



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB6127

Introduced 2/11/2010, by Rep. Dave Winters

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. Exempts manning levels as a required subject of collective bargaining. With respect to peace officers, fire fighters, and security employees, (i) provides that, in the absence of an agreement, an arbitration panel's consideration of the unit of government's ability to meet costs is limited to existing revenues and (ii) in a non-home rule municipality with a population in excess of 140,000, excludes manning levels from successor fire fighter agreements unless the municipality's corporate authorities agree otherwise.

LRB096 20885 JAM 36670 b

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 (including manning) and
12 selection of new employees, examination techniques and
13 direction of employees. Employers, however, shall be required
14 to bargain collectively with regard to policy matters directly
15 affecting wages, hours and terms and conditions of employment
16 as well as the impact thereon upon request by employee
17 representatives.

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

1 they have bargained for and agreed to in a collective
2 bargaining agreement prior to the effective date of this Act.

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

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

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

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

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

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

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

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

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

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

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

1 party at any time.

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

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

24 (g) At or before the conclusion of the hearing held
25 pursuant to subsection (d), the arbitration panel shall
26 identify the economic issues in dispute, and direct each of the

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

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

26 (1) The lawful authority of the employer.

1 (2) Stipulations of the parties.

2 (3) The interests and welfare of the public and the
3 financial ability of the unit of government to meet those
4 costs, but only with respect to existing revenues and
5 without any consideration of the ability of the unit of
6 government to raise tax rates or impose new taxes in order
7 to meet those costs.

8 (4) Comparison of the wages, hours and conditions of
9 employment of the employees involved in the arbitration
10 proceeding with the wages, hours and conditions of
11 employment of other employees performing similar services
12 and with other employees generally:

13 (A) In public employment in comparable
14 communities.

15 (B) In private employment in comparable
16 communities.

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

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

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

26 (8) Such other factors, not confined to the foregoing,

1 which are normally or traditionally taken into
2 consideration in the determination of wages, hours and
3 conditions of employment through voluntary collective
4 bargaining, mediation, fact-finding, arbitration or
5 otherwise between the parties, in the public service or in
6 private employment.

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

1 based, as set forth in subsection (h).

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

25 The changes to this subsection (i) made by Public Act
26 90-385 (relating to residency requirements) do not apply to

1 persons who are employed by a combined department that performs
2 both police and firefighting services; these persons shall be
3 governed by the provisions of this subsection (i) relating to
4 peace officers, as they existed before the amendment by Public
5 Act 90-385.

6 To preserve historical bargaining rights, this subsection
7 shall not apply to any provision of a fire fighter collective
8 bargaining agreement in effect and applicable on the effective
9 date of this Act; provided, however, nothing herein shall
10 preclude arbitration with respect to any such provision.
11 Further, in any non-home rule municipality with a population in
12 excess of 140,000, manning shall not be included in any
13 successor fire fighter collective bargaining agreement after
14 the effective date of this amendatory Act of the 96th General
15 Assembly absent agreement of the corporate authorities of the
16 municipality to include such provisions in the successor
17 agreement.

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

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

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

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

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

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

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

24 The governing body shall review each term decided by the
25 arbitration panel. If the governing body fails to reject one or
26 more terms of the arbitration panel's decision by a 3/5 vote of

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

22 (o) If the governing body of the employer votes to reject
23 the panel's decision, the parties shall return to the panel
24 within 30 days from the issuance of the reasons for rejection
25 for further proceedings and issuance of a supplemental
26 decision. All reasonable costs of such supplemental proceeding

1 including the exclusive representative's reasonable attorney's
2 fees, as established by the Board, shall be paid by the
3 employer.

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

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