



Sen. Kimberly A. Lightford

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LRB097 06187 RPM 56185 a

1 AMENDMENT TO HOUSE BILL 1197

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 1197 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. If and only if Senate Bill 7 as passed by the  
5 97th General Assembly becomes law, the Illinois Educational  
6 Labor Relations Act is amended by changing Sections 4.5, 12,  
7 and 13 as follows:

8 (115 ILCS 5/4.5)

9 Sec. 4.5. Subjects of collective bargaining.

10 (a) Notwithstanding the existence of any other provision in  
11 this Act or other law, collective bargaining between an  
12 educational employer whose territorial boundaries are  
13 coterminous with those of a city having a population in excess  
14 of 500,000 and an exclusive representative of its employees may  
15 include any of the following subjects:

16 (1) (Blank).

1           (2) Decisions to contract with a third party for one or  
2 more services otherwise performed by employees in a  
3 bargaining unit and the procedures for obtaining such  
4 contract or the identity of the third party.

5           (3) Decisions to layoff or reduce in force employees.

6           (4) Decisions to determine class size, class staffing  
7 and assignment, class schedules, academic calendar, length  
8 of the work and school day, length of the work and school  
9 year, hours and places of instruction, or pupil assessment  
10 policies.

11           (5) Decisions concerning use and staffing of  
12 experimental or pilot programs and decisions concerning  
13 use of technology to deliver educational programs and  
14 services and staffing to provide the technology.

15           (b) The subject or matters described in subsection (a) are  
16 permissive subjects of bargaining between an educational  
17 employer and an exclusive representative of its employees and,  
18 for the purpose of this Act, are within the sole discretion of  
19 the educational employer to decide to bargain, provided that  
20 the educational employer is required to bargain over the impact  
21 of a decision concerning such subject or matter on the  
22 bargaining unit upon request by the exclusive representative.  
23 During this bargaining, the educational employer shall not be  
24 precluded from implementing its decision. If, after a  
25 reasonable period of bargaining, a dispute or impasse exists  
26 between the educational employer and the exclusive

1 representative, the dispute or impasse shall be resolved  
2 exclusively as set forth in subsection (b) of Section 12 of  
3 this Act in lieu of a strike under Section 13 of this Act.  
4 Neither the Board nor any mediator or fact-finder appointed  
5 pursuant to subsection (a-10) of Section 12 of this Act shall  
6 have jurisdiction over such a dispute or impasse.

7 (c) A provision in a collective bargaining agreement that  
8 was rendered null and void because it involved a prohibited  
9 subject of collective bargaining under this subsection (c) as  
10 this subsection (c) existed before the effective date of this  
11 amendatory Act of the 93rd General Assembly remains null and  
12 void and shall not otherwise be reinstated in any successor  
13 agreement unless the educational employer and exclusive  
14 representative otherwise agree to include an agreement reached  
15 on a subject or matter described in subsection (a) of this  
16 Section as subsection (a) existed before this amendatory Act of  
17 the 93rd General Assembly.

18 (Source: P.A. 93-3, eff. 4-16-03; 09700SB0007enr.)

19 (115 ILCS 5/12) (from Ch. 48, par. 1712)

20 Sec. 12. Impasse procedures.

21 (a) This subsection (a) applies only to collective  
22 bargaining between an educational employer that is not a public  
23 school district organized under Article 34 of the School Code  
24 and an exclusive representative of its employees. If the  
25 parties engaged in collective bargaining have not reached an

1 agreement by 90 days before the scheduled start of the  
2 forthcoming school year, the parties shall notify the Illinois  
3 Educational Labor Relations Board concerning the status of  
4 negotiations. This notice shall include a statement on whether  
5 mediation has been used.

6 Upon demand of either party, collective bargaining between  
7 the employer and an exclusive bargaining representative must  
8 begin within 60 days of the date of certification of the  
9 representative by the Board, or in the case of an existing  
10 exclusive bargaining representative, within 60 days of the  
11 receipt by a party of a demand to bargain issued by the other  
12 party. Once commenced, collective bargaining must continue for  
13 at least a 60 day period, unless a contract is entered into.

14 Except as otherwise provided in subsection (b) of this  
15 Section, if after a reasonable period of negotiation and within  
16 90 days of the scheduled start of the forth-coming school year,  
17 the parties engaged in collective bargaining have reached an  
18 impasse, either party may petition the Board to initiate  
19 mediation. Alternatively, the Board on its own motion may  
20 initiate mediation during this period. However, mediation  
21 shall be initiated by the Board at any time when jointly  
22 requested by the parties and the services of the mediators  
23 shall continuously be made available to the employer and to the  
24 exclusive bargaining representative for purposes of  
25 arbitration of grievances and mediation or arbitration of  
26 contract disputes. If requested by the parties, the mediator

1 may perform fact-finding and in so doing conduct hearings and  
2 make written findings and recommendations for resolution of the  
3 dispute. Such mediation shall be provided by the Board and  
4 shall be held before qualified impartial individuals. Nothing  
5 prohibits the use of other individuals or organizations such as  
6 the Federal Mediation and Conciliation Service or the American  
7 Arbitration Association selected by both the exclusive  
8 bargaining representative and the employer.

9 If the parties engaged in collective bargaining fail to  
10 reach an agreement within 45 days of the scheduled start of the  
11 forthcoming school year and have not requested mediation, the  
12 Illinois Educational Labor Relations Board shall invoke  
13 mediation.

14 Whenever mediation is initiated or invoked under this  
15 subsection (a), the parties may stipulate to defer selection of  
16 a mediator in accordance with rules adopted by the Board.

17 (a-5) This subsection (a-5) applies only to collective  
18 bargaining between a public school district or a combination of  
19 public school districts, including, but not limited to, joint  
20 cooperatives, that is not organized under Article 34 of the  
21 School Code and an exclusive representative of its employees.

22 (1) Any time 15 days after mediation has commenced  
23 ~~after 15 days of mediation~~, either party may declare an  
24 impasse. The mediator may declare an impasse at any time  
25 during the mediation process. Notification of an impasse  
26 must be filed in writing with the Board, and copies of the

1 notification must be submitted to the parties on the same  
2 day the notification is filed with the Board.

3 (2) Within 7 days after the declaration of impasse,  
4 each party shall submit to the mediator, the Board, and the  
5 other party in writing the final offer of the party,  
6 including a cost summary of the offer. Seven days after  
7 receipt of the parties' final offers, the Board ~~mediator~~  
8 shall make public the final offers and each party's cost  
9 summary dealing with those issues on which the parties have  
10 failed to reach agreement by immediately posting the offers  
11 on its Internet website, unless otherwise notified by the  
12 mediator or jointly by the parties that agreement has been  
13 reached. ~~The mediator shall make the final offers public by~~  
14 ~~filing them with the Board, which shall immediately post~~  
15 ~~the offers on its Internet website.~~ On the same day of  
16 publication by the mediator, at a minimum, the school  
17 district shall distribute notice of the availability of the  
18 offers on the Board's Internet website to all news media  
19 that have filed an annual request for notices from the  
20 school district pursuant to Section 2.02 of the Open  
21 Meetings Act.

22 (a-10) This subsection (a-10) applies only to collective  
23 bargaining between a public school district organized under  
24 Article 34 of the School Code and an exclusive representative  
25 of its employees.

26 (1) For collective bargaining agreements between an

1 educational employer to which this subsection (a-10)  
2 applies ~~whose territorial boundaries are coterminous with~~  
3 ~~those of a city having a population in excess of 500,000~~  
4 and an exclusive representative of its employees, if the  
5 parties fail to reach an agreement after a reasonable  
6 period of mediation, the dispute shall be submitted to  
7 fact-finding in accordance with this subsection (a-10).  
8 Either the educational employer or the exclusive  
9 representative may initiate fact-finding by submitting a  
10 written demand to the other party with a copy of the demand  
11 submitted simultaneously to the Board.

12 (2) Within 3 days following a party's demand for  
13 fact-finding, each party shall appoint one member of the  
14 fact-finding panel, unless the parties agree to proceed  
15 without a tri-partite panel. Following these appointments,  
16 if any, the parties shall select a qualified impartial  
17 individual to serve as the fact-finder and chairperson of  
18 the fact-finding panel, if applicable. An individual shall  
19 be considered qualified to serve as the fact-finder and  
20 chairperson of the fact-finding panel, if applicable, if he  
21 or she was not the same individual who was appointed as the  
22 mediator and if he or she satisfies the following  
23 requirements: membership in good standing with the  
24 National Academy of Arbitrators, Federal Mediation and  
25 Conciliation Service, or American Arbitration Association  
26 for a minimum of 10 years; membership on the mediation

1 roster for the Illinois Labor Relations Board or Illinois  
2 Educational Labor Relations Board; issuance of at least 5  
3 interest arbitration awards arising under the Illinois  
4 Public Labor Relations Act; and participation in impasse  
5 resolution processes arising under private or public  
6 sector collective bargaining statutes in other states. If  
7 the parties are unable to agree on a fact-finder, the  
8 parties shall request a panel of fact-finders who satisfy  
9 the requirements set forth in this paragraph (2) from  
10 either the Federal Mediation and Conciliation Service or  
11 the American Arbitration Association and shall select a  
12 fact-finder from such panel in accordance with the  
13 procedures established by the organization providing the  
14 panel.

15 (3) The fact-finder shall have the following duties and  
16 powers:

17 (A) to require the parties to submit a statement of  
18 disputed issues and their positions regarding each  
19 issue either jointly or separately;

20 (B) to identify disputed issues that are economic  
21 in nature;

22 (C) to meet with the parties either separately or  
23 in executive sessions;

24 (D) to conduct hearings and regulate the time,  
25 place, course, and manner of the hearings;

26 (E) to request the Board to issue subpoenas



1 requiring the attendance and testimony of witnesses or  
2 the production of evidence;

3 (F) to administer oaths and affirmations;

4 (G) to examine witnesses and documents;

5 (H) to create a full and complete written record of  
6 the hearings;

7 (I) to attempt mediation or remand a disputed issue  
8 to the parties for further collective bargaining;

9 (J) to require the parties to submit final offers  
10 for each disputed issue either individually or as a  
11 package or as a combination of both; and

12 (K) to employ any other measures deemed  
13 appropriate to resolve the impasse.

14 (4) If the dispute is not settled within 75 days after  
15 the appointment of the fact-finding panel, the  
16 fact-finding panel shall issue a private report to the  
17 parties that contains advisory findings of fact and  
18 recommended terms of settlement for all disputed issues and  
19 that sets forth a rationale for each recommendation. The  
20 fact-finding panel, acting by a majority of its members,  
21 shall base its findings and recommendations upon the  
22 following criteria as applicable:

23 (A) the lawful authority of the employer;

24 (B) the federal and State statutes or local  
25 ordinances and resolutions applicable to the employer;

26 (C) prior collective bargaining agreements and the

1 bargaining history between the parties;

2 (D) stipulations of the parties;

3 (E) the interests and welfare of the public and the  
4 students and families served by the employer;

5 (F) the employer's financial ability to fund the  
6 proposals based on existing available resources,  
7 provided that such ability is not predicated on an  
8 assumption that lines of credit or reserve funds are  
9 available or that the employer may or will receive or  
10 develop new sources of revenue or increase existing  
11 sources of revenue;

12 (G) the impact of any economic adjustments on the  
13 employer's ability to pursue its educational mission;

14 (H) the present and future general economic  
15 conditions in the locality and State;

16 (I) a comparison of the wages, hours, and  
17 conditions of employment of the employees involved in  
18 the dispute with the wages, hours, and conditions of  
19 employment of employees performing similar services in  
20 public education in the 10 largest U.S. cities;

21 (J) the average consumer prices in urban areas for  
22 goods and services, which is commonly known as the cost  
23 of living;

24 (K) the overall compensation presently received by  
25 the employees involved in the dispute, including  
26 direct wage compensation; vacations, holidays, and

1 other excused time; insurance and pensions; medical  
2 and hospitalization benefits; the continuity and  
3 stability of employment and all other benefits  
4 received; and how each party's proposed compensation  
5 structure supports the educational goals of the  
6 district;

7 (L) changes in any of the circumstances listed in  
8 items (A) through (K) of this paragraph (4) during the  
9 fact-finding proceedings;

10 (M) the effect that any term the parties are at  
11 impasse on has or may have on the overall educational  
12 environment, learning conditions, and working  
13 conditions with the school district; and

14 (N) the effect that any term the parties are at  
15 impasse on has or may have in promoting the public  
16 policy of this State.

17 (5) The fact-finding panel's recommended terms of  
18 settlement shall be deemed agreed upon by the parties as  
19 the final resolution of the disputed issues and  
20 incorporated into the collective bargaining agreement  
21 executed by the parties, unless either party tenders to the  
22 other party and the chairperson of the fact-finding panel a  
23 notice of rejection of the recommended terms of settlement  
24 with a rationale for the rejection, within 15 days after  
25 the date of issuance of the fact-finding panel's report. If  
26 either party submits a notice of rejection, the chairperson

1 of the fact-finding panel shall publish the fact-finding  
2 panel's report and the notice of rejection for public  
3 information by delivering a copy to all newspapers of  
4 general circulation in the community with simultaneous  
5 written notice to the parties.

6 (b) If, after a period of bargaining of at least 60 days, a  
7 dispute or impasse exists between an educational employer whose  
8 territorial boundaries are coterminous with those of a city  
9 having a population in excess of 500,000 and the exclusive  
10 bargaining representative over a subject or matter set forth in  
11 Section 4.5 of this Act, the parties shall submit the dispute  
12 or impasse to the dispute resolution procedure agreed to  
13 between the parties. The procedure shall provide for mediation  
14 of disputes by a rotating mediation panel and may, at the  
15 request of either party, include the issuance of advisory  
16 findings of fact and recommendations. ~~A dispute or impasse over~~  
17 ~~any Section 4.5 subject shall not be resolved through the~~  
18 ~~procedures set forth in this Act, and the Board, mediator, or~~  
19 ~~fact finder has no jurisdiction over any Section 4.5 subject.~~  
20 ~~The changes made to this subsection (b) by this amendatory Act~~  
21 ~~of the 97th General Assembly are declarative of existing law.~~

22 (c) The costs of fact finding and mediation shall be shared  
23 equally between the employer and the exclusive bargaining  
24 agent, provided that, for purposes of mediation under this Act,  
25 if either party requests the use of mediation services from the  
26 Federal Mediation and Conciliation Service, the other party

1 shall either join in such request or bear the additional cost  
2 of mediation services from another source. All other costs and  
3 expenses of complying with this Section must be borne by the  
4 party incurring them.

5 (c-5) If an educational employer or exclusive bargaining  
6 representative refuses to participate in mediation or fact  
7 finding when required by this Section, the refusal shall be  
8 deemed a refusal to bargain in good faith.

9 (d) Nothing in this Act prevents an employer and an  
10 exclusive bargaining representative from mutually submitting  
11 to final and binding impartial arbitration unresolved issues  
12 concerning the terms of a new collective bargaining agreement.  
13 (Source: P.A. 93-3, eff. 4-16-03; 09700SB0007enr.)

14 (115 ILCS 5/13) (from Ch. 48, par. 1713)

15 Sec. 13. Strikes.

16 (a) Notwithstanding the existence of any other provision in  
17 this Act or other law, educational employees employed in school  
18 districts organized under Article 34 of the School Code shall  
19 not engage in a strike at any time during the 18 month period  
20 that commences on the effective date of this amendatory Act of  
21 1995. An educational employee employed in a school district  
22 organized under Article 34 of the School Code who participates  
23 in a strike in violation of this Section is subject to  
24 discipline by the employer. In addition, no educational  
25 employer organized under Article 34 of the School Code may pay

1 or cause to be paid to an educational employee who participates  
2 in a strike in violation of this subsection any wages or other  
3 compensation for any period during which an educational  
4 employee participates in the strike, except for wages or  
5 compensation earned before participation in the strike.  
6 Notwithstanding the existence of any other provision in this  
7 Act or other law, during the 18-month period that strikes are  
8 prohibited under this subsection nothing in this subsection  
9 shall be construed to require an educational employer to submit  
10 to a binding dispute resolution process.

11 (b) Notwithstanding the existence of any other provision in  
12 this Act or any other law, educational employees other than  
13 those employed in a school district organized under Article 34  
14 of the School Code and, after the expiration of the 18 month  
15 period that commences on the effective date of this amendatory  
16 Act of 1995, educational employees in a school district  
17 organized under Article 34 of the School Code shall not engage  
18 in a strike except under the following conditions:

19 (1) they are represented by an exclusive bargaining  
20 representative;

21 (2) mediation has been used without success and, if  
22 an impasse has been declared under subsection (a-5) of  
23 Section 12 of this Act, at least 14 days have elapsed after  
24 the mediator has made public the final offers;

25 (2.5) if fact-finding was invoked pursuant to  
26 subsection (a-10) of Section 12 of this Act, at least 30

1 days have elapsed after a fact-finding report has been  
2 released for public information;

3 (2.10) for educational employees employed in a school  
4 district organized under Article 34 of the School Code, at  
5 least three-fourths of all bargaining unit employees who  
6 are members of the exclusive bargaining representative  
7 have affirmatively voted to authorize the strike;  
8 provided, however, that all members of the exclusive  
9 bargaining representative at the time of a strike  
10 authorization vote shall be eligible to vote;

11 (3) at least 10 days have elapsed after a notice of  
12 intent to strike has been given by the exclusive bargaining  
13 representative to the educational employer, the regional  
14 superintendent and the Illinois Educational Labor  
15 Relations Board;

16 (4) the collective bargaining agreement between the  
17 educational employer and educational employees, if any,  
18 has expired or been terminated; and

19 (5) the employer and the exclusive bargaining  
20 representative have not mutually submitted the unresolved  
21 issues to arbitration.

22 If, however, in the opinion of an employer the strike is or  
23 has become a clear and present danger to the health or safety  
24 of the public, the employer may initiate in the circuit court  
25 of the county in which such danger exists an action for relief  
26 which may include, but is not limited to, injunction. The court

1 may grant appropriate relief upon the finding that such clear  
2 and present danger exists. An unfair practice or other evidence  
3 of lack of clean hands by the educational employer is a defense  
4 to such action. Except as provided for in this paragraph, the  
5 jurisdiction of the court under this Section is limited by the  
6 Labor Dispute Act.

7 (Source: P.A. 89-15, eff. 5-30-95; 90-548, eff. 1-1-98;  
8 09700SB0007enr.)

9 Section 99. Effective date. This Act takes effect upon  
10 becoming law or on the effective date of Senate Bill 7 of the  
11 97th General Assembly, whichever is later."