



**94TH GENERAL ASSEMBLY**  
**State of Illinois**  
**2005 and 2006**  
**SB1791**

Introduced 2/25/2005, by Sen. Martin A. Sandoval

**SYNOPSIS AS INTRODUCED:**

New Act

Creates the Illinois Labor Relations Act. Applies to employees other than: employees who are subject to the National Labor Relations Act or the Railway Labor Act; employees who are managerial employees, confidential employees, or supervisors; and employees of employers to whom the Act does not apply (and provides that the Act does not apply to State officers and agencies, units of local government, school districts, and other public entities). Provides that the State Panel of the Illinois Labor Relations Board shall administer and enforce the Act. Prohibits specified unfair labor practices. Provides that an employer and the exclusive representative of a unit of employees to whom the Act applies have the duty to bargain collectively. Provides for: dues deduction and fair share fees; unfair labor practice procedures; elections to determine exclusive representatives; disputes; enforcement (including administrative actions and actions in the circuit court and appellate court); rulemaking; enforcement of contracts; and other matters.

LRB094 07007 WGH 37131 b

FISCAL NOTE ACT  
MAY APPLY

1 AN ACT concerning employment.

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

4 Section 1. Short title. This Act may be cited as the  
5 Illinois Labor Relations Act.

6 Section 5. Policy. It is the public policy of the State of  
7 Illinois to grant all employees full freedom of association,  
8 self-organization, and designation of employee representatives  
9 of their own choosing for the purposes of negotiating wages,  
10 hours, and other conditions of employment or other mutual aid  
11 or protection.

12 It is the purpose of this Act to prescribe the legitimate  
13 rights of both employees and employers, including the  
14 designation of employee representatives and negotiation of  
15 wages, hours, and other terms and conditions of employment.

16 It is the purpose of this Act to prescribe the legitimate  
17 rights of both employees and employers, to protect the public  
18 health and safety of the citizens of Illinois, and to provide  
19 peaceful and orderly procedures for protection of the rights of  
20 all.

21 Section 10. Definitions. As used in this Act, unless the  
22 context otherwise requires:

23 (a) "Board" means the State Panel of the Illinois Labor  
24 Relations Board as defined in Section 5 of the Illinois Public  
25 Labor Relations Act.

26 (b) "Collective bargaining" means bargaining over terms  
27 and conditions of employment, including wages, hours and other  
28 conditions of employment.

29 (c) "Confidential employee" means an employee who, in the  
30 regular course of his or her duties, assists and acts in a  
31 confidential capacity to persons who formulate, determine, and

1 effectuate management policies with regard to labor relations  
2 or who, in the regular course of his or her duties, has  
3 authorized access to information relating to the effectuation  
4 or review of the employer's collective bargaining policies.

5 (d) "Craft employees" means skilled journeymen, crafts  
6 persons, and their apprentices and helpers.

7 (e) "Employee" means any individual employed by an  
8 employer, and shall not be limited to the employees of a  
9 particular employer, unless this Act explicitly states  
10 otherwise, and shall include any individual whose work has  
11 ceased as a consequence of, or in connection with, any current  
12 labor dispute or because of any unfair labor practice.  
13 "Employee" does not include any individual who is employed by  
14 any person who does not meet the definition of "employer" as  
15 defined in this Act and does not include any individual who is  
16 subject to the protections of the National Labor Relations Act  
17 (29 U.S.C. 151 et seq.) or the Railway Labor Act (45 U.S.C. 151  
18 et seq.). "Employee" also does not include managerial  
19 employees, confidential employees, or supervisors as defined  
20 in this Act.

21 (f) "Employer" means any individual, partnership,  
22 association, corporation, business, trust, person, or entity  
23 for whom employees are gainfully employed in Illinois.  
24 "Employer" includes any person acting on behalf of or in the  
25 interest of an employer, directly or indirectly, with or  
26 without his or her knowledge, but does not include the State of  
27 Illinois, any political subdivision of the State, any State  
28 officer or State department or agency, any unit of local  
29 government, any school district, any authorities, including  
30 departments, divisions, bureaus, boards, commissions, or other  
31 agencies of the foregoing entities, or any other public entity.

32 (g) "Exclusive representative" means the labor  
33 organization that has been designated by the Board as the  
34 representative of a majority of employees in an appropriate  
35 bargaining unit in accordance with the procedures contained in  
36 this Act.

1 (h) "Fair share agreement" means an agreement between the  
2 employer and a labor organization under which all or any of the  
3 employees in a collective bargaining unit are required to pay  
4 their proportionate share of the costs of the collective  
5 bargaining process, contract administration, and pursuit of  
6 matters affecting wages, hours, and other conditions of  
7 employment, but not to exceed the amount of dues uniformly  
8 required of members. The amount certified by the exclusive  
9 representative shall not include any fees for contributions  
10 related to the election or support of any candidate for  
11 political office. Nothing in this subsection (h) shall preclude  
12 an employee from making voluntary political contributions in  
13 conjunction with his or her fair share payment.

14 (i) "Labor organization" means any organization in which  
15 employees participate and that exists for the purpose, in whole  
16 or in part, of dealing with an employer concerning wages,  
17 hours, and other terms and conditions of employment, including  
18 the settlement of grievances.

19 (j) "Managerial employee" means an individual who is  
20 engaged predominantly in executive and management functions  
21 and is charged with the responsibility of directing the  
22 effectuation of management policies and practices.

23 (k) "Person" includes one or more individuals, labor  
24 organizations (other than when acting as an employer),  
25 employees, associations, corporations, partnerships, legal  
26 representatives, trustees, trustees in bankruptcy, and  
27 receivers.

28 (l) "Professional employee" means any employee engaged in  
29 work predominantly intellectual and varied in character rather  
30 than routine mental, manual, mechanical, or physical work;  
31 involving the consistent exercise of discretion and adjustment  
32 in its performance; of such a character that the output  
33 produced or the result accomplished cannot be standardized in  
34 relation to a given period of time; and requiring advanced  
35 knowledge in a field of science or learning customarily  
36 acquired by a prolonged course of specialized intellectual

1 instruction and study in an institution of higher learning or a  
2 hospital, as distinguished from a general academic education or  
3 from apprenticeship or from training in the performance of  
4 routine mental, manual, or physical processes; or any employee  
5 who has completed the courses of specialized intellectual  
6 instruction and study prescribed in this subsection (l) and is  
7 performing related work under the supervision of a professional  
8 person to qualify to become a professional employee as defined  
9 in this subsection (l).

10 (m) "Supervisor" means an employee whose principal work is  
11 substantially different from that of his or her subordinates  
12 and who has authority, in the interest of the employer, to  
13 hire, transfer, suspend, lay off, recall, promote, discharge,  
14 direct, reward, or discipline employees, to adjust their  
15 grievances, or to effectively recommend any of those actions,  
16 if the exercise of that authority is not of a merely routine or  
17 clerical nature, but requires the consistent use of independent  
18 judgment. "Supervisor" includes only those individuals who  
19 devote a preponderance of their employment time to exercising  
20 that authority.

21 (n) "Unit" means a class of jobs or positions that are held  
22 by employees whose collective interests may suitably be  
23 represented by a labor organization for collective bargaining.  
24 A bargaining unit shall not include both employees and  
25 supervisors. Notwithstanding the exclusion of supervisors from  
26 bargaining units containing non-supervisory employees, an  
27 employer may agree to permit its supervisory employees to form  
28 bargaining units and may bargain with those units.

29 Section 15. Illinois Labor Relations Board State Panel. The  
30 composition and duties of the Illinois Labor Relations Board  
31 State Panel shall be as described in Section 5 of the Illinois  
32 Public Labor Relations Act.

33 Section 20. Rights of employees. Employees shall have the  
34 right to self-organization, to form, join, or assist labor

1 organizations, to bargain collectively through representatives  
2 of their own choosing, and to engage in other concerted  
3 activities for the purpose of collective bargaining or other  
4 mutual aid or protection, and shall also have the right to  
5 refrain from any or all such activities except to the extent  
6 that such right may be affected by an agreement requiring  
7 membership in a labor organization as a condition of employment  
8 as authorized in paragraph (a) (2) of Section 25.

9 Section 25. Unfair labor practices.

10 (a) It shall be an unfair labor practice for an employer or  
11 his or her agents:

12 (1) to interfere with, restrain, or coerce employees in  
13 the exercise of the rights guaranteed in this Act or to  
14 dominate or interfere with the formation, existence, or  
15 administration of any labor organization or contribute  
16 financial or other support to it; provided, an employer is  
17 not prohibited from permitting employees to confer with him  
18 or her during working hours without loss of time or pay;

19 (2) to discriminate in regard to hire or tenure of  
20 employment or any term or condition of employment in order  
21 to encourage or discourage membership in or other support  
22 for any labor organization, provided, nothing in this Act  
23 or any other law precludes an employer from making an  
24 agreement with an exclusive representative consistent with  
25 Section 35;

26 (3) to discharge or otherwise discriminate against an  
27 employee because he or she has signed or filed an  
28 affidavit, petition, or charge or has provided any  
29 information or testimony under this Act;

30 (4) to refuse to bargain collectively in good faith  
31 with a labor organization which is the exclusive  
32 representative of employees in an appropriate unit,  
33 including, but not limited to, the discussing of grievances  
34 with the exclusive representative;

35 (5) to violate any of the rules established by the

1 Board relating to the conduct of representation elections  
2 or the conduct affecting the representation elections; or

3 (6) to refuse to reduce a collective bargaining  
4 agreement to writing or to refuse to sign such agreement.

5 (b) It shall be an unfair labor practice for a labor  
6 organization or its agents:

7 (1) to restrain or coerce employees in the exercise of  
8 the rights guaranteed in this Act, provided:

9 (A) that this paragraph shall not impair the right  
10 of a labor organization to prescribe its own rules with  
11 respect to the acquisition or retention of membership  
12 therein or the determination of dues or fair share  
13 payments; and

14 (B) that a labor organization or its agents shall  
15 commit an unfair labor practice under this paragraph in  
16 duty of fair representation cases only by intentional  
17 misconduct in representing employees under this Act;

18 (2) to restrain or coerce an employer in the selection  
19 of his or her representatives for the purposes of  
20 collective bargaining or the settlement of grievances;

21 (3) to cause, or attempt to cause, an employer to  
22 discriminate against an employee in violation of paragraph  
23 (a) (2);

24 (4) to refuse to bargain collectively in good faith  
25 with an employer, if it has been designated in accordance  
26 with this Act as the exclusive representative of employees  
27 in an appropriate unit;

28 (5) to violate any of the rules established by the  
29 Board relating to the conduct of representation elections  
30 or the conduct affecting the representation elections;

31 (6) to discriminate against any employee because he or  
32 she has signed or filed an affidavit, petition, or charge  
33 or provided any information or testimony under this Act;

34 (7) to picket or cause to be picketed, or threaten to  
35 picket or cause to be picketed, any employer if an object  
36 thereof is forcing or requiring an employer to recognize or

1 bargain with a labor organization of the representative of  
2 its employees, or forcing or requiring the employees of an  
3 employer to accept or select such labor organization as  
4 their collective bargaining representative, unless such  
5 labor organization is currently certified as the  
6 representative of such employees:

7 (A) if the employer has lawfully recognized in  
8 accordance with this Act any labor organization and a  
9 question concerning representation may not  
10 appropriately be raised under Section 50;

11 (B) if within the preceding 12 months a valid  
12 election under Section 50 has been conducted; or

13 (C) if such picketing has been conducted without a  
14 petition under Section 50 being filed within a  
15 reasonable period of time not to exceed 30 days from  
16 the commencement of such picketing; provided that when  
17 such a petition has been filed the Board shall  
18 forthwith, without regard to subsection (a) of Section  
19 50 or the absence of a showing of a substantial  
20 interest on the part of the labor organization, direct  
21 an election in such unit as the Board finds to be  
22 appropriate and shall certify the results thereof;  
23 provided further, that nothing in this subparagraph  
24 shall be construed to prohibit any picketing or other  
25 publicity for the purpose of truthfully advising the  
26 public that an employer does not employ members of, or  
27 have a contract with, a labor organization unless an  
28 effect of such picketing is to induce any individual  
29 employed by any other person, in the course of his or  
30 her employment, not to pick up, deliver, or transport  
31 any goods or not to perform any services; or

32 (8) to refuse to reduce a collective bargaining  
33 agreement to writing or to refuse to sign such agreement.

34 (c) The expressing of any views, argument, or opinion or  
35 the dissemination thereof, whether in written, printed,  
36 graphic, or visual form, shall not constitute or be evidence of



1 an unfair labor practice under this Act, if such expression  
2 contains no threat of reprisal or force or promise of benefit.

3 Section 30. Duty to bargain. An employer and the exclusive  
4 representative have the authority and the duty to bargain  
5 collectively as set forth in this Section.

6 For the purposes of this Act, "to bargain collectively"  
7 means the performance of the mutual obligation of the employer  
8 or his or her designated representative and the exclusive  
9 representative to meet at reasonable times and to negotiate in  
10 good faith with respect to wages, hours, and other conditions  
11 of employment. It also includes the negotiation of an  
12 agreement, the discussion of any question arising thereunder,  
13 and the execution of a written contract incorporating any  
14 agreement reached if requested by either party. This obligation  
15 does not compel either party to agree to a proposal or require  
16 the making of a concession.

17 The duty "to bargain collectively" also includes  
18 negotiations as to the terms of a collective bargaining  
19 agreement. The parties may, by mutual agreement, provide for  
20 arbitration of impasses resulting from their inability to agree  
21 upon wages, hours, and terms and conditions of employment to be  
22 included in a collective bargaining agreement. Such  
23 arbitration provisions shall be subject to the Uniform  
24 Arbitration Act unless otherwise agreed by the parties.

25 The duty "to bargain collectively" also means that no party  
26 to a collective bargaining contract shall terminate or modify  
27 that contract, unless the party desiring such termination or  
28 modification:

29 (1) serves a written notice upon the other party to the  
30 contract of the proposed termination or modification 60  
31 days before the expiration date thereof, or if the contract  
32 contains no expiration date, 60 days before the time it is  
33 proposed to make such termination or modification;

34 (2) offers to meet and confer with the other party for  
35 the purpose of negotiating a new contract or a contract

1 containing the proposed modifications;

2 (3) notifies the Board within 30 days after such notice  
3 of the existence of a dispute, provided no agreement has  
4 been reached by that time; and

5 (4) continues in full force and effect, without  
6 resorting to strike or lockout, all the terms and  
7 conditions of the existing contract for a period of 60 days  
8 after such notice is given to the other party or until the  
9 expiration date of such contract, whichever occurs later.

10 The duties imposed upon employers, employees, and labor  
11 organizations by paragraphs (2), (3), and (4) shall become  
12 inapplicable upon an intervening certification of the Board,  
13 under which the labor organization, which is a party to the  
14 contract, has been superseded as or ceased to be the exclusive  
15 representative of the employees pursuant to subsection (a) of  
16 Section 50, and the duties so imposed shall not be construed as  
17 requiring either party to discuss or agree to any modification  
18 of the terms and conditions contained in a contract for a fixed  
19 period, if such modification is to become effective before such  
20 terms and conditions can be reopened under the contract.

21 Section 35. Dues deduction and fair share fees.

22 (a) Dues deduction. The exclusive representative may  
23 negotiate provisions in a collective bargaining agreement  
24 providing for the payroll deduction of labor organization dues,  
25 initiation fees, and assessments. Except as provided in  
26 subsection (b) of this Section, any such deductions shall be  
27 made only upon an employee's written authorization, which shall  
28 be irrevocable for a period of at least one year, or at the  
29 termination date of the applicable collective bargaining  
30 agreement, whichever occurs sooner. Such payments shall be paid  
31 to the exclusive representative.

32 (b) Fair share fees.

33 (1) When a collective bargaining agreement is entered  
34 into by an employer and an exclusive representative, the  
35 agreement may include a provision to require as a condition

1 of employment that employees covered by the collective  
2 bargaining agreement who are not members of the exclusive  
3 representative's organization pay their proportionate  
4 share of the costs of the collective bargaining process,  
5 contract administration, and pursuit of matters affecting  
6 wages, hours, and conditions of employment. The nonmember  
7 employees' share of the costs shall not exceed the amount  
8 of dues uniformly required of members. The exclusive  
9 representative shall certify to the employer the amount  
10 constituting each nonmember employee's proportionate share  
11 and the employer shall deduct such amount from the earnings  
12 of the nonmember employees and remit such amounts to the  
13 labor organization.

14 (2) Agreements containing a fair share agreement must  
15 safeguard the right of nonmember employees based upon bona  
16 fide religious tenets or teachings of a church or religious  
17 body of which such employees are members. Such employees  
18 may be required to pay an amount equal to their fair share,  
19 determined under a lawful fair share agreement, to a  
20 nonreligious charitable organization mutually agreed upon  
21 by the employees affected and the exclusive bargaining  
22 representative to which such employees would otherwise pay  
23 such service fee. If the affected employees and the  
24 bargaining representative are unable to reach an agreement  
25 on the matter, the Board may establish an approved list of  
26 charitable organizations to which such payments may be  
27 made.

28 (c) If a collective bargaining agreement is terminated, or  
29 continues in effect beyond its scheduled expiration date  
30 pending the negotiation of a successor agreement, the employer  
31 shall continue to honor and abide by any dues deduction or fair  
32 share clause contained therein until a new agreement is reached  
33 including dues deduction or a fair share clause. For the  
34 benefit of any successor exclusive representative certified  
35 under this Act, this provision shall be applicable, provided  
36 the successor exclusive representative:

1 (i) certifies to the employer the amount  
2 constituting each nonmember's proportionate share  
3 under subsection (b); or

4 (ii) presents the employer with employee written  
5 authorizations for the deduction of dues, assessments,  
6 and fees under this subsection.

7 Failure to so honor and abide by dues deduction or fair  
8 share clauses for the benefit of any exclusive representative,  
9 including a successor, shall be a violation of the duty to  
10 bargain and an unfair labor practice.

11 Section 40. Unfair labor practice procedures. Unfair labor  
12 practices may be dealt with by the Board in the following  
13 manner:

14 (a) If it is charged that any person has engaged in or is  
15 engaging in any unfair labor practice, the Board or any agent  
16 designated by the Board for such purposes shall conduct an  
17 investigation of the charge. If, after such investigation, the  
18 Board finds that the charge involves a dispositive issue of law  
19 or fact, the Board shall issue a complaint and cause to be  
20 served upon the person a complaint stating the charges,  
21 accompanied by a notice of hearing. The notice of hearing shall  
22 indicate that a hearing is to take place before the Board, or a  
23 member thereof designated by the Board, or before a qualified  
24 hearing officer designated by the Board at the offices of the  
25 Board or such other location as the Board deems appropriate, on  
26 a date not less than 5 days after service of such complaint. No  
27 complaint shall issue based upon any unfair labor practice  
28 occurring more than 6 months before the filing of a charge with  
29 the Board and the service of a copy thereof upon the person  
30 against whom the charge is made, unless the person aggrieved  
31 thereby did not reasonably have knowledge of the alleged unfair  
32 labor practice or was prevented from filing such a charge by  
33 reason of service in the armed forces, in which event the 6  
34 month period shall be computed from the date of his or her  
35 discharge. Any such complaint may be amended by the member or

1 hearing officer conducting the hearing for the Board in his or  
2 her discretion at any time before the issuance of an order  
3 based thereon. The person who is the subject of the complaint  
4 has the right to file an answer to the original or amended  
5 complaint and to appear in person or by a representative and  
6 give testimony at the place and time fixed in the complaint. In  
7 the discretion of the member or hearing officer conducting the  
8 hearing, or in the discretion of the Board, any other person  
9 may be allowed to intervene in the proceeding and to present  
10 testimony. In any hearing conducted by the Board, neither the  
11 Board nor the member or agent conducting the hearing shall be  
12 bound by the rules of evidence applicable to courts, except as  
13 to the rules of privilege recognized by law.

14 (b) The Board shall have the power to issue subpoenas and  
15 administer oaths. If any party willfully fails or neglects to  
16 appear or testify or to produce books, papers, and records  
17 pursuant to the issuance of a subpoena by the Board, the Board  
18 may apply to a court of competent jurisdiction to request that  
19 such party be ordered to appear before the Board to testify or  
20 produce the requested evidence.

21 (c) Any testimony taken by the Board, or a member  
22 designated by the Board or a hearing officer thereof, must be  
23 reduced to writing and filed with the Board. A full and  
24 complete record shall be kept of all proceedings before the  
25 Board, and all proceedings shall be transcribed by a reporter  
26 appointed by the Board. The party on whom the burden of proof  
27 rests shall be required to sustain such burden by a  
28 preponderance of the evidence. If, upon a preponderance of the  
29 evidence taken, the Board is of the opinion that any person  
30 named in the charge has engaged in or is engaging in an unfair  
31 labor practice, then it shall state its findings of fact and  
32 shall issue and cause to be served upon the person an order  
33 requiring him or her to cease and desist from the unfair labor  
34 practice, and to take such affirmative action, including  
35 reinstatement of employees with or without back pay, as will  
36 effectuate the policies of this Act. If the Board awards back

1 pay, it shall also award interest at the rate of 7% per year.  
2 If the Board finds that a party has demonstrated a pattern of  
3 committing unfair labor practices or if the Board finds that a  
4 party has demonstrated an egregious disregard for the rights of  
5 employees under this Act, the Board may, in its discretion,  
6 issue an order barring the party from receiving public  
7 contracts or State tax incentives for a period of up to 3  
8 years. Upon issuing such an order, the Board shall notify the  
9 Office of the Governor in writing of the issuance of its order.  
10 The Board's order may further require the person to make  
11 reports from time to time, and to demonstrate the extent to  
12 which he or she has complied with the order. If there is no  
13 preponderance of evidence to indicate to the Board that the  
14 person named in the charge has engaged in or is engaging in the  
15 unfair labor practice, then the Board shall state its findings  
16 of fact and shall issue an order dismissing the complaint. The  
17 Board's order may in its discretion also include an appropriate  
18 sanction, based on the Board's rules, and the sanction may  
19 include an order to pay the other party or parties' reasonable  
20 expenses including costs and reasonable attorney's fees, if the  
21 other party has made allegations or denials without reasonable  
22 cause and found to be untrue or has engaged in frivolous  
23 litigation for the purpose of delay or needless increase in the  
24 cost of litigation.

25 (d) Until the record in a case has been filed in court, the  
26 Board at any time, upon reasonable notice and in such manner as  
27 it deems proper, may modify or set aside, in whole or in part,  
28 any finding or order made or issued by it.

29 (e) A charging party or any person aggrieved by a final  
30 order of the Board granting or denying in whole or in part the  
31 relief sought may apply for and obtain judicial review of an  
32 order of the Board entered under this Act, in accordance with  
33 the Administrative Review Law, except that such judicial review  
34 shall be afforded directly in the appellate court for the  
35 district in which the aggrieved party resides or transacts  
36 business, and provided, that such judicial review shall not be

1 available for the purpose of challenging a final order issued  
2 by the Board pursuant to Section 50 for which judicial review  
3 has been petitioned pursuant to subsection (g) of Section 50.  
4 Any direct appeal to the appellate court shall be filed within  
5 35 days from the date that a copy of the decision sought to be  
6 reviewed was served upon the party affected by the decision.  
7 The Board in proceedings under this Section may obtain an order  
8 of the court for the enforcement of its order.

9 (f) If it appears that any person has violated a final  
10 order of the Board issued pursuant to this Section, the Board  
11 must commence an action in the name of the People of the State  
12 of Illinois by petition, alleging the violation, attaching a  
13 copy of the order of the Board, and praying for the issuance of  
14 an order directing the person and his or her officers, agents,  
15 servants, successors, and assigns to comply with the order of  
16 the Board. The Board shall be represented in this action by the  
17 Attorney General in accordance with the Attorney General Act.  
18 The court may grant or refuse, in whole or in part, the relief  
19 sought, provided that the court may stay an order of the Board  
20 in accordance with the Administrative Review Law, pending  
21 disposition of the proceedings. The court may punish a  
22 violation of its order as in civil contempt.

23 (g) The proceedings provided in paragraph (f) of this  
24 Section shall be commenced in the appellate court for the  
25 district where the unfair labor practice which is the subject  
26 of the Board's order was committed, or where a person required  
27 to cease and desist by such order resides or transacts  
28 business.

29 (h) The Board, through the Attorney General, shall have  
30 power, upon issuance of an unfair labor practice complaint  
31 alleging that a person has engaged in or is engaging in an  
32 unfair labor practice, to petition the circuit court where the  
33 alleged unfair labor practice which is the subject of the  
34 Board's complaint was allegedly committed, or where a person  
35 required to cease and desist from such alleged unfair labor  
36 practice resides or transacts business, for appropriate

1 temporary relief or a restraining order. Upon the filing of any  
2 such petition, the court shall cause notice thereof to be  
3 served upon such persons, and thereupon shall have jurisdiction  
4 to grant to the Board such temporary relief or restraining  
5 order as it deems just and proper.

6 (i) If an unfair labor practice charge involves the  
7 interpretation or application of a collective bargaining  
8 agreement and that agreement contains a grievance procedure  
9 with binding arbitration as its terminal step, the Board may  
10 defer the resolution of such dispute to the grievance and  
11 arbitration procedure contained in that agreement.

12 Section 45. Grievance procedure. The collective bargaining  
13 agreement negotiated between the employer and the exclusive  
14 representative shall contain a grievance resolution procedure  
15 which shall apply to all employees in the bargaining unit and  
16 shall provide for final and binding arbitration of disputes  
17 concerning the administration or interpretation of the  
18 agreement unless mutually agreed otherwise. Any agreement  
19 containing a final and binding arbitration provision shall also  
20 contain a provision prohibiting strikes for the duration of the  
21 agreement. The grievance and arbitration provisions of any  
22 collective bargaining agreement shall be subject to the Uniform  
23 Arbitration Act. The costs of such arbitration shall be borne  
24 equally by the employer and the exclusive representative.

25 Section 50. Elections; recognition; designation of  
26 exclusive representative.

27 (a) In accordance with such rules as the Board may  
28 prescribe, the Board shall designate a labor organization as  
29 the exclusive representative of employees through the  
30 processes outlined in this Section.

31 (1) The Board may conduct an election to determine the  
32 exclusive representative of employees if:

33 (A) an employee or group of employees or any labor  
34 organization acting in their behalf files a petition



1 demonstrating that 30% of the employees in an  
2 appropriate unit wish to be represented for the  
3 purposes of collective bargaining by a labor  
4 organization as exclusive representative, or asserting  
5 that the labor organization which has been certified or  
6 is currently recognized by the employer as the  
7 bargaining representative is no longer the  
8 representative of the majority of the employees in the  
9 unit; or

10 (B) an employer files a petition alleging that one  
11 or more labor organizations have presented to it a  
12 claim that they be recognized as the representative of  
13 a majority of the employees in an appropriate unit.

14 The Board shall investigate such petitions, and if it  
15 has reasonable cause to believe that a question of  
16 representation exists, shall provide for an appropriate  
17 hearing upon due notice. Such hearing shall be held at the  
18 offices of the Board or such other location as the Board  
19 deems appropriate. If it finds upon the record of the  
20 hearing that a question of representation exists, it shall  
21 direct an election, which shall be held not later than 120  
22 days after the date the petition was filed; provided,  
23 however, the Board may extend the time for holding an  
24 election by an additional 60 days if, upon motion by a  
25 person who has filed a petition under this Section or is  
26 the subject of a petition filed under this Section and is a  
27 party to such hearing, or upon the Board's own motion, the  
28 Board finds that good cause has been shown for extending  
29 the election date; provided further, that nothing in this  
30 Section shall prohibit the Board, in its discretion, from  
31 extending the time for holding an election for so long as  
32 may be necessary under the circumstances, if the purpose  
33 for such extension is to permit resolution by the Board of  
34 an unfair labor practice charge filed by one of the parties  
35 to a representational proceeding against the other based  
36 upon conduct which may either affect the existence of a

1 question concerning representation or have a tendency to  
2 interfere with a fair and free election, if the party  
3 filing the charge has not filed a request to proceed with  
4 the election; and provided further that before the  
5 expiration of the total time allotted for holding an  
6 election, a person who has filed a petition under this  
7 Section or is the subject of a petition filed under this  
8 Section and is a party to such hearing or the Board, may  
9 move for and obtain the entry of an order in the circuit  
10 court of the county in which the majority of the employees  
11 sought to be represented by such person reside, such order  
12 extending the date upon which the election shall be held.  
13 Such order shall be issued by the circuit court only upon a  
14 judicial finding that there has been a sufficient showing  
15 that there is good cause to extend the election date beyond  
16 such period and shall require the Board to hold the  
17 election as soon as is feasible given the totality of the  
18 circumstances. Such 120-day period may be extended one or  
19 more times by the agreement of all parties to the hearing  
20 to a date certain without the necessity of obtaining a  
21 court order. Nothing in this Section prohibits the waiving  
22 of hearings by stipulation for the purpose of a consent  
23 election in conformity with the rules of the Board or an  
24 election in a unit agreed upon by the parties. Other  
25 interested employee organizations may intervene in the  
26 proceedings in the manner and within the time period  
27 specified by rules of the Board. Interested parties who are  
28 necessary to the proceedings may also intervene in the  
29 proceedings in the manner and within the time period  
30 specified by the rules of the Board.

31 (2) The Board shall designate an exclusive  
32 representative for purposes of collective bargaining when  
33 the representative demonstrates a showing of majority  
34 interest by employees in the unit. If the parties to a  
35 dispute are without agreement on the means to ascertain the  
36 choice, if any, of employee organization as their

1 representative, the Board shall ascertain the employees'  
2 choice of employee organization on the basis of dues  
3 deduction authorization and other evidence, or, if  
4 necessary, by conducting an election. The Board shall  
5 protect the confidentiality of the employees signing dues  
6 deduction authorizations and other evidence evidencing  
7 support for a labor organization. If either party provides  
8 to the Board, before the designation of an exclusive  
9 representative, clear and convincing evidence that the  
10 dues deduction authorizations, and other evidence upon  
11 which the Board would otherwise rely to ascertain the  
12 employees' choice of representative, are fraudulent or  
13 were obtained through coercion, the Board shall promptly  
14 thereafter conduct an election. The Board shall also  
15 investigate and consider a party's allegations that the  
16 dues deduction authorizations and other evidence submitted  
17 in support of a designation of representative without an  
18 election were subsequently changed, altered, withdrawn, or  
19 withheld as a result of employer fraud or coercion or any  
20 other unfair labor practice by the employer. If the Board  
21 determines that a labor organization would have had a  
22 majority interest but for an employer's fraud, coercion, or  
23 unfair labor practice, it shall designate the labor  
24 organization as an exclusive representative without  
25 conducting an election.

26 (3) An employer may voluntarily recognize a labor  
27 organization as the exclusive representative of the  
28 employer's employees. Any labor organization which is  
29 designated or selected by the majority of employees, in a  
30 unit of the employer having no other recognized or  
31 certified representative, as their representative for  
32 purposes of collective bargaining may request recognition  
33 by the employer in writing. The employer shall post such  
34 request for a period of at least 20 days following its  
35 receipt thereof on bulletin boards or other places used or  
36 reserved for employee notices. Within the 20-day period any

1 other interested employee organization may petition the  
2 Board in the manner specified by rules of the Board,  
3 provided that such interested employee organization has  
4 been designated by at least 10% of the employees in an  
5 appropriate bargaining unit which includes all or some of  
6 the employees in the unit recognized by the employer. In  
7 such event, the Board shall proceed with the petition in  
8 the same manner as provided by paragraph (1) of this  
9 subsection (a).

10 (b) The Board shall decide in each case, in order to assure  
11 employees the fullest freedom in exercising the rights  
12 guaranteed by this Act, a unit appropriate for the purpose of  
13 collective bargaining, based upon but not limited to such  
14 factors as: historical pattern of recognition; community of  
15 interest including employee skills and functions; degree of  
16 functional integration; interchangeability and contact among  
17 employees; common supervision, wages, hours, and other working  
18 conditions of the employees involved; and the desires of the  
19 employees. In cases involving an historical pattern of  
20 recognition, and in cases in which the employer has recognized  
21 the labor organization as the sole and exclusive bargaining  
22 agent for a specified existing unit, the Board shall find the  
23 employees in the unit then represented by the labor  
24 organization pursuant to the recognition to be the appropriate  
25 unit.

26 Notwithstanding the above factors, if the majority of  
27 employees of a craft so decide, the Board shall designate such  
28 craft as a unit appropriate for the purposes of collective  
29 bargaining.

30 The Board shall not decide that any unit is appropriate if  
31 such unit includes both professional and nonprofessional  
32 employees, unless a majority of each group votes for inclusion  
33 in such unit.

34 (c) Nothing in this Act shall interfere with or negate the  
35 current representation rights or patterns and practices of  
36 labor organizations which have historically represented

1 employees for the purpose of collective bargaining, including  
2 but not limited to the negotiations of wages, hours, and  
3 working conditions, discussions of employees' grievances,  
4 resolution of jurisdictional disputes, or the establishment  
5 and maintenance of prevailing wage rates, unless a majority of  
6 employees so represented express a contrary desire pursuant to  
7 the procedures set forth in this Act.

8 (d) Within 7 days after the Board issues its bargaining  
9 unit determination and direction of election or the execution  
10 of a stipulation for the purpose of a consent election, the  
11 employer shall submit to the labor organization the complete  
12 names and addresses of those employees who are determined by  
13 the Board to be eligible to participate in the election. If the  
14 Board has determined that a labor organization has been fairly  
15 and freely chosen by a majority of employees in an appropriate  
16 unit, it shall certify such organization as the exclusive  
17 representative. If the Board determines that a majority of  
18 employees in an appropriate unit has fairly and freely chosen  
19 not to be represented by a labor organization, it shall so  
20 certify. The Board may also revoke the certification of the  
21 labor organization as exclusive bargaining representatives  
22 which have been found by a secret ballot election to be no  
23 longer the majority representative.

24 (e) The Board shall not conduct an election in any  
25 bargaining unit or any subdivision thereof within which a valid  
26 election has been held in the preceding 12-month period. The  
27 Board shall determine who is eligible to vote in an election  
28 and shall establish rules governing the conduct of the election  
29 or conduct affecting the results of the election. The Board  
30 shall include on a ballot in a representation election a choice  
31 of "no representation". A labor organization currently  
32 representing the bargaining unit of employees shall be placed  
33 on the ballot in any representation election. In any election  
34 where none of the choices on the ballot receives a majority, a  
35 runoff election shall be conducted between the 2 choices  
36 receiving the largest number of valid votes cast in the

1 election. A labor organization which receives a majority of the  
2 votes cast in an election shall be certified by the Board as  
3 exclusive representative of all employees in the unit.

4 (f) No election shall be directed by the Board in any  
5 bargaining unit if there is in force a valid collective  
6 bargaining agreement. The Board, however, may process an  
7 election petition filed between 90 and 60 days before the  
8 expiration of the date of an agreement, and may further refine,  
9 by rule or decision, the implementation of this provision. If  
10 more than 4 years have elapsed since the effective date of the  
11 agreement, the agreement shall continue to bar an election,  
12 except that the Board may process an election petition filed  
13 between 90 and 60 days before the end of each successive year  
14 of such agreement.

15 (g) An order of the Board dismissing a representation  
16 petition, determining and certifying that a labor organization  
17 has been fairly and freely chosen by a majority of employees in  
18 an appropriate bargaining unit, or determining and certifying  
19 that a labor organization has not been fairly and freely chosen  
20 by a majority of employees in the bargaining unit constitutes a  
21 final order. Any person aggrieved by any such order issued on  
22 or after the effective date of this Act may apply for and  
23 obtain judicial review in accordance with the Administrative  
24 Review Law, except that such review shall be afforded directly  
25 in the appellate court for the district in which the aggrieved  
26 party resides or transacts business. Any direct appeal to the  
27 appellate court shall be filed within 35 days from the date  
28 that a copy of the decision sought to be reviewed was served  
29 upon the party affected by the decision.

30 Section 55. Right to strike.

31 (a) Nothing in this Act shall be construed to either  
32 interfere with or impede or diminish in any way the right to  
33 strike, except as otherwise provided in this Act, or to affect  
34 the limitations or qualifications on that right. An employee  
35 who exercises such right may not be disciplined, replaced, or

1 otherwise have his or her wages, hours, or terms and conditions  
2 of employment adversely affected.

3 (b) Nothing in this Act shall be construed to require an  
4 individual employee to render labor or service without his or  
5 her consent, nor shall anything in this Act be construed to  
6 make the quitting of his or her labor by an individual employee  
7 an illegal act, nor shall any court issue any process to compel  
8 the performance by an individual employee of such labor or  
9 service, without his or her consent. The quitting of labor by  
10 an employee or employees in good faith because of abnormally  
11 dangerous conditions for work at the place of employment of  
12 such employee or employees shall not be deemed a strike under  
13 this Act.

14 Section 60. Enforcement.

15 (a) The State Panel of the Illinois Labor Relations Board  
16 shall have exclusive jurisdiction over enforcement of this Act.  
17 It shall further have the authority to make and revise  
18 administrative rules, including emergency rules, as it deems  
19 appropriate to carry out the purposes of this Act. For the  
20 purpose of developing administrative rules, should this Act or  
21 any substantive amendment to this Act be effective immediately,  
22 the immediate effective date shall create an "emergency" within  
23 the meaning of Section 5-45 of the Illinois Administrative  
24 Procedure Act.

25 (b) Suits for violation of contracts between an employer  
26 and exclusive representative or between an employer and labor  
27 organization may be brought in the circuit court. Any labor  
28 organization may sue or be sued as an entity and in behalf of  
29 the employees whom it represents. Any money judgment against a  
30 labor organization shall be enforceable only against the  
31 organization as an entity and against its assets, and shall not  
32 be enforceable against any individual member or his or her  
33 assets.