

SB1830



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

SB1830

Introduced 2/15/2013, by Sen. Emil Jones, III

SYNOPSIS AS INTRODUCED:

5 ILCS 315/12
5 ILCS 315/14

from Ch. 48, par. 1612
from Ch. 48, par. 1614

Amends the Illinois Public Labor Relations Act. Specifies that the Illinois Labor Relations Board has no duty (i) to promulgate regulations setting compensation levels for members on its mediation roster or (ii) to establish procedures for suspension or dismissal of mediators for good cause shown following hearing. Deletes a provision requiring the Board to establish in advance what the expense of proceedings will be for security employee, peace officer, and fire fighter arbitrations.

LRB098 08153 JDS 38246 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 12 and 14 as follows:

6 (5 ILCS 315/12) (from Ch. 48, par. 1612)

7 Sec. 12. Mediation.

8 (a) The State and Local Panels in joint session shall
9 establish a Public Employees Mediation Roster, the services of
10 which shall be available to public employers and to labor
11 organizations upon request of the parties for the purposes of
12 mediation of grievances or contract disputes. Upon the request
13 of either party, services of the Public Employees Mediation
14 Roster shall be available for purposes of arbitrating disputes
15 over interpretation or application of the terms of an agreement
16 pursuant to Section 8. The members of the Roster shall be
17 appointed by majority vote of the members of both panels.
18 Members shall be impartial, competent, and reputable citizens
19 of the United States, residents of the State of Illinois, and
20 shall qualify by taking and subscribing to the constitutional
21 oath or affirmation of office. The function of the mediator
22 shall be to communicate with the employer and exclusive
23 representative or their representatives and to endeavor to

1 bring about an amicable and voluntary settlement. Compensation
2 of Roster members for services performed as mediators shall be
3 paid equally by the parties to a mediated labor dispute. The
4 Board shall have authority but not the obligation to promulgate
5 regulations setting compensation levels for members of the
6 Roster, and establishing procedures for suspension or
7 dismissal of mediators for good cause shown following hearing.

8 (b) A mediator in a mediated labor dispute shall be
9 selected by the Board from among the members of the Roster.

10 (c) Nothing in this Act or any other law prohibits the use
11 of other mediators selected by the parties for the resolution
12 of disputes over interpretation or application of the terms or
13 conditions of the collective bargaining agreements between a
14 public employer and a labor organization.

15 (d) If requested by the parties to a labor dispute, a
16 mediator may perform fact-finding as set forth in Section 13.

17 (Source: P.A. 91-798, eff. 7-9-00.)

18 (5 ILCS 315/14) (from Ch. 48, par. 1614)

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

21 (a) In the case of collective bargaining agreements
22 involving units of security employees of a public employer,
23 Peace Officer Units, or units of fire fighters or paramedics,
24 and in the case of disputes under Section 18, unless the
25 parties mutually agree to some other time limit, mediation

1 shall commence 30 days prior to the expiration date of such
2 agreement or at such later time as the mediation services
3 chosen under subsection (b) of Section 12 can be provided to
4 the parties. In the case of negotiations for an initial
5 collective bargaining agreement, mediation shall commence upon
6 15 days notice from either party or at such later time as the
7 mediation services chosen pursuant to subsection (b) of Section
8 12 can be provided to the parties. In mediation under this
9 Section, if either party requests the use of mediation services
10 from the Federal Mediation and Conciliation Service, the other
11 party shall either join in such request or bear the additional
12 cost of mediation services from another source. The mediator
13 shall have a duty to keep the Board informed on the progress of
14 the mediation. If any dispute has not been resolved within 15
15 days after the first meeting of the parties and the mediator,
16 or within such other time limit as may be mutually agreed upon
17 by the parties, either the exclusive representative or employer
18 may request of the other, in writing, arbitration, and shall
19 submit a copy of the request to the Board.

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

26 (c) Within 7 days after the request of either party, the

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

1 the first name. If the parties fail to notify the Board in a
2 timely manner of their selection for neutral chairman, the
3 Board shall appoint a neutral chairman from the Illinois Public
4 Employees Mediation/Arbitration Roster.

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

1 Majority actions and rulings shall constitute the actions and
2 rulings of the arbitration panel. Arbitration proceedings
3 under this Section shall not be interrupted or terminated by
4 reason of any unfair labor practice charge filed by either
5 party at any time.

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

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

1 the Board of the remand.

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

22 (h) Where there is no agreement between the parties, or
23 where there is an agreement but the parties have begun
24 negotiations or discussions looking to a new agreement or
25 amendment of the existing agreement, and wage rates or other
26 conditions of employment under the proposed new or amended

1 agreement are in dispute, the arbitration panel shall base its
2 findings, opinions and order upon the following factors, as
3 applicable:

4 (1) The lawful authority of the employer.

5 (2) Stipulations of the parties.

6 (3) The interests and welfare of the public and the
7 financial ability of the unit of government to meet those
8 costs.

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

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

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

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

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

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

1 (8) Such other factors, not confined to the foregoing,
2 which are normally or traditionally taken into
3 consideration in the determination of wages, hours and
4 conditions of employment through voluntary collective
5 bargaining, mediation, fact-finding, arbitration or
6 otherwise between the parties, in the public service or in
7 private employment.

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

1 construed to limit the factors upon which the decision may be
2 based, as set forth in subsection (h).

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

26 The changes to this subsection (i) made by Public Act

1 90-385 (relating to residency requirements) do not apply to
2 persons who are employed by a combined department that performs
3 both police and firefighting services; these persons shall be
4 governed by the provisions of this subsection (i) relating to
5 peace officers, as they existed before the amendment by Public
6 Act 90-385.

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

12 (j) Arbitration procedures shall be deemed to be initiated
13 by the filing of a letter requesting mediation as required
14 under subsection (a) of this Section. The commencement of a new
15 municipal fiscal year after the initiation of arbitration
16 procedures under this Act, but before the arbitration decision,
17 or its enforcement, shall not be deemed to render a dispute
18 moot, or to otherwise impair the jurisdiction or authority of
19 the arbitration panel or its decision. Increases in rates of
20 compensation awarded by the arbitration panel may be effective
21 only at the start of the fiscal year next commencing after the
22 date of the arbitration award. If a new fiscal year has
23 commenced either since the initiation of arbitration
24 procedures under this Act or since any mutually agreed
25 extension of the statutorily required period of mediation under
26 this Act by the parties to the labor dispute causing a delay in

1 the initiation of arbitration, the foregoing limitations shall
2 be inapplicable, and such awarded increases may be retroactive
3 to the commencement of the fiscal year, any other statute or
4 charter provisions to the contrary, notwithstanding. At any
5 time the parties, by stipulation, may amend or modify an award
6 of arbitration.

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

1 (1) During the pendency of proceedings before the
2 arbitration panel, existing wages, hours, and other conditions
3 of employment shall not be changed by action of either party
4 without the consent of the other but a party may so consent
5 without prejudice to his rights or position under this Act. The
6 proceedings are deemed to be pending before the arbitration
7 panel upon the initiation of arbitration procedures under this
8 Act.

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

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

18 The governing body shall review each term decided by the
19 arbitration panel. If the governing body fails to reject one or
20 more terms of the arbitration panel's decision by a 3/5 vote of
21 those duly elected and qualified members of the governing body,
22 within 20 days of issuance, or in the case of firefighters
23 employed by a state university, at the next regularly scheduled
24 meeting of the governing body after issuance, such term or
25 terms shall become a part of the collective bargaining
26 agreement of the parties. If the governing body affirmatively

1 rejects one or more terms of the arbitration panel's decision,
2 it must provide reasons for such rejection with respect to each
3 term so rejected, within 20 days of such rejection and the
4 parties shall return to the arbitration panel for further
5 proceedings and issuance of a supplemental decision with
6 respect to the rejected terms. Any supplemental decision by an
7 arbitration panel or other decision maker agreed to by the
8 parties shall be submitted to the governing body for
9 ratification and adoption in accordance with the procedures and
10 voting requirements set forth in this Section. The voting
11 requirements of this subsection shall apply to all disputes
12 submitted to arbitration pursuant to this Section
13 notwithstanding any contrary voting requirements contained in
14 any existing collective bargaining agreement between the
15 parties.

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

24 (p) Notwithstanding the provisions of this Section the
25 employer and exclusive representative may agree to submit
26 unresolved disputes concerning wages, hours, terms and

1 conditions of employment to an alternative form of impasse
2 resolution.

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