



94TH GENERAL ASSEMBLY
State of Illinois
2005 and 2006
SB2426

Introduced 1/18/2006, by Sen. John J. Millner

SYNOPSIS AS INTRODUCED:

5 ILCS 315/3	from Ch. 48, par. 1603
5 ILCS 315/14	from Ch. 48, par. 1614
5 ILCS 315/17	from Ch. 48, par. 1617

Amends the Illinois Public Labor Relations Act. With respect to the Act's provisions applicable to security employees, peace officers, fire fighters, and paramedics, includes emergency service support staff.

LRB094 17789 JAM 53088 b

FISCAL NOTE ACT
MAY APPLY

STATE MANDATES
ACT MAY REQUIRE
REIMBURSEMENT

1 AN ACT concerning government.

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

4 Section 5. The Illinois Public Labor Relations Act is
5 amended by changing Sections 3, 14, and 17 as follows:

6 (5 ILCS 315/3) (from Ch. 48, par. 1603)

7 Sec. 3. Definitions. As used in this Act, unless the
8 context otherwise requires:

9 (a) "Board" means the Illinois Labor Relations Board or,
10 with respect to a matter over which the jurisdiction of the
11 Board is assigned to the State Panel or the Local Panel under
12 Section 5, the panel having jurisdiction over the matter.

13 (b) "Collective bargaining" means bargaining over terms
14 and conditions of employment, including hours, wages, and other
15 conditions of employment, as detailed in Section 7 and which
16 are not excluded by Section 4.

17 (c) "Confidential employee" means an employee who, in the
18 regular course of his or her duties, assists and acts in a
19 confidential capacity to persons who formulate, determine, and
20 effectuate management policies with regard to labor relations
21 or who, in the regular course of his or her duties, has
22 authorized access to information relating to the effectuation
23 or review of the employer's collective bargaining policies.

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

26 (d-1) "Emergency service support staff" means, for the
27 purposes of this Act only, any persons who have been or are
28 hereafter employed as a clerk, dispatcher, or telecommunicator
29 of a police, sheriff, or fire department, community service
30 officer, bailiff, deputy coroner, or court security officer,
31 excluding part-time employees.

32 (e) "Essential services employees" means those public

1 employees performing functions so essential that the
2 interruption or termination of the function will constitute a
3 clear and present danger to the health and safety of the
4 persons in the affected community.

5 (f) "Exclusive representative", except with respect to
6 non-State fire fighters and paramedics employed by fire
7 departments and fire protection districts, non-State peace
8 officers, and peace officers in the Department of State Police,
9 means the labor organization that has been (i) designated by
10 the Board as the representative of a majority of public
11 employees in an appropriate bargaining unit in accordance with
12 the procedures contained in this Act, (ii) historically
13 recognized by the State of Illinois or any political
14 subdivision of the State before July 1, 1984 (the effective
15 date of this Act) as the exclusive representative of the
16 employees in an appropriate bargaining unit, (iii) after July
17 1, 1984 (the effective date of this Act) recognized by an
18 employer upon evidence, acceptable to the Board, that the labor
19 organization has been designated as the exclusive
20 representative by a majority of the employees in an appropriate
21 bargaining unit; (iv) recognized as the exclusive
22 representative of personal care attendants or personal
23 assistants under Executive Order 2003-8 prior to the effective
24 date of this amendatory Act of the 93rd General Assembly, and
25 the organization shall be considered to be the exclusive
26 representative of the personal care attendants or personal
27 assistants as defined in this Section; or (v) recognized as the
28 exclusive representative of child and day care home providers,
29 including licensed and license exempt providers, pursuant to an
30 election held under Executive Order 2005-1 prior to the
31 effective date of this amendatory Act of the 94th General
32 Assembly, and the organization shall be considered to be the
33 exclusive representative of the child and day care home
34 providers as defined in this Section.

35 With respect to non-State fire fighters and paramedics
36 employed by fire departments and fire protection districts,

1 non-State peace officers, and peace officers in the Department
2 of State Police, "exclusive representative" means the labor
3 organization that has been (i) designated by the Board as the
4 representative of a majority of peace officers or fire fighters
5 in an appropriate bargaining unit in accordance with the
6 procedures contained in this Act, (ii) historically recognized
7 by the State of Illinois or any political subdivision of the
8 State before January 1, 1986 (the effective date of this
9 amendatory Act of 1985) as the exclusive representative by a
10 majority of the peace officers or fire fighters in an
11 appropriate bargaining unit, or (iii) after January 1, 1986
12 (the effective date of this amendatory Act of 1985) recognized
13 by an employer upon evidence, acceptable to the Board, that the
14 labor organization has been designated as the exclusive
15 representative by a majority of the peace officers or fire
16 fighters in an appropriate bargaining unit.

17 (g) "Fair share agreement" means an agreement between the
18 employer and an employee organization under which all or any of
19 the employees in a collective bargaining unit are required to
20 pay their proportionate share of the costs of the collective
21 bargaining process, contract administration, and pursuing
22 matters affecting wages, hours, and other conditions of
23 employment, but not to exceed the amount of dues uniformly
24 required of members. The amount certified by the exclusive
25 representative shall not include any fees for contributions
26 related to the election or support of any candidate for
27 political office. Nothing in this subsection (g) shall preclude
28 an employee from making voluntary political contributions in
29 conjunction with his or her fair share payment.

30 (g-1) "Fire fighter" means, for the purposes of this Act
31 only, any person who has been or is hereafter appointed to a
32 fire department or fire protection district or employed by a
33 state university and sworn or commissioned to perform fire
34 fighter duties or paramedic duties, except that the following
35 persons are not included: part-time fire fighters, auxiliary,
36 reserve or voluntary fire fighters, including paid on-call fire

1 fighters, clerks and dispatchers or other civilian employees of
2 a fire department or fire protection district who are not
3 routinely expected to perform fire fighter duties, or elected
4 officials.

5 (g-2) "General Assembly of the State of Illinois" means the
6 legislative branch of the government of the State of Illinois,
7 as provided for under Article IV of the Constitution of the
8 State of Illinois, and includes but is not limited to the House
9 of Representatives, the Senate, the Speaker of the House of
10 Representatives, the Minority Leader of the House of
11 Representatives, the President of the Senate, the Minority
12 Leader of the Senate, the Joint Committee on Legislative
13 Support Services and any legislative support services agency
14 listed in the Legislative Commission Reorganization Act of
15 1984.

16 (h) "Governing body" means, in the case of the State, the
17 State Panel of the Illinois Labor Relations Board, the Director
18 of the Department of Central Management Services, and the
19 Director of the Department of Labor; the county board in the
20 case of a county; the corporate authorities in the case of a
21 municipality; and the appropriate body authorized to provide
22 for expenditures of its funds in the case of any other unit of
23 government.

24 (i) "Labor organization" means any organization in which
25 public employees participate and that exists for the purpose,
26 in whole or in part, of dealing with a public employer
27 concerning wages, hours, and other terms and conditions of
28 employment, including the settlement of grievances.

29 (j) "Managerial employee" means an individual who is
30 engaged predominantly in executive and management functions
31 and is charged with the responsibility of directing the
32 effectuation of management policies and practices.

33 (k) "Peace officer" means, for the purposes of this Act
34 only, any persons who have been or are hereafter appointed to a
35 police force, department, or agency and sworn or commissioned
36 to perform police duties, except that the following persons are

1 not included: part-time police officers, special police
2 officers, auxiliary police as defined by Section 3.1-30-20 of
3 the Illinois Municipal Code, night watchmen, "merchant
4 police", court security officers as defined by Section 3-6012.1
5 of the Counties Code, temporary employees, traffic guards or
6 wardens, civilian parking meter and parking facilities
7 personnel or other individuals specially appointed to aid or
8 direct traffic at or near schools or public functions or to aid
9 in civil defense or disaster, parking enforcement employees who
10 are not commissioned as peace officers and who are not armed
11 and who are not routinely expected to effect arrests, parking
12 lot attendants, clerks and dispatchers or other civilian
13 employees of a police department who are not routinely expected
14 to effect arrests, or elected officials.

15 (l) "Person" includes one or more individuals, labor
16 organizations, public employees, associations, corporations,
17 legal representatives, trustees, trustees in bankruptcy,
18 receivers, or the State of Illinois or any political
19 subdivision of the State or governing body, but does not
20 include the General Assembly of the State of Illinois or any
21 individual employed by the General Assembly of the State of
22 Illinois.

23 (m) "Professional employee" means any employee engaged in
24 work predominantly intellectual and varied in character rather
25 than routine mental, manual, mechanical or physical work;
26 involving the consistent exercise of discretion and adjustment
27 in its performance; of such a character that the output
28 produced or the result accomplished cannot be standardized in
29 relation to a given period of time; and requiring advanced
30 knowledge in a field of science or learning customarily
31 acquired by a prolonged course of specialized intellectual
32 instruction and study in an institution of higher learning or a
33 hospital, as distinguished from a general academic education or
34 from apprenticeship or from training in the performance of
35 routine mental, manual, or physical processes; or any employee
36 who has completed the courses of specialized intellectual

1 instruction and study prescribed in this subsection (m) and is
2 performing related work under the supervision of a professional
3 person to qualify to become a professional employee as defined
4 in this subsection (m).

5 (n) "Public employee" or "employee", for the purposes of
6 this Act, means any individual employed by a public employer,
7 including (i) interns and residents at public hospitals, (ii)
8 as of the effective date of this amendatory Act of the 93rd
9 General Assembly, but not before, personal care attendants and
10 personal assistants working under the Home Services Program
11 under Section 3 of the Disabled Persons Rehabilitation Act,
12 subject to the limitations set forth in this Act and in the
13 Disabled Persons Rehabilitation Act, and (iii) as of the
14 effective date of this amendatory Act of the 94th General
15 Assembly, but not before, child and day care home providers
16 participating in the child care assistance program under
17 Section 9A-11 of the Illinois Public Aid Code, subject to the
18 limitations set forth in this Act and in Section 9A-11 of the
19 Illinois Public Aid Code, but excluding all of the following:
20 employees of the General Assembly of the State of Illinois;
21 elected officials; executive heads of a department; members of
22 boards or commissions; the Executive Inspectors General; any
23 special Executive Inspectors General; employees of each Office
24 of an Executive Inspector General; commissioners and employees
25 of the Executive Ethics Commission; the Auditor General's
26 Inspector General; employees of the Office of the Auditor
27 General's Inspector General; the Legislative Inspector
28 General; any special Legislative Inspectors General; employees
29 of the Office of the Legislative Inspector General;
30 commissioners and employees of the Legislative Ethics
31 Commission; employees of any agency, board or commission
32 created by this Act; employees appointed to State positions of
33 a temporary or emergency nature; all employees of school
34 districts and higher education institutions except
35 firefighters and peace officers employed by a state university;
36 managerial employees; short-term employees; confidential

1 employees; independent contractors; and supervisors except as
2 provided in this Act.

3 Personal care attendants and personal assistants shall not
4 be considered public employees for any purposes not
5 specifically provided for in the amendatory Act of the 93rd
6 General Assembly, including but not limited to, purposes of
7 vicarious liability in tort and purposes of statutory
8 retirement or health insurance benefits. Personal care
9 attendants and personal assistants shall not be covered by the
10 State Employees Group Insurance Act of 1971 (5 ILCS 375/).

11 Child and day care home providers shall not be considered
12 public employees for any purposes not specifically provided for
13 in this amendatory Act of the 94th General Assembly, including
14 but not limited to, purposes of vicarious liability in tort and
15 purposes of statutory retirement or health insurance benefits.
16 Child and day care home providers shall not be covered by the
17 State Employees Group Insurance Act of 1971.

18 Notwithstanding Section 9, subsection (c), or any other
19 provisions of this Act, all peace officers above the rank of
20 captain in municipalities with more than 1,000,000 inhabitants
21 shall be excluded from this Act.

22 (o) Except as otherwise in subsection (o-5), "public
23 employer" or "employer" means the State of Illinois; any
24 political subdivision of the State, unit of local government or
25 school district; authorities including departments, divisions,
26 bureaus, boards, commissions, or other agencies of the
27 foregoing entities; and any person acting within the scope of
28 his or her authority, express or implied, on behalf of those
29 entities in dealing with its employees. As of the effective
30 date of the amendatory Act of the 93rd General Assembly, but
31 not before, the State of Illinois shall be considered the
32 employer of the personal care attendants and personal
33 assistants working under the Home Services Program under
34 Section 3 of the Disabled Persons Rehabilitation Act, subject
35 to the limitations set forth in this Act and in the Disabled
36 Persons Rehabilitation Act. The State shall not be considered

1 to be the employer of personal care attendants and personal
2 assistants for any purposes not specifically provided for in
3 this amendatory Act of the 93rd General Assembly, including but
4 not limited to, purposes of vicarious liability in tort and
5 purposes of statutory retirement or health insurance benefits.
6 Personal care attendants and personal assistants shall not be
7 covered by the State Employees Group Insurance Act of 1971 (5
8 ILCS 375/). As of the effective date of this amendatory Act of
9 the 94th General Assembly but not before, the State of Illinois
10 shall be considered the employer of the day and child care home
11 providers participating in the child care assistance program
12 under Section 9A-11 of the Illinois Public Aid Code, subject to
13 the limitations set forth in this Act and in Section 9A-11 of
14 the Illinois Public Aid Code. The State shall not be considered
15 to be the employer of child and day care home providers for any
16 purposes not specifically provided for in this amendatory Act
17 of the 94th General Assembly, including but not limited to,
18 purposes of vicarious liability in tort and purposes of
19 statutory retirement or health insurance benefits. Child and
20 day care home providers shall not be covered by the State
21 Employees Group Insurance Act of 1971.

22 "Public employer" or "employer" as used in this Act,
23 however, does not mean and shall not include the General
24 Assembly of the State of Illinois, the Executive Ethics
25 Commission, the Offices of the Executive Inspectors General,
26 the Legislative Ethics Commission, the Office of the
27 Legislative Inspector General, the Office of the Auditor
28 General's Inspector General, and educational employers or
29 employers as defined in the Illinois Educational Labor
30 Relations Act, except with respect to a state university in its
31 employment of firefighters and peace officers. County boards
32 and county sheriffs shall be designated as joint or
33 co-employers of county peace officers appointed under the
34 authority of a county sheriff. Nothing in this subsection (o)
35 shall be construed to prevent the State Panel or the Local
36 Panel from determining that employers are joint or

1 co-employers.

2 (o-5) With respect to wages, fringe benefits, hours,
3 holidays, vacations, proficiency examinations, sick leave, and
4 other conditions of employment, the public employer of public
5 employees who are court reporters, as defined in the Court
6 Reporters Act, shall be determined as follows:

7 (1) For court reporters employed by the Cook County
8 Judicial Circuit, the chief judge of the Cook County
9 Circuit Court is the public employer and employer
10 representative.

11 (2) For court reporters employed by the 12th, 18th,
12 19th, and, on and after December 4, 2006, the 22nd judicial
13 circuits, a group consisting of the chief judges of those
14 circuits, acting jointly by majority vote, is the public
15 employer and employer representative.

16 (3) For court reporters employed by all other judicial
17 circuits, a group consisting of the chief judges of those
18 circuits, acting jointly by majority vote, is the public
19 employer and employer representative.

20 (p) "Security employee" means an employee who is
21 responsible for the supervision and control of inmates at
22 correctional facilities. The term also includes other
23 non-security employees in bargaining units having the majority
24 of employees being responsible for the supervision and control
25 of inmates at correctional facilities.

26 (q) "Short-term employee" means an employee who is employed
27 for less than 2 consecutive calendar quarters during a calendar
28 year and who does not have a reasonable assurance that he or
29 she will be rehired by the same employer for the same service
30 in a subsequent calendar year.

31 (r) "Supervisor" is an employee whose principal work is
32 substantially different from that of his or her subordinates
33 and who has authority, in the interest of the employer, to
34 hire, transfer, suspend, lay off, recall, promote, discharge,
35 direct, reward, or discipline employees, to adjust their
36 grievances, or to effectively recommend any of those actions,

1 if the exercise of that authority is not of a merely routine or
2 clerical nature, but requires the consistent use of independent
3 judgment. Except with respect to police employment, the term
4 "supervisor" includes only those individuals who devote a
5 preponderance of their employment time to exercising that
6 authority, State supervisors notwithstanding. In addition, in
7 determining supervisory status in police employment, rank
8 shall not be determinative. The Board shall consider, as
9 evidence of bargaining unit inclusion or exclusion, the common
10 law enforcement policies and relationships between police
11 officer ranks and certification under applicable civil service
12 law, ordinances, personnel codes, or Division 2.1 of Article 10
13 of the Illinois Municipal Code, but these factors shall not be
14 the sole or predominant factors considered by the Board in
15 determining police supervisory status.

16 Notwithstanding the provisions of the preceding paragraph,
17 in determining supervisory status in fire fighter employment,
18 no fire fighter shall be excluded as a supervisor who has
19 established representation rights under Section 9 of this Act.
20 Further, in new fire fighter units, employees shall consist of
21 fire fighters of the rank of company officer and below. If a
22 company officer otherwise qualifies as a supervisor under the
23 preceding paragraph, however, he or she shall not be included
24 in the fire fighter unit. If there is no rank between that of
25 chief and the highest company officer, the employer may
26 designate a position on each shift as a Shift Commander, and
27 the persons occupying those positions shall be supervisors. All
28 other ranks above that of company officer shall be supervisors.

29 (s) (1) "Unit" means a class of jobs or positions that are
30 held by employees whose collective interests may suitably
31 be represented by a labor organization for collective
32 bargaining. Except with respect to non-State fire fighters
33 and paramedics employed by fire departments and fire
34 protection districts, non-State peace officers, and peace
35 officers in the Department of State Police, a bargaining
36 unit determined by the Board shall not include both

1 employees and supervisors, or supervisors only, except as
2 provided in paragraph (2) of this subsection (s) and except
3 for bargaining units in existence on July 1, 1984 (the
4 effective date of this Act). With respect to non-State fire
5 fighters and paramedics employed by fire departments and
6 fire protection districts, non-State peace officers, and
7 peace officers in the Department of State Police, a
8 bargaining unit determined by the Board shall not include
9 both supervisors and nonsupervisors, or supervisors only,
10 except as provided in paragraph (2) of this subsection (s)
11 and except for bargaining units in existence on January 1,
12 1986 (the effective date of this amendatory Act of 1985). A
13 bargaining unit determined by the Board to contain peace
14 officers shall contain no employees other than peace
15 officers unless otherwise agreed to by the employer and the
16 labor organization or labor organizations involved.
17 Notwithstanding any other provision of this Act, a
18 bargaining unit, including a historical bargaining unit,
19 containing sworn peace officers of the Department of
20 Natural Resources (formerly designated the Department of
21 Conservation) shall contain no employees other than such
22 sworn peace officers upon the effective date of this
23 amendatory Act of 1990 or upon the expiration date of any
24 collective bargaining agreement in effect upon the
25 effective date of this amendatory Act of 1990 covering both
26 such sworn peace officers and other employees.

27 (2) Notwithstanding the exclusion of supervisors from
28 bargaining units as provided in paragraph (1) of this
29 subsection (s), a public employer may agree to permit its
30 supervisory employees to form bargaining units and may
31 bargain with those units. This Act shall apply if the
32 public employer chooses to bargain under this subsection.

33 (3) Public employees who are court reporters, as
34 defined in the Court Reporters Act, shall be divided into 3
35 units for collective bargaining purposes. One unit shall be
36 court reporters employed by the Cook County Judicial

1 Circuit; one unit shall be court reporters employed by the
2 12th, 18th, 19th, and, on and after December 4, 2006, the
3 22nd judicial circuits; and one unit shall be court
4 reporters employed by all other judicial circuits.

5 (Source: P.A. 93-204, eff. 7-16-03; 93-617, eff. 12-9-03;
6 94-98, eff. 7-1-05; 94-320, eff. 1-1-06; revised 8-19-05.)

7 (5 ILCS 315/14) (from Ch. 48, par. 1614)

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

10 (a) In the case of collective bargaining agreements
11 involving units of security employees of a public employer,
12 Peace Officer Units, ~~or~~ units of fire fighters or paramedics,
13 or units of emergency service support staff, and in the case of
14 disputes under Section 18, unless the parties mutually agree to
15 some other time limit, mediation shall commence 30 days prior
16 to the expiration date of such agreement or at such later time
17 as the mediation services chosen under subsection (b) of
18 Section 12 can be provided to the parties. In the case of
19 negotiations for an initial collective bargaining agreement,
20 mediation shall commence upon 15 days notice from either party
21 or at such later time as the mediation services chosen pursuant
22 to subsection (b) of Section 12 can be provided to the parties.
23 In mediation under this Section, if either party requests the
24 use of mediation services from the Federal Mediation and
25 Conciliation Service, the other party shall either join in such
26 request or bear the additional cost of mediation services from
27 another source. The mediator shall have a duty to keep the
28 Board informed on the progress of the mediation. If any dispute
29 has not been resolved within 15 days after the first meeting of
30 the parties and the mediator, or within such other time limit
31 as may be mutually agreed upon by the parties, either the
32 exclusive representative or employer may request of the other,
33 in writing, arbitration, and shall submit a copy of the request
34 to the Board.

35 (b) Within 10 days after such a request for arbitration has

1 been made, the employer shall choose a delegate and the
2 employees' exclusive representative shall choose a delegate to
3 a panel of arbitration as provided in this Section. The
4 employer and employees shall forthwith advise the other and the
5 Board of their selections.

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

24 (d) The chairman shall call a hearing to begin within 15
25 days and give reasonable notice of the time and place of the
26 hearing. The hearing shall be held at the offices of the Board
27 or at such other location as the Board deems appropriate. The
28 chairman shall preside over the hearing and shall take
29 testimony. Any oral or documentary evidence and other data
30 deemed relevant by the arbitration panel may be received in
31 evidence. The proceedings shall be informal. Technical rules of
32 evidence shall not apply and the competency of the evidence
33 shall not thereby be deemed impaired. A verbatim record of the
34 proceedings shall be made and the arbitrator shall arrange for
35 the necessary recording service. Transcripts may be ordered at
36 the expense of the party ordering them, but the transcripts

1 shall not be necessary for a decision by the arbitration panel.
2 The expense of the proceedings, including a fee for the
3 chairman, established in advance by the Board, shall be borne
4 equally by each of the parties to the dispute. The delegates,
5 if public officers or employees, shall continue on the payroll
6 of the public employer without loss of pay. The hearing
7 conducted by the arbitration panel may be adjourned from time
8 to time, but unless otherwise agreed by the parties, shall be
9 concluded within 30 days of the time of its commencement.
10 Majority actions and rulings shall constitute the actions and
11 rulings of the arbitration panel. Arbitration proceedings
12 under this Section shall not be interrupted or terminated by
13 reason of any unfair labor practice charge filed by either
14 party at any time.

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

28 (f) At any time before the rendering of an award, the
29 chairman of the arbitration panel, if he is of the opinion that
30 it would be useful or beneficial to do so, may remand the
31 dispute to the parties for further collective bargaining for a
32 period not to exceed 2 weeks. If the dispute is remanded for
33 further collective bargaining the time provisions of this Act
34 shall be extended for a time period equal to that of the
35 remand. The chairman of the panel of arbitration shall notify
36 the Board of the remand.

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

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

29 (1) The lawful authority of the employer.

30 (2) Stipulations of the parties.

31 (3) The interests and welfare of the public and the
32 financial ability of the unit of government to meet those
33 costs.

34 (4) Comparison of the wages, hours and conditions of
35 employment of the employees involved in the arbitration
36 proceeding with the wages, hours and conditions of

1 employment of other employees performing similar services
2 and with other employees generally:

3 (A) In public employment in comparable
4 communities.

5 (B) In private employment in comparable
6 communities.

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

9 (6) The overall compensation presently received by the
10 employees, including direct wage compensation, vacations,
11 holidays and other excused time, insurance and pensions,
12 medical and hospitalization benefits, the continuity and
13 stability of employment and all other benefits received.

14 (7) Changes in any of the foregoing circumstances
15 during the pendency of the arbitration proceedings.

16 (8) Such other factors, not confined to the foregoing,
17 which are normally or traditionally taken into
18 consideration in the determination of wages, hours and
19 conditions of employment through voluntary collective
20 bargaining, mediation, fact-finding, arbitration or
21 otherwise between the parties, in the public service or in
22 private employment.

23 (i) In the case of peace officers, the arbitration decision
24 shall be limited to wages, hours, and conditions of employment
25 (which may include residency requirements in municipalities
26 with a population under 1,000,000, but those residency
27 requirements shall not allow residency outside of Illinois) and
28 shall not include the following: i) residency requirements in
29 municipalities with a population of at least 1,000,000; ii) the
30 type of equipment, other than uniforms, issued or used; iii)
31 manning; iv) the total number of employees employed by the
32 department; v) mutual aid and assistance agreements to other
33 units of government; and vi) the criterion pursuant to which
34 force, including deadly force, can be used; provided, nothing
35 herein shall preclude an arbitration decision regarding
36 equipment or manning levels if such decision is based on a

1 finding that the equipment or manning considerations in a
2 specific work assignment involve a serious risk to the safety
3 of a peace officer beyond that which is inherent in the normal
4 performance of police duties. Limitation of the terms of the
5 arbitration decision pursuant to this subsection shall not be
6 construed to limit the factors upon which the decision may be
7 based, as set forth in subsection (h).

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

31 The changes to this subsection (i) made by Public Act
32 90-385 (relating to residency requirements) do not apply to
33 persons who are employed by a combined department that performs
34 both police and firefighting services; these persons shall be
35 governed by the provisions of this subsection (i) relating to
36 peace officers, as they existed before the amendment by Public

1 Act 90-385.

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

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

28 (k) Orders of the arbitration panel shall be reviewable,
29 upon appropriate petition by either the public employer or the
30 exclusive bargaining representative, by the circuit court for
31 the county in which the dispute arose or in which a majority of
32 the affected employees reside, but only for reasons that the
33 arbitration panel was without or exceeded its statutory
34 authority; the order is arbitrary, or capricious; or the order
35 was procured by fraud, collusion or other similar and unlawful
36 means. Such petitions for review must be filed with the

1 appropriate circuit court within 90 days following the issuance
2 of the arbitration order. The pendency of such proceeding for
3 review shall not automatically stay the order of the
4 arbitration panel. The party against whom the final decision of
5 any such court shall be adverse, if such court finds such
6 appeal or petition to be frivolous, shall pay reasonable
7 attorneys' fees and costs to the successful party as determined
8 by said court in its discretion. If said court's decision
9 affirms the award of money, such award, if retroactive, shall
10 bear interest at the rate of 12 percent per annum from the
11 effective retroactive date.

12 (l) During the pendency of proceedings before the
13 arbitration panel, existing wages, hours, and other conditions
14 of employment shall not be changed by action of either party
15 without the consent of the other but a party may so consent
16 without prejudice to his rights or position under this Act. The
17 proceedings are deemed to be pending before the arbitration
18 panel upon the initiation of arbitration procedures under this
19 Act.

20 (m) Security officers of public employers, and Peace
21 Officers, Fire Fighters and fire department and fire protection
22 district paramedics, and units of emergency service support
23 staff, covered by this Section may not withhold services, nor
24 may public employers lock out or prevent such employees from
25 performing services at any time.

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

30 The governing body shall review each term decided by the
31 arbitration panel. If the governing body fails to reject one or
32 more terms of the arbitration panel's decision by a 3/5 vote of
33 those duly elected and qualified members of the governing body,
34 within 20 days of issuance, or in the case of firefighters
35 employed by a state university, at the next regularly scheduled
36 meeting of the governing body after issuance, such term or

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

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

26 (p) Notwithstanding the provisions of this Section the
27 employer and exclusive representative may agree to submit
28 unresolved disputes concerning wages, hours, terms and
29 conditions of employment to an alternative form of impasse
30 resolution.

31 (Source: P.A. 89-195, eff. 7-21-95; 90-202, eff. 7-24-97;
32 90-385, eff. 8-15-97; 90-655, eff. 7-30-98.)

33 (5 ILCS 315/17) (from Ch. 48, par. 1617)

34 Sec. 17. Right to Strike. (a) Nothing in this Act shall
35 make it unlawful or make it an unfair labor practice for public

1 employees, other than security employees, as defined in Section
2 3(p), Peace Officers, Fire Fighters, and paramedics employed by
3 fire departments and fire protection districts, and emergency
4 service support staff, to strike except as otherwise provided
5 in this Act. Public employees who are permitted to strike may
6 strike only if:

7 (1) the employees are represented by an exclusive
8 bargaining representative;

9 (2) the collective bargaining agreement between the public
10 employer and the public employees, if any, has expired, or such
11 collective bargaining agreement does not prohibit the strike;

12 (3) the public employer and the labor organization have not
13 mutually agreed to submit the disputed issues to final and
14 binding arbitration;

15 (4) the exclusive representative has requested a mediator
16 pursuant to Section 12 for the purpose of mediation or
17 conciliation of a dispute between the public employer and the
18 exclusive representative and mediation has been used; and

19 (5) at least 5 days have elapsed after a notice of intent
20 to strike has been given by the exclusive bargaining
21 representative to the public employer.

22 In mediation under this Section, if either party requests
23 the use of mediation services from the Federal Mediation and
24 Conciliation Service, the other party shall either join in such
25 request or bear the additional cost of mediation services from
26 another source.

27 (b) An employee who participates in a strike, work stoppage
28 or slowdown, in violation of this Act shall be subject to
29 discipline by the employer. No employer may pay or cause such
30 employee to be paid any wages or other compensation for such
31 periods of participation, except for wages or compensation
32 earned before participation in such strike.

33 (Source: P.A. 86-412.)