



## 95TH GENERAL ASSEMBLY

### State of Illinois

2007 and 2008

SB0134

Introduced 1/31/2007, by Sen. Martin A. Sandoval

#### SYNOPSIS AS INTRODUCED:

New Act

Creates the Illinois Labor Relations Act. Applies to employers who employ 10 or more 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 or to anyone licensed under the Real Estate License Act of 2000 (and provides that the Act does not apply to State officers and agencies, units of local government, school districts, and other public entities, or any entities that are specifically excluded under the Illinois Public Labor Relations Act). 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.

LRB095 06719 RLC 26832 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

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:

1           (a) "Board" means the State Panel of the Illinois Labor  
2 Relations Board as defined in Section 5 of the Illinois Public  
3 Labor Relations Act.

4           (b) "Collective bargaining" means bargaining over terms  
5 and conditions of employment, including wages, hours and other  
6 conditions of employment.

7           (c) "Confidential employee" means an employee who, in the  
8 regular course of his or her duties, assists and acts in a  
9 confidential capacity to persons who formulate, determine, and  
10 effectuate management policies with regard to labor relations  
11 or who, in the regular course of his or her duties, has  
12 authorized access to information relating to the effectuation  
13 or review of the employer's collective bargaining policies.

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

16           (e) "Employee" means any individual employed by an  
17 employer, and shall not be limited to the employees of a  
18 particular employer, unless this Act explicitly states  
19 otherwise, and shall include any individual whose work has  
20 ceased as a consequence of, or in connection with, any current  
21 labor dispute or because of any unfair labor practice.  
22 "Employee" does not include any individual who is employed by  
23 any person who does not meet the definition of "employer" as  
24 defined in this Act and does not include any individual who is  
25 subject to the protections of the National Labor Relations Act  
26 (29 U.S.C. 151 et seq.) or the Railway Labor Act (45 U.S.C. 151

1 et seq.). "Employee" also does not include managerial  
2 employees, confidential employees, or supervisors as defined  
3 in this Act or anyone licensed under the Real Estate License  
4 Act of 2000.

5 (f) "Employer" means any individual, partnership,  
6 association, corporation, business, trust, person, or entity  
7 for whom 10 or more employees are gainfully employed in  
8 Illinois. "Employer" includes any person acting on behalf of or  
9 in the interest of an employer, directly or indirectly, with or  
10 without his or her knowledge, but does not include the State of  
11 Illinois, any political subdivision of the State, any State  
12 officer or State department or agency, any unit of local  
13 government, any school district, any authorities, including  
14 departments, divisions, bureaus, boards, commissions, or other  
15 agencies of the foregoing entities, or any entity that is  
16 specifically excluded under the Illinois Public Labor  
17 Relations Act.

18 (g) "Exclusive representative" means the labor  
19 organization that has been designated by the Board as the  
20 representative of a majority of employees in an appropriate  
21 bargaining unit in accordance with the procedures contained in  
22 this Act or a historical representative. For the purposes of  
23 this Act, "historical representative" means a labor  
24 organization which, on the effective date of this Act, is a  
25 party to a collective bargaining agreement with an employer  
26 under the jurisdiction of this Act, or is engaged in collective

1 bargaining over the terms of a successor collective bargaining  
2 agreement with an employer under the jurisdiction of this Act.

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

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

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

25 (k) "Person" includes one or more individuals, labor  
26 organizations (other than when acting as an employer),

1 employees, associations, corporations, partnerships, legal  
2 representatives, trustees, trustees in bankruptcy, and  
3 receivers.

4 (l) "Professional employee" means any employee engaged in  
5 work predominantly intellectual and varied in character rather  
6 than routine mental, manual, mechanical, or physical work;  
7 involving the consistent exercise of discretion and adjustment  
8 in its performance; of such a character that the output  
9 produced or the result accomplished cannot be standardized in  
10 relation to a given period of time; and requiring advanced  
11 knowledge in a field of science or learning customarily  
12 acquired by a prolonged course of specialized intellectual  
13 instruction and study in an institution of higher learning or a  
14 hospital, as distinguished from a general academic education or  
15 from apprenticeship or from training in the performance of  
16 routine mental, manual, or physical processes; or any employee  
17 who has completed the courses of specialized intellectual  
18 instruction and study prescribed in this subsection (l) and is  
19 performing related work under the supervision of a professional  
20 person to qualify to become a professional employee as defined  
21 in this subsection (l).

22 (m) "Supervisor" means an employee whose principal work is  
23 substantially different from that of his or her subordinates  
24 and who has authority, in the interest of the employer, to  
25 hire, transfer, suspend, lay off, recall, promote, discharge,  
26 direct, reward, or discipline employees, to adjust their

1 grievances, or to effectively recommend any of those actions,  
2 if the exercise of that authority is not of a merely routine or  
3 clerical nature, but requires the consistent use of independent  
4 judgment. "Supervisor" includes only those individuals who  
5 devote a preponderance of their employment time to exercising  
6 that authority.

7 (n) "Unit" means a class of jobs or positions that are held  
8 by employees whose collective interests may suitably be  
9 represented by a labor organization for collective bargaining.  
10 A bargaining unit shall not include both employees and  
11 supervisors. Notwithstanding the exclusion of supervisors from  
12 bargaining units containing non-supervisory employees, an  
13 employer may agree to permit its supervisory employees to form  
14 bargaining units and may bargain with those units.

15 Section 15. Illinois Labor Relations Board State Panel. The  
16 composition and duties of the Illinois Labor Relations Board  
17 State Panel shall be as described in Section 5 of the Illinois  
18 Public Labor Relations Act.

19 Section 20. Rights of employees. Employees shall have the  
20 right to self-organization, to form, join, or assist labor  
21 organizations, to bargain collectively through representatives  
22 of their own choosing, and to engage in other concerted  
23 activities for the purpose of collective bargaining or other  
24 mutual aid or protection, and shall also have the right to

1 refrain from any or all such activities except to the extent  
2 that such right may be affected by an agreement requiring  
3 membership in a labor organization as a condition of employment  
4 as authorized in paragraph (a) (2) of Section 25.

5 Section 25. Unfair labor practices.

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

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

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

22 (3) to discharge or otherwise discriminate against an  
23 employee because he or she has signed or filed an  
24 affidavit, petition, or charge or has provided any  
25 information or testimony under this Act;



1           (4) to refuse to bargain collectively in good faith  
2 with a labor organization which is the exclusive  
3 representative of employees in an appropriate unit,  
4 including, but not limited to, the discussing of grievances  
5 with the exclusive representative;

6           (5) to violate any of the rules established by the  
7 Board relating to the conduct of representation elections  
8 or the conduct affecting the representation elections; or

9           (6) to refuse to reduce a collective bargaining  
10 agreement to writing or to refuse to sign such agreement.

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

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

15           (A) that this paragraph shall not impair the right  
16 of a labor organization to prescribe its own rules with  
17 respect to the acquisition or retention of membership  
18 therein or the determination of dues or fair share  
19 payments; and

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

24           (2) to restrain or coerce an employer in the selection  
25 of his or her representatives for the purposes of  
26 collective bargaining or the settlement of grievances;

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

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

8           (5) to violate any of the rules established by the  
9 Board relating to the conduct of representation elections  
10 or the conduct affecting the representation elections;

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

14           (7) to picket or cause to be picketed, or threaten to  
15 picket or cause to be picketed, any employer if an object  
16 thereof is forcing or requiring an employer to recognize or  
17 bargain with a labor organization of the representative of  
18 its employees, or forcing or requiring the employees of an  
19 employer to accept or select such labor organization as  
20 their collective bargaining representative, unless such  
21 labor organization is currently certified as the  
22 representative of such employees:

23           (A) if the employer has lawfully recognized in  
24 accordance with this Act any labor organization and a  
25 question concerning representation may not  
26 appropriately be raised under Section 50;

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

3 (C) if such picketing has been conducted without a  
4 petition under Section 50 being filed within a  
5 reasonable period of time not to exceed 30 days from  
6 the commencement of such picketing; provided that when  
7 such a petition has been filed the Board shall  
8 forthwith, without regard to subsection (a) of Section  
9 50 or the absence of a showing of a substantial  
10 interest on the part of the labor organization, direct  
11 an election in such unit as the Board finds to be  
12 appropriate and shall certify the results thereof;  
13 provided further, that nothing in this subparagraph  
14 shall be construed to prohibit any picketing or other  
15 publicity for the purpose of truthfully advising the  
16 public that an employer does not employ members of, or  
17 have a contract with, a labor organization unless an  
18 effect of such picketing is to induce any individual  
19 employed by any other person, in the course of his or  
20 her employment, not to pick up, deliver, or transport  
21 any goods or not to perform any services; or

22 (8) to refuse to reduce a collective bargaining  
23 agreement to writing or to refuse to sign such agreement.

24 (c) The expressing of any views, argument, or opinion or  
25 the dissemination thereof, whether in written, printed,  
26 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

1 to a collective bargaining contract shall terminate or modify  
2 that contract, unless the party desiring such termination or  
3 modification:

4 (1) serves a written notice upon the other party to the  
5 contract of the proposed termination or modification 60  
6 days before the expiration date thereof, or if the contract  
7 contains no expiration date, 60 days before the time it is  
8 proposed to make such termination or modification;

9 (2) offers to meet and confer with the other party for  
10 the purpose of negotiating a new contract or a contract  
11 containing the proposed modifications;

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

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

20 The duties imposed upon employers, employees, and labor  
21 organizations by paragraphs (2), (3), and (4) shall become  
22 inapplicable upon an intervening certification of the Board,  
23 under which the labor organization, which is a party to the  
24 contract, has been superseded as or ceased to be the exclusive  
25 representative of the employees pursuant to subsection (a) of  
26 Section 50, and the duties so imposed shall not be construed as

1 requiring either party to discuss or agree to any modification  
2 of the terms and conditions contained in a contract for a fixed  
3 period, if such modification is to become effective before such  
4 terms and conditions can be reopened under the contract.

5 Section 35. Dues deduction and fair share fees.

6 (a) Dues deduction. The exclusive representative may  
7 negotiate provisions in a collective bargaining agreement  
8 providing for the payroll deduction of labor organization dues,  
9 initiation fees, and assessments. Such payments shall be paid  
10 to the exclusive representative.

11 (b) Fair share fees.

12 (1) When a collective bargaining agreement is entered  
13 into by an employer and an exclusive representative, the  
14 agreement may include a provision to require as a condition  
15 of employment that employees covered by the collective  
16 bargaining agreement who are not members of the exclusive  
17 representative's organization pay their proportionate  
18 share of the costs of the collective bargaining process,  
19 organizing, contract administration, and pursuit of  
20 matters affecting wages, hours, and conditions of  
21 employment. The nonmember employees' share of the costs  
22 shall not exceed the amount of dues uniformly required of  
23 members. The exclusive representative shall certify to the  
24 employer the amount to be deducted and the employer shall  
25 deduct such amount from the earnings of the nonmember

1 employees and remit such amounts to the labor organization.

2 (2) Agreements containing a fair share agreement must  
3 safeguard the right of nonmember employees based upon bona  
4 fide religious tenets or teachings of a church or religious  
5 body of which such employees are members. Such employees  
6 may be required to pay an amount equal to their fair share,  
7 determined under a lawful fair share agreement, to a  
8 nonreligious charitable organization mutually agreed upon  
9 by the employees affected and the exclusive bargaining  
10 representative to which such employees would otherwise pay  
11 such service fee. If the affected employees and the  
12 bargaining representative are unable to reach an agreement  
13 on the matter, the Board may establish an approved list of  
14 charitable organizations to which such payments may be  
15 made.

16 (c) If a collective bargaining agreement is terminated, or  
17 continues in effect beyond its scheduled expiration date  
18 pending the negotiation of a successor agreement, the employer  
19 shall continue to honor and abide by any dues deduction or fair  
20 share clause contained therein until a new agreement is reached  
21 including dues deduction or a fair share clause. For the  
22 benefit of any successor exclusive representative certified  
23 under this Act, this provision shall be applicable, provided  
24 the successor exclusive representative:

25 (i) certifies to the employer the amount to be  
26 deducted under subsection (b); or

1           (ii) presents the employer with employee written  
2           authorizations for the deduction of dues, assessments,  
3           and fees under this subsection.

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

8           Section 40. Unfair labor practice procedures. Unfair labor  
9           practices may be dealt with by the Board in the following  
10          manner:

11          (a) If it is charged that any person has engaged in or is  
12          engaging in any unfair labor practice, the Board or any agent  
13          designated by the Board for such purposes shall conduct an  
14          investigation of the charge. If, after such investigation, the  
15          Board finds that the charge involves a dispositive issue of law  
16          or fact, the Board shall issue a complaint and cause to be  
17          served upon the person a complaint stating the charges,  
18          accompanied by a notice of hearing. The notice of hearing shall  
19          indicate that a hearing is to take place before the Board, or a  
20          member thereof designated by the Board, or before a qualified  
21          hearing officer designated by the Board at the offices of the  
22          Board or such other location as the Board deems appropriate, on  
23          a date not less than 5 days after service of such complaint. No  
24          complaint shall issue based upon any unfair labor practice  
25          occurring more than 6 months before the filing of a charge with



1 the Board and the service of a copy thereof upon the person  
2 against whom the charge is made, unless the person aggrieved  
3 thereby did not reasonably have knowledge of the alleged unfair  
4 labor practice or was prevented from filing such a charge by  
5 reason of service in the armed forces, in which event the 6  
6 month period shall be computed from the date of his or her  
7 discharge. Any such complaint may be amended by the member or  
8 hearing officer conducting the hearing for the Board in his or  
9 her discretion at any time before the issuance of an order  
10 based thereon. The person who is the subject of the complaint  
11 has the right to file an answer to the original or amended  
12 complaint and to appear in person or by a representative and  
13 give testimony at the place and time fixed in the complaint. In  
14 the discretion of the member or hearing officer conducting the  
15 hearing, or in the discretion of the Board, any other person  
16 may be allowed to intervene in the proceeding and to present  
17 testimony. In any hearing conducted by the Board, neither the  
18 Board nor the member or agent conducting the hearing shall be  
19 bound by the rules of evidence applicable to courts, except as  
20 to the rules of privilege recognized by law.

21 (b) The Board shall have the power to issue subpoenas and  
22 administer oaths. If any party willfully fails or neglects to  
23 appear or testify or to produce books, papers, and records  
24 pursuant to the issuance of a subpoena by the Board, the Board  
25 may apply to a court of competent jurisdiction to request that  
26 such party be ordered to appear before the Board to testify or

1 produce the requested evidence.

2 (c) Any testimony taken by the Board, or a member  
3 designated by the Board or a hearing officer thereof, must be  
4 reduced to writing and filed with the Board. A full and  
5 complete record shall be kept of all proceedings before the  
6 Board, and all proceedings shall be transcribed by a reporter  
7 appointed by the Board. The party on whom the burden of proof  
8 rests shall be required to sustain such burden by a  
9 preponderance of the evidence. If, upon a preponderance of the  
10 evidence taken, the Board is of the opinion that any person  
11 named in the charge has engaged in or is engaging in an unfair  
12 labor practice, then it shall state its findings of fact and  
13 shall issue and cause to be served upon the person an order  
14 requiring him or her to cease and desist from the unfair labor  
15 practice, and to take such affirmative action, including  
16 reinstatement of employees with or without back pay, as will  
17 effectuate the policies of this Act. If the Board awards back  
18 pay, it shall also award interest at the rate of 7% per year.  
19 If the Board finds that a party has demonstrated a pattern of  
20 committing unfair labor practices or if the Board finds that a  
21 party has demonstrated an egregious disregard for the rights of  
22 employees under this Act, the Board may, in its discretion,  
23 issue an order barring the party from receiving public  
24 contracts or State tax incentives for a period of up to 3  
25 years. Upon issuing such an order, the Board shall notify the  
26 Office of the Governor in writing of the issuance of its order.

1 The Board's order may further require the person to make  
2 reports from time to time, and to demonstrate the extent to  
3 which he or she has complied with the order. If there is no  
4 preponderance of evidence to indicate to the Board that the  
5 person named in the charge has engaged in or is engaging in the  
6 unfair labor practice, then the Board shall state its findings  
7 of fact and shall issue an order dismissing the complaint. The  
8 Board's order may in its discretion also include an appropriate  
9 sanction, based on the Board's rules, and the sanction may  
10 include an order to pay the other party or parties' reasonable  
11 expenses including costs and reasonable attorney's fees, if the  
12 other party has made allegations or denials without reasonable  
13 cause and found to be untrue or has engaged in frivolous  
14 litigation for the purpose of delay or needless increase in the  
15 cost of litigation.

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

20 (e) A charging party or any person aggrieved by a final  
21 order of the Board granting or denying in whole or in part the  
22 relief sought may apply for and obtain judicial review of an  
23 order of the Board entered under this Act, in accordance with  
24 the Administrative Review Law, except that such judicial review  
25 shall be afforded directly in the appellate court for the  
26 district in which the aggrieved party resides or transacts

1 business, and provided, that such judicial review shall not be  
2 available for the purpose of challenging a final order issued  
3 by the Board pursuant to Section 50 for which judicial review  
4 has been petitioned pursuant to subsection (g) of Section 50.  
5 Any direct appeal to the appellate court shall be filed within  
6 35 days from the date that a copy of the decision sought to be  
7 reviewed was served upon the party affected by the decision.  
8 The Board in proceedings under this Section may obtain an order  
9 of the court for the enforcement of its order.

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

24 (g) The proceedings provided in paragraph (f) of this  
25 Section shall be commenced in the appellate court for the  
26 district where the unfair labor practice which is the subject

1 of the Board's order was committed, or where a person required  
2 to cease and desist by such order resides or transacts  
3 business.

4 (h) The Board, through the Attorney General, shall have  
5 power, upon issuance of an unfair labor practice complaint  
6 alleging that a person has engaged in or is engaging in an  
7 unfair labor practice, to petition the circuit court where the  
8 alleged unfair labor practice which is the subject of the  
9 Board's complaint was allegedly committed, or where a person  
10 required to cease and desist from such alleged unfair labor  
11 practice resides or transacts business, for appropriate  
12 temporary relief or a restraining order. Upon the filing of any  
13 such petition, the court shall cause notice thereof to be  
14 served upon such persons, and thereupon shall have jurisdiction  
15 to grant to the Board such temporary relief or restraining  
16 order as it deems just and proper.

17 (i) If an unfair labor practice charge involves the  
18 interpretation or application of a collective bargaining  
19 agreement and that agreement contains a grievance procedure  
20 with binding arbitration as its terminal step, the Board may  
21 defer the resolution of such dispute to the grievance and  
22 arbitration procedure contained in that agreement.

23 Section 45. Grievance procedure. The collective bargaining  
24 agreement negotiated between the employer and the exclusive  
25 representative shall contain a grievance resolution procedure

1 which shall apply to all employees in the bargaining unit and  
2 shall provide for final and binding arbitration of disputes  
3 concerning the administration or interpretation of the  
4 agreement unless mutually agreed otherwise. Any agreement  
5 containing a final and binding arbitration provision shall also  
6 contain a provision prohibiting strikes for the duration of the  
7 agreement. The grievance and arbitration provisions of any  
8 collective bargaining agreement shall be subject to the Uniform  
9 Arbitration Act. The costs of such arbitration shall be borne  
10 equally by the employer and the exclusive representative.

11 Section 50. Elections; recognition; designation of  
12 exclusive representative.

13 (a) In accordance with such rules as the Board may  
14 prescribe, the Board shall designate a labor organization as  
15 the exclusive representative of employees through the  
16 processes outlined in this Section.

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

19 (A) an employee or group of employees or any labor  
20 organization acting in their behalf files a petition  
21 demonstrating that 30% of the employees in an  
22 appropriate unit wish to be represented for the  
23 purposes of collective bargaining by a labor  
24 organization as exclusive representative, or asserting  
25 that the labor organization which has been certified or

1 is currently recognized by the employer as the  
2 bargaining representative is no longer the  
3 representative of the majority of the employees in the  
4 unit; or

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

9 The Board shall investigate such petitions, and if it  
10 has reasonable cause to believe that a question of  
11 representation exists, shall provide for an appropriate  
12 hearing upon due notice. Such hearing shall be held at the  
13 offices of the Board or such other location as the Board  
14 deems appropriate. If it finds upon the record of the  
15 hearing that a question of representation exists, it shall  
16 direct an election, which shall be held not later than 120  
17 days after the date the petition was filed; provided,  
18 however, the Board may extend the time for holding an  
19 election by an additional 60 days if, upon motion by a  
20 person who has filed a petition under this Section or is  
21 the subject of a petition filed under this Section and is a  
22 party to such hearing, or upon the Board's own motion, the  
23 Board finds that good cause has been shown for extending  
24 the election date; provided further, that nothing in this  
25 Section shall prohibit the Board, in its discretion, from  
26 extending the time for holding an election for so long as

1           may be necessary under the circumstances, if the purpose  
2           for such extension is to permit resolution by the Board of  
3           an unfair labor practice charge filed by one of the parties  
4           to a representational proceeding against the other based  
5           upon conduct which may either affect the existence of a  
6           question concerning representation or have a tendency to  
7           interfere with a fair and free election, if the party  
8           filing the charge has not filed a request to proceed with  
9           the election; and provided further that before the  
10          expiration of the total time allotted for holding an  
11          election, a person who has filed a petition under this  
12          Section or is the subject of a petition filed under this  
13          Section and is a party to such hearing or the Board, may  
14          move for and obtain the entry of an order in the circuit  
15          court of the county in which the majority of the employees  
16          sought to be represented by such person reside, such order  
17          extending the date upon which the election shall be held.  
18          Such order shall be issued by the circuit court only upon a  
19          judicial finding that there has been a sufficient showing  
20          that there is good cause to extend the election date beyond  
21          such period and shall require the Board to hold the  
22          election as soon as is feasible given the totality of the  
23          circumstances. Such 120-day period may be extended one or  
24          more times by the agreement of all parties to the hearing  
25          to a date certain without the necessity of obtaining a  
26          court order. Nothing in this Section prohibits the waiving



1 of hearings by stipulation for the purpose of a consent  
2 election in conformity with the rules of the Board or an  
3 election in a unit agreed upon by the parties. Other  
4 interested employee organizations may intervene in the  
5 proceedings in the manner and within the time period  
6 specified by rules of the Board. Interested parties who are  
7 necessary to the proceedings may also intervene in the  
8 proceedings in the manner and within the time period  
9 specified by the rules of the Board.

10 (2) The Board shall designate an exclusive  
11 representative for purposes of collective bargaining when  
12 the representative demonstrates a showing of majority  
13 interest by employees in the unit. If the parties to a  
14 dispute are without agreement on the means to ascertain the  
15 choice, if any, of employee organization as their  
16 representative, the Board shall ascertain the employees'  
17 choice of employee organization on the basis of dues  
18 deduction authorization and other evidence, or, if  
19 necessary, by conducting an election. The Board shall  
20 protect the confidentiality of the employees signing dues  
21 deduction authorizations and other evidence evidencing  
22 support for a labor organization. If either party provides  
23 to the Board, before the designation of an exclusive  
24 representative, clear and convincing evidence that the  
25 dues deduction authorizations, and other evidence upon  
26 which the Board would otherwise rely to ascertain the

1 employees' choice of representative, are fraudulent or  
2 were obtained through coercion, the Board shall promptly  
3 thereafter conduct an election. The Board shall also  
4 investigate and consider a party's allegations that the  
5 dues deduction authorizations and other evidence submitted  
6 in support of a designation of representative without an  
7 election were subsequently changed, altered, withdrawn, or  
8 withheld as a result of employer fraud or coercion or any  
9 other unfair labor practice by the employer. If the Board  
10 determines that a labor organization would have had a  
11 majority interest but for an employer's fraud, coercion, or  
12 unfair labor practice, it shall designate the labor  
13 organization as an exclusive representative without  
14 conducting an election.

15 (3) An employer may voluntarily recognize a labor  
16 organization as the exclusive representative of the  
17 employer's employees. Any labor organization which is  
18 designated or selected by the majority of employees, in a  
19 unit of the employer having no other recognized or  
20 certified representative, as their representative for  
21 purposes of collective bargaining may request recognition  
22 by the employer in writing. The employer shall post such  
23 request for a period of at least 20 days following its  
24 receipt thereof on bulletin boards or other places used or  
25 reserved for employee notices. Within the 20-day period any  
26 other interested employee organization may petition the

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

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

25 Notwithstanding the above factors, if the majority of  
26 employees of a craft so decide, the Board shall designate such

1 craft as a unit appropriate for the purposes of collective  
2 bargaining.

3 The Board shall not decide that any unit is appropriate if  
4 such unit includes both professional and nonprofessional  
5 employees, unless a majority of each group votes for inclusion  
6 in such unit.

7 (c) Nothing in this Act shall interfere with or negate the  
8 current representation rights or patterns and practices of  
9 labor organizations which have historically represented  
10 employees for the purpose of collective bargaining, including  
11 but not limited to the negotiations of wages, hours, and  
12 working conditions, discussions of employees' grievances,  
13 resolution of jurisdictional disputes, or the establishment  
14 and maintenance of prevailing wage rates, unless a majority of  
15 employees so represented express a contrary desire pursuant to  
16 the procedures set forth in this Act.

17 (d) Within 7 days after the Board issues its bargaining  
18 unit determination and direction of election or the execution  
19 of a stipulation for the purpose of a consent election, the  
20 employer shall submit to the labor organization the complete  
21 names and addresses of those employees who are determined by  
22 the Board to be eligible to participate in the election. If the  
23 Board has determined that a labor organization has been fairly  
24 and freely chosen by a majority of employees in an appropriate  
25 unit, it shall certify such organization as the exclusive  
26 representative. If the Board determines that a majority of

1 employees in an appropriate unit has fairly and freely chosen  
2 not to be represented by a labor organization, it shall so  
3 certify. The Board may also revoke the certification of the  
4 labor organization as exclusive bargaining representatives  
5 which have been found by a secret ballot election to be no  
6 longer the majority representative.

7 (e) The Board shall not conduct an election in any  
8 bargaining unit or any subdivision thereof within which a valid  
9 election has been held in the preceding 12-month period. The  
10 Board shall determine who is eligible to vote in an election  
11 and shall establish rules governing the conduct of the election  
12 or conduct affecting the results of the election. The Board  
13 shall include on a ballot in a representation election a choice  
14 of "no representation". A labor organization currently  
15 representing the bargaining unit of employees shall be placed  
16 on the ballot in any representation election. In any election  
17 where none of the choices on the ballot receives a majority, a  
18 runoff election shall be conducted between the 2 choices  
19 receiving the largest number of valid votes cast in the  
20 election. A labor organization which receives a majority of the  
21 votes cast in an election shall be certified by the Board as  
22 exclusive representative of all employees in the unit.

23 (f) No election shall be directed by the Board in any  
24 bargaining unit if there is in force a valid collective  
25 bargaining agreement. The Board, however, may process an  
26 election petition filed between 90 and 60 days before the

1 expiration of the date of an agreement, and may further refine,  
2 by rule or decision, the implementation of this provision. If  
3 more than 4 years have elapsed since the effective date of the  
4 agreement, the agreement shall continue to bar an election,  
5 except that the Board may process an election petition filed  
6 between 90 and 60 days before the end of each successive year  
7 of such agreement.

8 (g) 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, or 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 constitutes a  
14 final order. Any person aggrieved by any such order issued on  
15 or after the effective date of this Act may apply for and  
16 obtain judicial review in accordance with the Administrative  
17 Review Law, except that such review shall be afforded directly  
18 in the appellate court for the district in which the aggrieved  
19 party resides or transacts business. Any direct appeal to the  
20 appellate court shall be filed within 35 days from the date  
21 that a copy of the decision sought to be reviewed was served  
22 upon the party affected by the decision.

23 Section 55. Right to strike.

24 (a) Nothing in this Act shall be construed to either  
25 interfere with or impede or diminish in any way the right to

1 strike, except as otherwise provided in this Act, or to affect  
2 the limitations or qualifications on that right. An employee  
3 who exercises such right may not be disciplined, replaced, or  
4 otherwise have his or her wages, hours, or terms and conditions  
5 of employment adversely affected.

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

17 Section 60. Enforcement.

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

1 the meaning of Section 5-45 of the Illinois Administrative  
2 Procedure Act.

3 (b) Suits for violation of contracts between an employer  
4 and exclusive representative or between an employer and labor  
5 organization may be brought in the circuit court. Any labor  
6 organization may sue or be sued as an entity and in behalf of  
7 the employees whom it represents. Any money judgment against a  
8 labor organization shall be enforceable only against the  
9 organization as an entity and against its assets, and shall not  
10 be enforceable against any individual member or his or her  
11 assets.