

HB3993



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB3993

Introduced 2/26/2009, by Rep. Darlene J. Senger

SYNOPSIS AS INTRODUCED:

5 ILCS 315/14

from Ch. 48, par. 1614

Amends the Illinois Public Labor Relations Act. Requires an arbitration panel to fully consider the statutory factors upon which it must base its findings, opinions, and orders during the dispute of a new or amended security labor agreement's wage rates or other employment conditions. Specifies the bases for the statutory factor of the unit of government's financial ability to meet costs.

LRB096 08547 JAM 18668 b

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 Section 14 as follows:

6 (5 ILCS 315/14) (from Ch. 48, par. 1614)

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

9 (a) In the case of collective bargaining agreements
10 involving units of security employees of a public employer,
11 Peace Officer Units, or units of fire fighters or paramedics,
12 and in the case of disputes under Section 18, unless the
13 parties mutually agree to some other time limit, mediation
14 shall commence 30 days prior to the expiration date of such
15 agreement or at such later time as the mediation services
16 chosen under subsection (b) of Section 12 can be provided to
17 the parties. In the case of negotiations for an initial
18 collective bargaining agreement, mediation shall commence upon
19 15 days notice from either party or at such later time as the
20 mediation services chosen pursuant to subsection (b) of Section
21 12 can be provided to the parties. In mediation under this
22 Section, if either party requests the use of mediation services
23 from the Federal Mediation and Conciliation Service, the other

1 party shall either join in such request or bear the additional
2 cost of mediation services from another source. The mediator
3 shall have a duty to keep the Board informed on the progress of
4 the mediation. If any dispute has not been resolved within 15
5 days after the first meeting of the parties and the mediator,
6 or within such other time limit as may be mutually agreed upon
7 by the parties, either the exclusive representative or employer
8 may request of the other, in writing, arbitration, and shall
9 submit a copy of the request to the Board.

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

16 (c) Within 7 days of the request of either party, the Board
17 shall select from the Public Employees Labor Mediation Roster 7
18 persons who are on the labor arbitration panels of either the
19 American Arbitration Association or the Federal Mediation and
20 Conciliation Service, or who are members of the National
21 Academy of Arbitrators, as nominees for impartial arbitrator of
22 the arbitration panel. The parties may select an individual on
23 the list provided by the Board or any other individual mutually
24 agreed upon by the parties. Within 7 days following the receipt
25 of the list, the parties shall notify the Board of the person
26 they have selected. Unless the parties agree on an alternate

1 selection procedure, they shall alternatively strike one name
2 from the list provided by the Board until only one name
3 remains. A coin toss shall determine which party shall strike
4 the first name. If the parties fail to notify the Board in a
5 timely manner of their selection for neutral chairman, the
6 Board shall appoint a neutral chairman from the Illinois Public
7 Employees Mediation/Arbitration Roster.

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

1 conducted by the arbitration panel may be adjourned from time
2 to time, but unless otherwise agreed by the parties, shall be
3 concluded within 30 days of the time of its commencement.
4 Majority actions and rulings shall constitute the actions and
5 rulings of the arbitration panel. Arbitration proceedings
6 under this Section shall not be interrupted or terminated by
7 reason of any unfair labor practice charge filed by either
8 party at any time.

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

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

1 further collective bargaining the time provisions of this Act
2 shall be extended for a time period equal to that of the
3 remand. The chairman of the panel of arbitration shall notify
4 the Board of the remand.

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

25 (h) Where there is no agreement between the parties, or
26 where there is an agreement but the parties have begun

1 negotiations or discussions looking to a new agreement or
2 amendment of the existing agreement, and wage rates or other
3 conditions of employment under the proposed new or amended
4 agreement are in dispute, the arbitration panel shall fully
5 consider and base its findings, opinions and order upon the
6 following factors, as applicable:

7 (1) The lawful authority of the employer.

8 (2) Stipulations of the parties.

9 (3) The interests and welfare of the public and the
10 financial ability of the unit of government to meet those
11 costs, based upon current tax levels and budget
12 considerations, including current budget shortfalls,
13 pension funding obligations, increased benefit costs, and
14 proportionality of past wage increases to these budgetary
15 considerations, without regard to the ability of the unit
16 of government to further increase tax levels.

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, covered by this Section may not withhold
20 services, nor may public employers lock out or prevent such
21 employees from performing services at any time.

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

26 The governing body shall review each term decided by the

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

24 (o) If the governing body of the employer votes to reject
25 the panel's decision, the parties shall return to the panel
26 within 30 days from the issuance of the reasons for rejection

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

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

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