1 AN ACT concerning government.

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

- Section 5. The Illinois Public Labor Relations Act is amended by changing Sections 11 and 14 and by adding Section
- 6 11.5 as follows:

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- 7 (5 ILCS 315/11) (from Ch. 48, par. 1611)
- 8 Sec. 11. Unfair labor practice procedures. Unfair labor 9 practices may be dealt with by the Board in the following 10 manner:
 - (a) Whenever it is charged that any person has engaged in or is engaging in any unfair labor practice, the Board or any agent designated by the Board for such purposes, shall conduct an investigation of the charge. If after such investigation the Board finds that the charge involves a dispositive issue of law or fact the Board shall issue a complaint and cause to be served upon the person a complaint stating the charges, accompanied by a notice of hearing before the Board or a member thereof designated by the Board, or before a qualified hearing officer designated by the Board at the offices of the Board or such other location as the Board deems appropriate, not less than 5 days after serving of such complaint provided that no complaint shall issue based upon any unfair labor practice

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occurring more than six months prior to the filing of a charge with the Board and the service of a copy thereof upon the person against whom the charge is made, unless the person aggrieved thereby did not reasonably have knowledge of the alleged unfair labor practice or was prevented from filing such a charge by reason of service in the armed forces, in which event the six month period shall be computed from the date of his discharge. Any such complaint may be amended by the member or hearing officer conducting the hearing for the Board in his discretion at any time prior to the issuance of an order based thereon. The person who is the subject of the complaint has the right to file an answer to the original or amended complaint and to appear in person or by a representative and give testimony at the place and time fixed in the complaint. In the discretion of the member or hearing officer conducting the hearing or the Board, any other person may be allowed to intervene in the proceeding and to present testimony. In any hearing conducted by the Board, neither the Board nor the member or agent conducting the hearing shall be bound by the rules of evidence applicable to courts, except as to the rules of privilege recognized by law.

(b) The Board shall have the power to issue subpoenas and administer oaths. If any party wilfully fails or neglects to appear or testify or to produce books, papers and records pursuant to the issuance of a subpoena by the Board, the Board may apply to a court of competent jurisdiction to request that

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such party be ordered to appear before the Board to testify or produce the requested evidence.

Any testimony taken by the Board, or a member designated by the Board or a hearing officer thereof, must be reduced to writing and filed with the Board. A full and complete record shall be kept of all proceedings before the Board, and all proceedings shall be transcribed by a reporter appointed by the Board. The party on whom the burden of proof shall be required to sustain such burden by a rests preponderance of the evidence. If, upon a preponderance of the evidence taken, the Board is of the opinion that any person named in the charge has engaged in or is engaging in an unfair labor practice, then it shall state its findings of fact and shall issue and cause to be served upon the person an order requiring him to cease and desist from the unfair labor practice, and to take such affirmative action, including reinstatement of public employees with or without back pay, as will effectuate the policies of this Act. If the Board awards back pay, it shall also award interest at the rate of 7% per annum. The Board's order may further require the person to make reports from time to time, and demonstrate the extent to which he has complied with the order. If there is no preponderance of evidence to indicate to the Board that the person named in the charge has engaged in or is engaging in the unfair labor practice, then the Board shall state its findings of fact and shall issue an order dismissing the complaint. The

1 mav in its discretion also include Board's order an sanction, 2 based on the Board's rules appropriate and regulations, and the sanction may include an order to pay the 3 4 other party or parties' reasonable expenses including costs 5 and reasonable attorney's fee, if the other party has made 6 allegations or denials without reasonable cause and found to be untrue or has engaged in frivolous litigation for the 7 8 purpose of delay or needless increase in the cost of 9 litigation; the State of Illinois or any agency thereof shall 10 be subject to the provisions of this sentence in the same 11 manner as any other party. The Board shall determine whether a 12 violation of paragraph (4) of subsection (a) of Section 10 was 13 of a serious enough nature that it may have frustrated the 14 purposes of this Act by undermining or significantly impacting the collective bargaining process such that other traditional 15 16 remedies may not remedy the violation if the Board is unable to 17 order a make-whole remedy. Reasons for such a determination include the passage of time, that the violation was of a nature 18 19 that could undermine support for a labor organization, or that 20 the violation may otherwise undermine the labor organization's 21 bargaining strength. Should the Board make such a 22 determination that the violation frustrated the purposes of 23 this Act, the Board shall include the availability of interest 24 arbitration in its order and, upon request of the charging 25 party, the parties must participate in the impasse arbitration procedures set forth in Section 14, except that: (i) the right 26

- to strike shall not be considered waived pursuant to Section

 17 until the actual convening of the arbitration hearing and

 (ii) the commencement of a new fiscal year shall not be deemed

 to impair the jurisdiction or authority of the arbitration

 panel or its decision. The parties continue to have a duty to

 engage in good faith bargaining during the pendency of impasse

 arbitration procedures.
 - (d) Until the record in a case has been filed in court, the Board at any time, upon reasonable notice and in such manner as it deems proper, may modify or set aside, in whole or in part, any finding or order made or issued by it.
 - (e) A charging party or any person aggrieved by a final order of the Board granting or denying in whole or in part the relief sought may apply for and obtain judicial review of an order of the Board entered under this Act, in accordance with the provisions of the Administrative Review Law, as now or hereafter amended, except that such judicial review shall be afforded directly in the appellate court for the district in which the aggrieved party resides or transacts business, and provided, that such judicial review shall not be available for the purpose of challenging a final order issued by the Board pursuant to Section 9 of this Act for which judicial review has been petitioned pursuant to subsection (i) of Section 9. Any direct appeal to the Appellate Court shall be filed within 35 days from the date that a copy of the decision sought to be reviewed was served upon the party affected by the decision.

- The filing of such an appeal to the Appellate Court shall not automatically stay the enforcement of the Board's order. An aggrieved party may apply to the Appellate Court for a stay of the enforcement of the Board's order after the aggrieved party has followed the procedure prescribed by Supreme Court Rule 335. The Board in proceedings under this Section may obtain an order of the court for the enforcement of its order.
- (f) Whenever it appears that any person has violated a final order of the Board issued pursuant to this Section, the Board must commence an action in the name of the People of the State of Illinois by petition, alleging the violation, attaching a copy of the order of the Board, and praying for the issuance of an order directing the person, his officers, agents, servants, successors, and assigns to comply with the order of the Board. The Board shall be represented in this action by the Attorney General in accordance with the Attorney General Act. The court may grant or refuse, in whole or in part, the relief sought, provided that the court may stay an order of the Board in accordance with the Administrative Review Law, pending disposition of the proceedings. The court may punish a violation of its order as in civil contempt.
- (g) The proceedings provided in paragraph (f) of this Section shall be commenced in the Appellate Court for the district where the unfair labor practice which is the subject of the Board's order was committed, or where a person required to cease and desist by such order resides or transacts

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- 2 (h) The Board through the Attorney General, shall have 3 power, upon issuance of an unfair labor practice complaint alleging that a person has engaged in or is engaging in an 5 unfair labor practice, to petition the circuit court where the alleged unfair labor practice which is the subject of the 6 Board's complaint was allegedly committed, or where a person 7 8 required to cease and desist from such alleged unfair labor 9 practice resides or transacts business, for appropriate 10 temporary relief or restraining order. Upon the filing of any 11 such petition, the court shall cause notice thereof to be 12 and thereupon shall served upon such persons, 13 jurisdiction to grant to the Board such temporary relief or 14 restraining order as it deems just and proper.
 - (i) If an unfair labor practice charge involves the interpretation or application of a collective bargaining agreement and said agreement contains a grievance procedure with binding arbitration as its terminal step, the Board may defer the resolution of such dispute to the grievance and arbitration procedure contained in said agreement.
- 21 (Source: P.A. 100-516, eff. 9-22-17.)
- 22 (5 ILCS 315/11.5 new)
- Sec. 11.5. Make-whole relief.
- 24 <u>(a) The Board may order make-whole relief, including, but</u>
 25 not limited to, consequential damages and front pay for

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- injuries suffered by employees or a labor organization as a 1 2 result of an unfair labor practice. In determining appropriate 3 relief for a violation of paragraph (4) of subsection (a) of Section 10 serious enough to have frustrated the purposes of 4 5 the Act and that may have undermined or significantly impacted the collective bargaining process, the Board shall take into 6 7 consideration factors that normally determine the outcome of 8 collective bargaining when such bargaining has been conducted 9 in good faith.
 - (b) Violators of subsection (a) of Section 10 shall also be subject to liquidated damages in an amount equal to any monetary make-whole relief ordered by the Board unless the employer can show it acted in good faith and had reasonable grounds to believe it was acting in compliance with this Act.
- 15 (5 ILCS 315/14) (from Ch. 48, par. 1614)
- 16 Sec. 14. Security employee, peace officer and fire fighter disputes. 17
- In the case of collective bargaining agreements 18 involving units of security employees of a public employer, 19 20 Peace Officer Units, or units of fire fighters or paramedics, 21 and in the case of disputes under Sections 11 and Section 18, 22 unless the parties mutually agree to some other time limit, mediation shall commence 30 days prior to the expiration date 23 24 of such agreement or at such later time as the mediation services chosen under subsection (b) of Section 12 can be 25

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

- (b) Within 10 days after such a request for arbitration has been made, the employer shall choose a delegate and the employees' exclusive representative shall choose a delegate to a panel of arbitration as provided in this Section. The employer and employees shall forthwith advise the other and the Board of their selections.
- (c) Within 7 days after the request of either party, the parties shall request a panel of impartial arbitrators from which they shall select the neutral chairman according to the

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

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- neutral chairman, the Board shall appoint a neutral chairman from the Illinois Public Employees Mediation/Arbitration Roster.
 - (d) The chairman shall call a hearing to begin within 15 days and give reasonable notice of the time and place of the hearing. The hearing shall be held at the offices of the Board or at such other location as the Board deems appropriate. The chairman shall preside over the hearing and shall take testimony. Any oral or documentary evidence and other data deemed relevant by the arbitration panel may be received in evidence. The proceedings shall be informal. Technical rules of evidence shall not apply and the competency of the evidence shall not thereby be deemed impaired. A verbatim record of the proceedings shall be made and the arbitrator shall arrange for the necessary recording service. Transcripts may be ordered at the expense of the party ordering them, but the transcripts shall not be necessary for a decision by the arbitration panel. The expense of the proceedings, including a fee for the chairman, shall be borne equally by each of the parties to the dispute. The delegates, if public officers or employees, shall continue on the payroll of the public employer without loss of pay. The hearing conducted by the arbitration panel may be adjourned from time to time, but unless otherwise agreed by the parties, shall be concluded within 30 days of the time of commencement. Majority actions and rulings constitute the actions and rulings of the arbitration panel.

- Arbitration proceedings under this Section shall not be interrupted or terminated by reason of any unfair labor practice charge filed by either party at any time.
 - (e) The arbitration panel may administer oaths, require the attendance of witnesses, and the production of such books, papers, contracts, agreements and documents as may be deemed by it material to a just determination of the issues in dispute, and for such purpose may issue subpoenas. If any person refuses to obey a subpoena, or refuses to be sworn or to testify, or if any witness, party or attorney is guilty of any contempt while in attendance at any hearing, the arbitration panel may, or the attorney general if requested shall, invoke the aid of any circuit court within the jurisdiction in which the hearing is being held, which court shall issue an appropriate order. Any failure to obey the order may be punished by the court as contempt.
 - (f) At any time before the rendering of an award, the chairman of the arbitration panel, if he is of the opinion that it would be useful or beneficial to do so, may remand the dispute to the parties for further collective bargaining for a period not to exceed 2 weeks. If the dispute is remanded for further collective bargaining the time provisions of this Act shall be extended for a time period equal to that of the remand. The chairman of the panel of arbitration shall notify the Board of the remand.
 - (g) At or before the conclusion of the hearing held

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pursuant to subsection (d), the arbitration panel shall identify the economic issues in dispute, and direct each of the parties to submit, within such time limit as the panel shall prescribe, to the arbitration panel and to each other its last offer of settlement on each economic issue. The determination of the arbitration panel as to the issues in dispute and as to which of these issues are economic shall be conclusive. The arbitration panel, within 30 days after the conclusion of the hearing, or such further additional periods to which the parties may agree, shall make written findings of fact and promulgate a written opinion and shall mail or otherwise deliver a true copy thereof to the parties and their representatives and to the Board. As to each economic issue, the arbitration panel shall adopt the last offer of settlement which, in the opinion of the arbitration panel, more nearly complies with the applicable factors prescribed in subsection (h). The findings, opinions and order as to all other issues shall be based upon the applicable factors prescribed in subsection (h).

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

1 applicable:

- 2 (1) The lawful authority of the employer.
- 3 (2) Stipulations of the parties.
 - (3) The interests and welfare of the public and the financial ability of the unit of government to meet those costs.
 - (4) Comparison of the wages, hours and conditions of employment of the employees involved in the arbitration proceeding with the wages, hours and conditions of employment of other employees performing similar services and with other employees generally:
 - (A) In public employment in comparable communities.
 - (B) In private employment in comparable communities.
 - (5) The average consumer prices for goods and services, commonly known as the cost of living.
 - (6) The overall compensation presently received by the employees, including direct wage compensation, vacations, holidays and other excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment and all other benefits received.
 - (7) Changes in any of the foregoing circumstances during the pendency of the arbitration proceedings.
 - (8) Such other factors, not confined to the foregoing, which are normally or traditionally taken into

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consideration in the determination of wages, hours and conditions of employment through voluntary collective bargaining, mediation, fact-finding, arbitration or otherwise between the parties, in the public service or in private employment.

In the case of peace officers, the arbitration decision shall be limited to wages, hours, and conditions of employment (which may include residency requirements municipalities with a population under 100,000, but those residency requirements shall not allow residency outside of Illinois) and shall not include the following: i) residency requirements in municipalities with a population of at least 100,000; ii) the type of equipment, other than uniforms, issued or used; iii) manning; iv) the total number of employees employed by the department; v) mutual aid and assistance agreements to other units of government; and vi) the criterion pursuant to which force, including deadly force, can be used; provided, nothing herein shall preclude an arbitration decision regarding equipment or manning levels if such decision is based on a finding that the equipment or manning considerations in a specific work assignment involve a serious risk to the safety of a peace officer beyond that which is inherent in the normal performance of police duties. Limitation of the terms of the arbitration decision pursuant to this subsection shall not be construed to limit the factors upon which the decision may be based, as set forth in

subsection (h).

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

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

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

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

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

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- foregoing limitations shall be inapplicable, and such awarded increases may be retroactive to the commencement of the fiscal year, any other statute or charter provisions to the contrary, notwithstanding. At any time the parties, by stipulation, may amend or modify an award of arbitration.
- (k) Orders of the arbitration panel shall be reviewable, upon appropriate petition by either the public employer or the exclusive bargaining representative, by the circuit court for the county in which the dispute arose or in which a majority of the affected employees reside, but only for reasons that the arbitration panel was without or exceeded its statutory authority; the order is arbitrary, or capricious; or the order was procured by fraud, collusion or other similar and unlawful means. Such petitions for review must be filed with the appropriate circuit court within 90 days following issuance of the arbitration order. The pendency of such proceeding for review shall not automatically stay the order of the arbitration panel. The party against whom the final decision of any such court shall be adverse, if such court finds such appeal or petition to be frivolous, shall pay reasonable attorneys' fees and costs to the successful party as determined by said court in its discretion. If said court's decision affirms the award of money, such retroactive, shall bear interest at the rate of 12 percent per annum from the effective retroactive date.
 - (1) During the pendency of proceedings before the

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- arbitration panel, existing wages, hours, and other conditions 1 2 of employment shall not be changed by action of either party without the consent of the other but a party may so consent 3 without prejudice to his rights or position under this Act. 5 proceedings are deemed to be pending before the 6 arbitration panel upon the initiation of arbitration 7 procedures under this Act.
 - (m) Security officers of public employers, and Peace Officers, Fire Fighters and fire department and fire protection district paramedics, covered by this Section may not withhold services, nor may public employers lock out or prevent such employees from performing services at any time.
 - (n) All of the terms decided upon by the arbitration panel shall be included in an agreement to be submitted to the public employer's governing body for ratification and adoption by law, ordinance or the equivalent appropriate means.

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

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

- (o) If the governing body of the employer votes to reject the panel's decision, the parties shall return to the panel within 30 days from the issuance of the reasons for rejection for further proceedings and issuance of a supplemental decision. All reasonable costs of such supplemental proceeding including the exclusive representative's reasonable attorney's fees, as established by the Board, shall be paid by the employer.
- (p) Notwithstanding the provisions of this Section the employer and exclusive representative may agree to submit unresolved disputes concerning wages, hours, terms and conditions of employment to an alternative form of impasse

- 1 resolution.
- 2 The amendatory changes to this Section made by Public Act
- 101-652 take effect July 1, 2022. 3
- (Source: P.A. 101-652, eff. 7-1-21; 102-28, eff. 6-25-21.)