



## 95TH GENERAL ASSEMBLY

### State of Illinois

2007 and 2008

HB5181

by Rep. Harry Osterman

#### SYNOPSIS AS INTRODUCED:

115 ILCS 5/7

from Ch. 48, par. 1707

Amends the Illinois Educational Labor Relations Act. With respect to the Illinois Educational Labor Relations Board designating an exclusive representative for purposes of collective bargaining, provides that if either party provides to the Board, before the designation of a representative, clear and convincing evidence that the dues deduction authorizations or other evidence (instead of dues deduction authorizations and other evidence) upon which the Board would otherwise rely to ascertain the employees' choice of representative are fraudulent or were obtained through coercion, the Board shall promptly thereafter conduct an election.

LRB095 15694 NHT 41701 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning education.

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

4 Section 5. The Illinois Educational Labor Relations Act is  
5 amended by changing Section 7 as follows:

6 (115 ILCS 5/7) (from Ch. 48, par. 1707)

7 Sec. 7. Recognition of exclusive bargaining  
8 representatives - unit determination. The Board is empowered to  
9 administer the recognition of bargaining representatives of  
10 employees of public school districts, including employees of  
11 districts which have entered into joint agreements, or  
12 employees of public community college districts, or any State  
13 college or university, and any State agency whose major  
14 function is providing educational services, making certain  
15 that each bargaining unit contains employees with an  
16 identifiable community of interest and that no unit includes  
17 both professional employees and nonprofessional employees  
18 unless a majority of employees in each group vote for inclusion  
19 in the unit.

20 (a) In determining the appropriateness of a unit, the Board  
21 shall decide in each case, in order to ensure employees the  
22 fullest freedom in exercising the rights guaranteed by this  
23 Act, the unit appropriate for the purpose of collective

1 bargaining, based upon but not limited to such factors as  
2 historical pattern of recognition, community of interest,  
3 including employee skills and functions, degree of functional  
4 integration, interchangeability and contact among employees,  
5 common supervision, wages, hours and other working conditions  
6 of the employees involved, and the desires of the employees.  
7 Nothing in this Act, except as herein provided, shall interfere  
8 with or negate the current representation rights or patterns  
9 and practices of employee organizations which have  
10 historically represented employees for the purposes of  
11 collective bargaining, including but not limited to the  
12 negotiations of wages, hours and working conditions,  
13 resolutions of employees' grievances, or resolution of  
14 jurisdictional disputes, or the establishment and maintenance  
15 of prevailing wage rates, unless a majority of the employees so  
16 represented expresses a contrary desire under the procedures  
17 set forth in this Act. This Section, however, does not prohibit  
18 multi-unit bargaining. Notwithstanding the above factors,  
19 where the majority of public employees of a craft so decide,  
20 the Board shall designate such craft as a unit appropriate for  
21 the purposes of collective bargaining.

22 The sole appropriate bargaining unit for tenured and  
23 tenure-track academic faculty at each campus of the University  
24 of Illinois shall be a unit that is comprised of  
25 non-supervisory academic faculty employed more than half-time  
26 and that includes all tenured and tenure-track faculty of that

1 University campus employed by the board of trustees in all of  
2 the campus's undergraduate, graduate, and professional schools  
3 and degree and non-degree programs (with the exception of the  
4 college of medicine, the college of pharmacy, the college of  
5 dentistry, the college of law, and the college of veterinary  
6 medicine, each of which shall have its own separate unit),  
7 regardless of current or historical representation rights or  
8 patterns or the application of any other factors. Any decision,  
9 rule, or regulation promulgated by the Board to the contrary  
10 shall be null and void.

11 (b) An educational employer shall voluntarily recognize a  
12 labor organization for collective bargaining purposes if that  
13 organization appears to represent a majority of employees in  
14 the unit. The employer shall post notice of its intent to so  
15 recognize for a period of at least 20 school days on bulletin  
16 boards or other places used or reserved for employee notices.  
17 Thereafter, the employer, if satisfied as to the majority  
18 status of the employee organization, shall send written  
19 notification of such recognition to the Board for  
20 certification. Any dispute regarding the majority status of a  
21 labor organization shall be resolved by the Board which shall  
22 make the determination of majority status.

23 Within the 20 day notice period, however, any other  
24 interested employee organization may petition the Board to seek  
25 recognition as the exclusive representative of the unit in the  
26 manner specified by rules and regulations prescribed by the

1 Board, if such interested employee organization has been  
2 designated by at least 15% of the employees in an appropriate  
3 bargaining unit which includes all or some of the employees in  
4 the unit intended to be recognized by the employer. In such  
5 event, the Board shall proceed with the petition in the same  
6 manner as provided in paragraph (c) of this Section.

7 (c) A labor organization may also gain recognition as the  
8 exclusive representative by an election of the employees in the  
9 unit. Petitions requesting an election may be filed with the  
10 Board:

11 (1) by an employee or group of employees or any labor  
12 organizations acting on their behalf alleging and  
13 presenting evidence that 30% or more of the employees in a  
14 bargaining unit wish to be represented for collective  
15 bargaining or that the labor organization which has been  
16 acting as the exclusive bargaining representative is no  
17 longer representative of a majority of the employees in the  
18 unit; or

19 (2) by an employer alleging that one or more labor  
20 organizations have presented a claim to be recognized as an  
21 exclusive bargaining representative of a majority of the  
22 employees in an appropriate unit and that it doubts the  
23 majority status of any of the organizations or that it  
24 doubts the majority status of an exclusive bargaining  
25 representative.

26 The Board shall investigate the petition and if it has

1 reasonable cause to suspect that a question of representation  
2 exists, it shall give notice and conduct a hearing. If it finds  
3 upon the record of the hearing that a question of  
4 representation exists, it shall direct an election, which shall  
5 be held no later than 90 days after the date the petition was  
6 filed. Nothing prohibits the waiving of hearings by the parties  
7 and the conduct of consent elections.

8 (c-5) The Board shall designate an exclusive  
9 representative for purposes of collective bargaining when the  
10 representative demonstrates a showing of majority interest by  
11 employees in the unit. If the parties to a dispute are without  
12 agreement on the means to ascertain the choice, if any, of  
13 employee organization as their representative, the Board shall  
14 ascertain the employees' choice of employee organization, on  
15 the basis of dues deduction authorization and other evidence,  
16 or, if necessary, by conducting an election. If either party  
17 provides to the Board, before the designation of a  
18 representative, clear and convincing evidence that the dues  
19 deduction authorizations, or ~~and~~ other evidence upon which the  
20 Board would otherwise rely to ascertain the employees' choice  
21 of representative, are fraudulent or were obtained through  
22 coercion, the Board shall promptly thereafter conduct an  
23 election. The Board shall also investigate and consider a  
24 party's allegations that the dues deduction authorizations and  
25 other evidence submitted in support of a designation of  
26 representative without an election were subsequently changed,

1 altered, withdrawn, or withheld as a result of employer fraud,  
2 coercion, or any other unfair labor practice by the employer.  
3 If the Board determines that a labor organization would have  
4 had a majority interest but for an employer's fraud, coercion,  
5 or unfair labor practice, it shall designate the labor  
6 organization as an exclusive representative without conducting  
7 an election.

8 (d) An order of the Board dismissing a representation  
9 petition, determining and certifying that a labor organization  
10 has been fairly and freely chosen by a majority of employees in  
11 an appropriate bargaining unit, determining and certifying  
12 that a labor organization has not been fairly and freely chosen  
13 by a majority of employees in the bargaining unit or certifying  
14 a labor organization as the exclusive representative of  
15 employees in an appropriate bargaining unit because of a  
16 determination by the Board that the labor organization is the  
17 historical bargaining representative of employees in the  
18 bargaining unit, is a final order. Any person aggrieved by any  
19 such order issued on or after the effective date of this  
20 amendatory Act of 1987 may apply for and obtain judicial review  
21 in accordance with provisions of the Administrative Review Law,  
22 as now or hereafter amended, except that such review shall be  
23 afforded directly in the Appellate Court of a judicial district  
24 in which the Board maintains an office. Any direct appeal to  
25 the Appellate Court shall be filed within 35 days from the date  
26 that a copy of the decision sought to be reviewed was served

1 upon the party affected by the decision.

2 No election may be conducted in any bargaining unit during  
3 the term of a collective bargaining agreement covering such  
4 unit or subdivision thereof, except the Board may direct an  
5 election after the filing of a petition between January 15 and  
6 March 1 of the final year of a collective bargaining agreement.  
7 Nothing in this Section prohibits the negotiation of a  
8 collective bargaining agreement covering a period not  
9 exceeding 3 years. A collective bargaining agreement of less  
10 than 3 years may be extended up to 3 years by the parties if the  
11 extension is agreed to in writing before the filing of a  
12 petition under this Section. In such case, the final year of  
13 the extension is the final year of the collective bargaining  
14 agreement. No election may be conducted in a bargaining unit,  
15 or subdivision thereof, in which a valid election has been held  
16 within the preceding 12 month period.

17 (Source: P.A. 95-331, eff. 8-21-07.)