

SB3776



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

SB3776

Introduced 2/10/2012, by Sen. Matt Murphy

SYNOPSIS AS INTRODUCED:

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

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

LRB097 19782 JDS 65049 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning government.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 (1) The lawful authority of the employer.

26 (2) Stipulations of the parties.

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

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

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

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

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

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

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

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

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

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

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

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

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

1 Act 90-385.

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

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

1 of arbitration.

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

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

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

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

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

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

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

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

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

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