findings of fact and  
21 promulgate a written opinion and shall mail or otherwise  
22 deliver a true copy thereof to the parties and their  
23 representatives and to the Board. As to each economic issue,  
24 the arbitration panel shall adopt the last offer of settlement  
25 which, in the opinion of the arbitration panel, more nearly  
26 complies with the applicable factors prescribed in subsection

1 (h). The findings, opinions and order as to all other issues  
2 shall be based upon the applicable factors prescribed in  
3 subsection (h).

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

12 (1) The lawful authority of the employer.

13 (2) Stipulations of the parties.

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

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

22 (A) In public employment in comparable  
23 communities.

24 (B) In private employment in comparable  
25 communities.

26 (5) The average consumer prices for goods and services,

1 commonly known as the cost of living.

2 (6) The overall compensation presently received by the  
3 employees, including direct wage compensation, vacations,  
4 holidays and other excused time, insurance and pensions,  
5 medical and hospitalization benefits, the continuity and  
6 stability of employment and all other benefits received.

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

9 (8) Such other factors, not confined to the foregoing,  
10 which are normally or traditionally taken into  
11 consideration in the determination of wages, hours and  
12 conditions of employment through voluntary collective  
13 bargaining, mediation, fact-finding, arbitration or  
14 otherwise between the parties, in the public service or in  
15 private employment.

16 (i) In the case of peace officers, the arbitration decision  
17 shall be limited to wages, hours, and conditions of employment  
18 (which may include residency requirements in municipalities  
19 with a population under 1,000,000, but those residency  
20 requirements shall not allow residency outside of Illinois) and  
21 shall not include the following: i) residency requirements in  
22 municipalities with a population of at least 1,000,000; ii) the  
23 type of equipment, other than uniforms, issued or used; iii)  
24 manning; iv) the total number of employees employed by the  
25 department; v) mutual aid and assistance agreements to other  
26 units of government; and vi) the criterion pursuant to which

1 force, including deadly force, can be used; provided, nothing  
2 herein shall preclude an arbitration decision regarding  
3 equipment or manning levels if such decision is based on a  
4 finding that the equipment or manning considerations in a  
5 specific work assignment involve a serious risk to the safety  
6 of a peace officer beyond that which is inherent in the normal  
7 performance of police duties. Limitation of the terms of the  
8 arbitration decision pursuant to this subsection shall not be  
9 construed to limit the factors upon which the decision may be  
10 based, as set forth in subsection (h).

11 In the case of fire fighter, and fire department or fire  
12 district paramedic matters, the arbitration decision shall be  
13 limited to wages, hours, and conditions of employment (which  
14 may include residency requirements in municipalities with a  
15 population under 1,000,000, but those residency requirements  
16 shall not allow residency outside of Illinois) and shall not  
17 include the following matters: i) residency requirements in  
18 municipalities with a population of at least 1,000,000; ii) the  
19 type of equipment (other than uniforms and fire fighter turnout  
20 gear) issued or used; iii) the total number of employees  
21 employed by the department; iv) mutual aid and assistance  
22 agreements to other units of government; and v) the criterion  
23 pursuant to which force, including deadly force, can be used;  
24 provided, however, nothing herein shall preclude an  
25 arbitration decision regarding equipment levels if such  
26 decision is based on a finding that the equipment



1 considerations in a specific work assignment involve a serious  
2 risk to the safety of a fire fighter beyond that which is  
3 inherent in the normal performance of fire fighter duties.  
4 Limitation of the terms of the arbitration decision pursuant to  
5 this subsection shall not be construed to limit the facts upon  
6 which the decision may be based, as set forth in subsection  
7 (h).

8 The changes to this subsection (i) made by Public Act  
9 90-385 (relating to residency requirements) do not apply to  
10 persons who are employed by a combined department that performs  
11 both police and firefighting services; these persons shall be  
12 governed by the provisions of this subsection (i) relating to  
13 peace officers, as they existed before the amendment by Public  
14 Act 90-385.

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

20 (j) Arbitration procedures shall be deemed to be initiated  
21 by the filing of a letter requesting mediation as required  
22 under subsection (a) of this Section. The commencement of a new  
23 municipal fiscal year after the initiation of arbitration  
24 procedures under this Act, but before the arbitration decision,  
25 or its enforcement, shall not be deemed to render a dispute  
26 moot, or to otherwise impair the jurisdiction or authority of

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

15 (k) Orders of the arbitration panel shall be reviewable,  
16 upon appropriate petition by either the public employer or the  
17 exclusive bargaining representative, by the circuit court for  
18 the county in which the dispute arose or in which a majority of  
19 the affected employees reside, but only for reasons that the  
20 arbitration panel was without or exceeded its statutory  
21 authority; the order is arbitrary, or capricious; or the order  
22 was procured by fraud, collusion or other similar and unlawful  
23 means. Such petitions for review must be filed with the  
24 appropriate circuit court within 90 days following the issuance  
25 of the arbitration order. The pendency of such proceeding for  
26 review shall not automatically stay the order of the

1 arbitration panel. The party against whom the final decision of  
2 any such court shall be adverse, if such court finds such  
3 appeal or petition to be frivolous, shall pay reasonable  
4 attorneys' fees and costs to the successful party as determined  
5 by said court in its discretion. If said court's decision  
6 affirms the award of money, such award, if retroactive, shall  
7 bear interest at the rate of 12 percent per annum from the  
8 effective retroactive date.

9 (l) During the pendency of proceedings before the  
10 arbitration panel, existing wages, hours, and other conditions  
11 of employment shall not be changed by action of either party  
12 without the consent of the other but a party may so consent  
13 without prejudice to his rights or position under this Act. The  
14 proceedings are deemed to be pending before the arbitration  
15 panel upon the initiation of arbitration procedures under this  
16 Act.

17 (m) Security officers of public employers, and Peace  
18 Officers, Fire Fighters and fire department and fire protection  
19 district paramedics, and units of emergency service support  
20 staff, covered by this Section may not withhold services, nor  
21 may public employers lock out or prevent such employees from  
22 performing services at any time.

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

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

25           (o) If the governing body of the employer votes to reject  
26 the panel's decision, the parties shall return to the panel

1 within 30 days from the issuance of the reasons for rejection  
2 for further proceedings and issuance of a supplemental  
3 decision. All reasonable costs of such supplemental proceeding  
4 including the exclusive representative's reasonable attorney's  
5 fees, as established by the Board, shall be paid by the  
6 employer.

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

12 (Source: P.A. 89-195, eff. 7-21-95; 90-202, eff. 7-24-97;  
13 90-385, eff. 8-15-97; 90-655, eff. 7-30-98.)

14 (5 ILCS 315/17) (from Ch. 48, par. 1617)

15 Sec. 17. Right to Strike. (a) Nothing in this Act shall  
16 make it unlawful or make it an unfair labor practice for public  
17 employees, other than security employees, as defined in Section  
18 3(p), Peace Officers, Fire Fighters, and paramedics employed by  
19 fire departments and fire protection districts, and emergency  
20 service support staff, to strike except as otherwise provided  
21 in this Act. Public employees who are permitted to strike may  
22 strike only if:

23 (1) the employees are represented by an exclusive  
24 bargaining representative;

25 (2) the collective bargaining agreement between the public

1 employer and the public employees, if any, has expired, or such  
2 collective bargaining agreement does not prohibit the strike;

3 (3) the public employer and the labor organization have not  
4 mutually agreed to submit the disputed issues to final and  
5 binding arbitration;

6 (4) the exclusive representative has requested a mediator  
7 pursuant to Section 12 for the purpose of mediation or  
8 conciliation of a dispute between the public employer and the  
9 exclusive representative and mediation has been used; and

10 (5) at least 5 days have elapsed after a notice of intent  
11 to strike has been given by the exclusive bargaining  
12 representative to the public employer.

13 In mediation under this Section, if either party requests  
14 the use of mediation services from the Federal Mediation and  
15 Conciliation Service, the other party shall either join in such  
16 request or bear the additional cost of mediation services from  
17 another source.

18 (b) An employee who participates in a strike, work stoppage  
19 or slowdown, in violation of this Act shall be subject to  
20 discipline by the employer. No employer may pay or cause such  
21 employee to be paid any wages or other compensation for such  
22 periods of participation, except for wages or compensation  
23 earned before participation in such strike.

24 (Source: P.A. 86-412.)