

AN ACT concerning government.

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

Section 5. The Illinois Public Labor Relations Act is amended by changing Sections 5, 9, and 14 as follows:

(5 ILCS 315/5) (from Ch. 48, par. 1605)

Sec. 5. Illinois Labor Relations Board; State Panel; Local Panel.

(a) There is created the Illinois Labor Relations Board. The Board shall be comprised of 2 panels, to be known as the State Panel and the Local Panel.

(a-5) The State Panel shall have jurisdiction over collective bargaining matters between employee organizations and the State of Illinois, excluding the General Assembly of the State of Illinois, between employee organizations and units of local government and school districts with a population not in excess of 2 million persons, and between employee organizations and the Regional Transportation Authority.

The State Panel shall consist of 5 members appointed by the Governor, with the advice and consent of the Senate. The Governor shall appoint to the State Panel only persons who have had a minimum of 5 years of experience directly related to labor and employment relations in representing public

employers, private employers or labor organizations; or teaching labor or employment relations; or administering executive orders or regulations applicable to labor or employment relations. At the time of his or her appointment, each member of the State Panel shall be an Illinois resident. The Governor shall designate one member to serve as the Chairman of the State Panel and the Board.

Notwithstanding any other provision of this Section, the term of each member of the State Panel who was appointed by the Governor and is in office on June 30, 2003 shall terminate at the close of business on that date or when all of the successor members to be appointed pursuant to this amendatory Act of the 93rd General Assembly have been appointed by the Governor, whichever occurs later. As soon as possible, the Governor shall appoint persons to fill the vacancies created by this amendatory Act.

The initial appointments under this amendatory Act of the 93rd General Assembly shall be for terms as follows: The Chairman shall initially be appointed for a term ending on the 4th Monday in January, 2007; 2 members shall be initially appointed for terms ending on the 4th Monday in January, 2006; one member shall be initially appointed for a term ending on the 4th Monday in January, 2005; and one member shall be initially appointed for a term ending on the 4th Monday in January, 2004. Each subsequent member shall be appointed for a term of 4 years, commencing on the 4th Monday in January. Upon

expiration of the term of office of any appointive member, that member shall continue to serve until a successor shall be appointed and qualified. In case of a vacancy, a successor shall be appointed to serve for the unexpired portion of the term. If the Senate is not in session at the time the initial appointments are made, the Governor shall make temporary appointments in the same manner successors are appointed to fill vacancies. A temporary appointment shall remain in effect no longer than 20 calendar days after the commencement of the next Senate session.

(b) The Local Panel shall have jurisdiction over collective bargaining agreement matters between employee organizations and units of local government with a population in excess of 2 million persons, but excluding the Regional Transportation Authority.

The Local Panel shall consist of one person appointed by the Governor with the advice and consent of the Senate (or, if no such person is appointed, the Chairman of the State Panel) and two additional members, one appointed by the Mayor of the City of Chicago and one appointed by the President of the Cook County Board of Commissioners. Appointees to the Local Panel must have had a minimum of 5 years of experience directly related to labor and employment relations in representing public employers, private employers or labor organizations; or teaching labor or employment relations; or administering executive orders or regulations applicable to labor or

employment relations. Each member of the Local Panel shall be an Illinois resident at the time of his or her appointment. The member appointed by the Governor (or, if no such person is appointed, the Chairman of the State Panel) shall serve as the Chairman of the Local Panel.

Notwithstanding any other provision of this Section, the term of the member of the Local Panel who was appointed by the Governor and is in office on June 30, 2003 shall terminate at the close of business on that date or when his or her successor has been appointed by the Governor, whichever occurs later. As soon as possible, the Governor shall appoint a person to fill the vacancy created by this amendatory Act. The initial appointment under this amendatory Act of the 93rd General Assembly shall be for a term ending on the 4th Monday in January, 2007.

The initial appointments under this amendatory Act of the 91st General Assembly shall be for terms as follows: The member appointed by the Governor shall initially be appointed for a term ending on the 4th Monday in January, 2001; the member appointed by the President of the Cook County Board shall be initially appointed for a term ending on the 4th Monday in January, 2003; and the member appointed by the Mayor of the City of Chicago shall be initially appointed for a term ending on the 4th Monday in January, 2004. Each subsequent member shall be appointed for a term of 4 years, commencing on the 4th Monday in January. Upon expiration of the term of office of any

appointive member, the member shall continue to serve until a successor shall be appointed and qualified. In the case of a vacancy, a successor shall be appointed by the applicable appointive authority to serve for the unexpired portion of the term.

(c) Three members of the State Panel shall at all times constitute a quorum. Two members of the Local Panel shall at all times constitute a quorum. A vacancy on a panel does not impair the right of the remaining members to exercise all of the powers of that panel. Each panel shall adopt an official seal which shall be judicially noticed. The salary of the Chairman of the State Panel shall be \$82,429 per year, or as set by the Compensation Review Board, whichever is greater, and that of the other members of the State and Local Panels shall be \$74,188 per year, or as set by the Compensation Review Board, whichever is greater.

(d) Each member shall devote his or her entire time to the duties of the office, and shall hold no other office or position of profit, nor engage in any other business, employment, or vocation. No member shall hold any other public office or be employed as a labor or management representative by the State or any political subdivision of the State or of any department or agency thereof, or actively represent or act on behalf of an employer or an employee organization or an employer in labor relations matters. Any member of the State Panel may be removed from office by the Governor for

inefficiency, neglect of duty, misconduct or malfeasance in office, and for no other cause, and only upon notice and hearing. Any member of the Local Panel may be removed from office by the applicable appointive authority for inefficiency, neglect of duty, misconduct or malfeasance in office, and for no other cause, and only upon notice and hearing.

(e) Each panel at the end of every State fiscal year shall make a report in writing to the Governor and the General Assembly, stating in detail the work it has done in hearing and deciding cases and otherwise.

(f) In order to accomplish the objectives and carry out the duties prescribed by this Act, a panel or its authorized designees may hold elections to determine whether a labor organization has majority status; investigate and attempt to resolve or settle charges of unfair labor practices; hold hearings in order to carry out its functions; develop and effectuate appropriate impasse resolution procedures for purposes of resolving labor disputes; require the appearance of witnesses and the production of evidence on any matter under inquiry; and administer oaths and affirmations. The panels shall sign and report in full an opinion in every case which they decide.

(g) Each panel may appoint or employ an executive director, attorneys, hearing officers, mediators, fact-finders, arbitrators, and such other employees as it may deem necessary

to perform its functions. The governing boards shall prescribe the duties and qualifications of such persons appointed and, subject to the annual appropriation, fix their compensation and provide for reimbursement of actual and necessary expenses incurred in the performance of their duties. The Board shall employ a minimum of 16 attorneys and 6 investigators.

(h) Each panel shall exercise general supervision over all attorneys which it employs and over the other persons employed to provide necessary support services for such attorneys. The panels shall have final authority in respect to complaints brought pursuant to this Act.

(i) The following rules and regulations shall be adopted by the panels meeting in joint session: (1) procedural rules and regulations which shall govern all Board proceedings; (2) procedures for election of exclusive bargaining representatives pursuant to Section 9, except for the determination of appropriate bargaining units; and (3) appointment of counsel pursuant to subsection (k) of this Section.

(j) Rules and regulations may be adopted, amended or rescinded only upon a vote of 5 of the members of the State and Local Panels meeting in joint session. The adoption, amendment or rescission of rules and regulations shall be in conformity with the requirements of the Illinois Administrative Procedure Act.

(k) The panels in joint session shall promulgate rules and

regulations providing for the appointment of attorneys or other Board representatives to represent persons in unfair labor practice proceedings before a panel. The regulations governing appointment shall require the applicant to demonstrate an inability to pay for or inability to otherwise provide for adequate representation before a panel. Such rules must also provide: (1) that an attorney may not be appointed in cases which, in the opinion of a panel, are clearly without merit; (2) the stage of the unfair labor proceeding at which counsel will be appointed; and (3) the circumstances under which a client will be allowed to select counsel.

(1) The panels in joint session may promulgate rules and regulations which allow parties in proceedings before a panel to be represented by counsel or any other representative of the party's choice.

(m) The Chairman of the State Panel shall serve as Chairman of a joint session of the panels. Attendance of at least 2 members of the State Panel and at least one member of the Local Panel, in addition to the Chairman, shall constitute a quorum at a joint session. The panels shall meet in joint session at least annually.

(Source: P.A. 93-509, eff. 8-11-03.)

(5 ILCS 315/9) (from Ch. 48, par. 1609)

Sec. 9. Elections; recognition.

(a) Whenever in accordance with such regulations as may be

prescribed by the Board a petition has been filed:

(1) by a public employee or group of public employees or any labor organization acting in their behalf demonstrating that 30% of the public employees in an appropriate unit (A) wish to be represented for the purposes of collective bargaining by a labor organization as exclusive representative, or (B) asserting that the labor organization which has been certified or is currently recognized by the public employer as bargaining representative is no longer the representative of the majority of public employees in the unit; or

(2) by a public employer alleging that one or more labor organizations have presented to it a claim that they be recognized as the representative of a majority of the public employees in an appropriate unit,

the Board shall investigate such petition, and if it has reasonable cause to believe that a question of representation exists, shall provide for an appropriate hearing upon due notice. Such hearing shall be held at the offices of the Board or such other location as the Board deems appropriate. If it finds upon the record of the hearing that a question of representation exists, it shall direct an election in accordance with subsection (d) of this Section, which election shall be held not later than 120 days after the date the petition was filed regardless of whether that petition was filed before or after the effective date of this amendatory Act

of 1987; provided, however, the Board may extend the time for holding an election by an additional 60 days if, upon motion by a person who has filed a petition under this Section or is the subject of a petition filed under this Section and is a party to such hearing, or upon the Board's own motion, the Board finds that good cause has been shown for extending the election date; provided further, that nothing in this Section shall prohibit the Board, in its discretion, from extending the time for holding an election for so long as may be necessary under the circumstances, where the purpose for such extension is to permit resolution by the Board of an unfair labor practice charge filed by one of the parties to a representational proceeding against the other based upon conduct which may either affect the existence of a question concerning representation or have a tendency to interfere with a fair and free election, where the party filing the charge has not filed a request to proceed with the election; and provided further that prior to the expiration of the total time allotted for holding an election, a person who has filed a petition under this Section or is the subject of a petition filed under this Section and is a party to such hearing or the Board, may move for and obtain the entry of an order in the circuit court of the county in which the majority of the public employees sought to be represented by such person reside, such order extending the date upon which the election shall be held. Such order shall be issued by the circuit court only upon a judicial

finding that there has been a sufficient showing that there is good cause to extend the election date beyond such period and shall require the Board to hold the election as soon as is feasible given the totality of the circumstances. Such 120 day period may be extended one or more times by the agreement of all parties to the hearing to a date certain without the necessity of obtaining a court order. Nothing in this Section prohibits the waiving of hearings by stipulation for the purpose of a consent election in conformity with the rules and regulations of the Board or an election in a unit agreed upon by the parties. Other interested employee organizations may intervene in the proceedings in the manner and within the time period specified by rules and regulations of the Board. Interested parties who are necessary to the proceedings may also intervene in the proceedings in the manner and within the time period specified by the rules and regulations of the Board.

(a-5) The Board shall designate an exclusive representative for purposes of collective bargaining when the representative demonstrates a showing of majority interest by employees in the unit. If the parties to a dispute are without agreement on the means to ascertain the choice, if any, of employee organization as their representative, the Board shall ascertain the employees' choice of employee organization, on the basis of dues deduction authorization or ~~and~~ other evidence, or, if necessary, by conducting an election. All

evidence submitted by an employee organization to the Board to ascertain an employee's choice of an employee organization is confidential and shall not be submitted to the employer for review. The Board shall ascertain the employee's choice of employee organization within 120 days after the filing of the majority interest petition; however, the Board may extend time by an additional 60 days, upon its own motion or upon the motion of a party to the proceeding. If either party provides to the Board, before the designation of a representative, clear and convincing evidence that the 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. The Board shall also investigate and consider a party's allegations that the dues deduction authorizations and other evidence submitted in support of a designation of representative without an election were subsequently changed, altered, withdrawn, or withheld as a result of employer fraud, coercion, or any other unfair labor practice by the employer. If the Board determines that a labor organization would have had a majority interest but for an employer's fraud, coercion, or unfair labor practice, it shall designate the labor organization as an exclusive representative without conducting an election. If a hearing is necessary to resolve any issues of representation under this Section, the Board shall conclude its

hearing process and issue a certification of the entire appropriate unit not later than 120 days after the date the petition was filed. The 120-day period may be extended one or more times by the agreement of all parties to a hearing to a date certain.

(a-6) A labor organization or an employer may file a unit clarification petition seeking to clarify an existing bargaining unit. The Board shall conclude its investigation, including any hearing process deemed necessary, and issue a certification of clarified unit or dismiss the petition not later than 120 days after the date the petition was filed. The 120-day period may be extended one or more times by the agreement of all parties to a hearing to a date certain.

(b) The Board shall decide in each case, in order to assure public employees the fullest freedom in exercising the rights guaranteed by this Act, a unit appropriate for the purpose of collective bargaining, based upon but not limited to such factors as: historical pattern of recognition; community of interest including employee skills and functions; degree of functional integration; interchangeability and contact among employees; fragmentation of employee groups; common supervision, wages, hours and other working conditions of the employees involved; and the desires of the employees. For purposes of this subsection, fragmentation shall not be the sole or predominant factor used by the Board in determining an appropriate bargaining unit. Except with respect to non-State

fire fighters and paramedics employed by fire departments and fire protection districts, non-State peace officers and peace officers in the State Department of State Police, a single bargaining unit determined by the Board may not include both supervisors and nonsupervisors, except for bargaining units in existence on the effective date of this Act. With respect to non-State fire fighters and paramedics employed by fire departments and fire protection districts, non-State peace officers and peace officers in the State Department of State Police, a single bargaining unit determined by the Board may not include both supervisors and nonsupervisors, except for bargaining units in existence on the effective date of this amendatory Act of 1985.

In cases involving an historical pattern of recognition, and in cases where the employer has recognized the union as the sole and exclusive bargaining agent for a specified existing unit, the Board shall find the employees in the unit then represented by the union pursuant to the recognition to be the appropriate unit.

Notwithstanding the above factors, where the majority of public employees of a craft so decide, the Board shall designate such craft as a unit appropriate for the purposes of collective bargaining.

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

in such unit.

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

(d) In instances where the employer does not voluntarily recognize a labor organization as the exclusive bargaining representative for a unit of employees, the Board shall determine the majority representative of the public employees in an appropriate collective bargaining unit by conducting a secret ballot election, except as otherwise provided in subsection (a-5). Within 7 days after the Board issues its bargaining unit determination and direction of election or the execution of a stipulation for the purpose of a consent election, the public employer shall submit to the labor organization the complete names and addresses of those employees who are determined by the Board to be eligible to participate in the election. When the Board has determined that a labor organization has been fairly and freely chosen by a majority of employees in an appropriate unit, it shall certify

such organization as the exclusive representative. If the Board determines that a majority of employees in an appropriate unit has fairly and freely chosen not to be represented by a labor organization, it shall so certify. The Board may also revoke the certification of the public employee organizations as exclusive bargaining representatives which have been found by a secret ballot election to be no longer the majority representative.

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

(f) A labor organization shall be designated as the exclusive representative by a public employer, provided that

the labor organization represents a majority of the public employees in an appropriate unit. Any employee organization which is designated or selected by the majority of public employees, in a unit of the public employer having no other recognized or certified representative, as their representative for purposes of collective bargaining may request recognition by the public employer in writing. The public employer shall post such request for a period of at least 20 days following its receipt thereof on bulletin boards or other places used or reserved for employee notices.

(g) Within the 20-day period any other interested employee organization may petition the Board in the manner specified by rules and regulations of the Board, provided that such interested employee organization has been designated by at least 10% of the employees in an appropriate bargaining unit which includes all or some of the employees in the unit recognized by the employer. In such event, the Board shall proceed with the petition in the same manner as provided by paragraph (1) of subsection (a) of this Section.

(h) No election shall be directed by the Board in any bargaining unit where there is in force a valid collective bargaining agreement. The Board, however, may process an election petition filed between 90 and 60 days prior to the expiration of the date of an agreement, and may further refine, by rule or decision, the implementation of this provision. Where more than 4 years have elapsed since the effective date

of the agreement, the agreement shall continue to bar an election, except that the Board may process an election petition filed between 90 and 60 days prior to the end of the fifth year of such an agreement, and between 90 and 60 days prior to the end of each successive year of such agreement.

(i) An order of the Board dismissing a representation petition, determining and certifying that a labor organization has been fairly and freely chosen by a majority of employees in an appropriate bargaining unit, determining and certifying that a labor organization has not been fairly and freely chosen by a majority of employees in the bargaining unit or certifying a labor organization as the exclusive representative of employees in an appropriate bargaining unit because of a determination by the Board that the labor organization is the historical bargaining representative of employees in the bargaining unit, is a final order. Any person aggrieved by any such order issued on or after the effective date of this amendatory Act of 1987 may apply for and obtain judicial review in accordance with provisions of the Administrative Review Law, as now or hereafter amended, except that such review shall be afforded directly in the Appellate Court for the district in which the aggrieved party resides or transacts business. Any direct appeal to the Appellate Court shall be filed within 35 days from the date that a copy of the decision sought to be reviewed was served upon the party affected by the decision.

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

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

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

(a) In the case of collective bargaining agreements involving units of security employees of a public employer, Peace Officer Units, or units of fire fighters or paramedics, and in the case of disputes under Section 18, unless the parties mutually agree to some other time limit, mediation shall commence 30 days prior to the expiration date of such agreement or at such later time as the mediation services chosen under subsection (b) of Section 12 can be provided to the parties. In the case of negotiations for an initial collective bargaining agreement, mediation shall commence upon 15 days notice from either party or at such later time as the mediation services chosen pursuant to subsection (b) of Section 12 can be provided to the parties. In mediation under this Section, if either party requests the use of mediation services from the Federal Mediation and Conciliation Service, the other party shall either join in such request or bear the additional cost of mediation services from another source. The mediator shall have a duty to keep the Board informed on the progress of the mediation. If any dispute has not been resolved within 15 days after the first meeting of the parties and the mediator, or within such other time limit as may be mutually agreed upon by the parties, either the exclusive representative or employer

may request of the other, in writing, arbitration, and shall submit a copy of the request to the Board.

(b) Within 10 days after such a request for arbitration has been made, the employer shall choose a delegate and the employees' exclusive representative shall choose a delegate to a panel of arbitration as provided in this Section. The employer and employees shall forthwith advise the other and the Board of their selections.

(c) Within 7 days after the request of either party, the parties shall request a panel of impartial arbitrators from which they shall select the neutral chairman according to the procedures provided in this Section. If the parties have agreed to a contract that contains a grievance resolution procedure as provided in Section 8, the chairman shall be selected using their agreed contract procedure unless they mutually agree to another procedure. If the parties fail to notify the Board of their selection of neutral chairman within 7 days after receipt of the list of impartial arbitrators, the Board shall appoint, at random, a neutral chairman from the list. In the absence of an agreed contract procedure for selecting an impartial arbitrator, either party may request a panel from the Board.

Within 7 days of the request of either party, the Board shall select from the Public Employees Labor Mediation Roster 7 persons who are on the labor arbitration panels of either the American Arbitration Association or the Federal Mediation and Conciliation Service, or who are members of the National

Academy of Arbitrators, as nominees for impartial arbitrator of the arbitration panel. The parties may select an individual on the list provided by the Board or any other individual mutually agreed upon by the parties. Within 7 days following the receipt of the list, the parties shall notify the Board of the person they have selected. Unless the parties agree on an alternate selection procedure, they shall alternatively strike one name from the list provided by the Board until only one name remains. A coin toss shall determine which party shall strike the first name. If the parties fail to notify the Board in a timely manner of their selection for neutral chairman, the Board shall appoint a neutral chairman from the Illinois Public Employees Mediation/Arbitration Roster.

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

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

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

contempt.

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

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

complies with the applicable factors prescribed in subsection (h). The findings, opinions and order as to all other issues shall be based upon the applicable factors prescribed in subsection (h).

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

(1) The lawful authority of the employer.

(2) Stipulations of the parties.

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

(4) Comparison of the wages, hours and conditions of employment of the employees involved in the arbitration proceeding with the wages, hours and conditions of employment of other employees performing similar services and with other employees generally:

(A) In public employment in comparable communities.

(B) In private employment in comparable communities.

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

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

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

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

(i) In the case of peace officers, the arbitration decision shall be limited to wages, hours, and conditions of employment (which may include residency requirements in municipalities with a population under 1,000,000, but those residency requirements shall not allow residency outside of Illinois) and shall not include the following: i) residency requirements in municipalities with a population of at least 1,000,000; ii) the type of equipment, other than uniforms, issued or used; iii) manning; iv) the total number of employees employed by the department; v) mutual aid and assistance agreements to other

units of government; and vi) the criterion pursuant to which force, including deadly force, can be used; provided, nothing herein shall preclude an arbitration decision regarding equipment or manning levels if such decision is based on a finding that the equipment or manning considerations in a specific work assignment involve a serious risk to the safety of a peace officer beyond that which is inherent in the normal performance of police duties. Limitation of the terms of the arbitration decision pursuant to this subsection shall not be construed to limit the factors upon which the decision may be based, as set forth in subsection (h).

In the case of fire fighter, and fire department or fire district paramedic matters, the arbitration decision shall be limited to wages, hours, and conditions of employment (which may include residency requirements in municipalities with a population under 1,000,000, but those residency requirements shall not allow residency outside of Illinois) and shall not include the following matters: i) residency requirements in municipalities with a population of at least 1,000,000; ii) the type of equipment (other than uniforms and fire fighter turnout gear) issued or used; iii) the total number of employees employed by the department; iv) mutual aid and assistance agreements to other units of government; and v) the criterion pursuant to which force, including deadly force, can be used; provided, however, nothing herein shall preclude an arbitration decision regarding equipment levels if such

decision is based on a finding that the equipment considerations in a specific work assignment involve a serious risk to the safety of a fire fighter beyond that which is inherent in the normal performance of fire fighter duties. Limitation of the terms of the arbitration decision pursuant to this subsection shall not be construed to limit the facts upon which the decision may be based, as set forth in subsection (h) .

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

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

(j) Arbitration procedures shall be deemed to be initiated by the filing of a letter requesting mediation as required under subsection (a) of this Section. The commencement of a new municipal fiscal year after the initiation of arbitration procedures under this Act, but before the arbitration decision, or its enforcement, shall not be deemed to render a dispute

moot, or to otherwise impair the jurisdiction or authority of the arbitration panel or its decision. Increases in rates of compensation awarded by the arbitration panel may be effective only at the start of the fiscal year next commencing after the date of the arbitration award. If a new fiscal year has commenced either since the initiation of arbitration procedures under this Act or since any mutually agreed extension of the statutorily required period of mediation under this Act by the parties to the labor dispute causing a delay in the initiation of arbitration, the foregoing limitations shall be inapplicable, and such awarded increases may be retroactive to the commencement of the fiscal year, any other statute or charter provisions to the contrary, notwithstanding. At any time the parties, by stipulation, may amend or modify an award of arbitration.

(k) Orders of the arbitration panel shall be reviewable, upon appropriate petition by either the public employer or the exclusive bargaining representative, by the circuit court for the county in which the dispute arose or in which a majority of the affected employees reside, but only for reasons that the arbitration panel was without or exceeded its statutory authority; the order is arbitrary, or capricious; or the order was procured by fraud, collusion or other similar and unlawful means. Such petitions for review must be filed with the appropriate circuit court within 90 days following the issuance of the arbitration order. The pendency of such proceeding for

review shall not automatically stay the order of the arbitration panel. The party against whom the final decision of any such court shall be adverse, if such court finds such appeal or petition to be frivolous, shall pay reasonable attorneys' fees and costs to the successful party as determined by said court in its discretion. If said court's decision affirms the award of money, such award, if retroactive, shall bear interest at the rate of 12 percent per annum from the effective retroactive date.

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

(m) Security officers of public employers, and Peace Officers, Fire Fighters and fire department and fire protection district paramedics, covered by this Section may not withhold services, nor may public employers lock out or prevent such employees from performing services at any time.

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

The governing body shall review each term decided by the arbitration panel. If the governing body fails to reject one or more terms of the arbitration panel's decision by a 3/5 vote of those duly elected and qualified members of the governing body, within 20 days of issuance, or in the case of firefighters employed by a state university, at the next regularly scheduled meeting of the governing body after issuance, such term or terms shall become a part of the collective bargaining agreement of the parties. If the governing body affirmatively rejects one or more terms of the arbitration panel's decision, it must provide reasons for such rejection with respect to each term so rejected, within 20 days of such rejection and the parties shall return to the arbitration panel for further proceedings and issuance of a supplemental decision with respect to the rejected terms. Any supplemental decision by an arbitration panel or other decision maker agreed to by the parties shall be submitted to the governing body for ratification and adoption in accordance with the procedures and voting requirements set forth in this Section. The voting requirements of this subsection shall apply to all disputes submitted to arbitration pursuant to this Section notwithstanding any contrary voting requirements contained in any existing collective bargaining agreement between the parties.

(o) If the governing body of the employer votes to reject the panel's decision, the parties shall return to the panel

within 30 days from the issuance of the reasons for rejection for further proceedings and issuance of a supplemental decision. All reasonable costs of such supplemental proceeding including the exclusive representative's reasonable attorney's fees, as established by the Board, shall be paid by the employer.

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

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

Section 10. The Illinois Educational Labor Relations Act is amended by changing Sections 5 and 7 as follows:

(115 ILCS 5/5) (from Ch. 48, par. 1705)

Sec. 5. Illinois Educational Labor Relations Board.

(a) There is hereby created the Illinois Educational Labor Relations Board.

(a-5) Until July 1, 2003 or when all of the new members to be initially appointed under this amendatory Act of the 93rd General Assembly have been appointed by the Governor, whichever occurs later, the Illinois Educational Labor Relations Board shall consist of 7 members, no more than 4 of whom may be of the

same political party, who are residents of Illinois appointed by the Governor with the advice and consent of the Senate.

The term of each appointed member of the Board who is in office on June 30, 2003 shall terminate at the close of business on that date or when all of the new members to be initially appointed under this amendatory Act of the 93rd General Assembly have been appointed by the Governor, whichever occurs later.

(b) Beginning on July 1, 2003 or when all of the new members to be initially appointed under this amendatory Act of the 93rd General Assembly have been appointed by the Governor, whichever occurs later, the Illinois Educational Labor Relations Board shall consist of 5 members appointed by the Governor with the advice and consent of the Senate. No more than 3 members may be of the same political party.

The Governor shall appoint to the Board only persons who are residents of Illinois and have had a minimum of 5 years of experience directly related to labor and employment relations in representing educational employers or educational employees in collective bargaining matters. One appointed member shall be designated at the time of his or her appointment to serve as chairman.

Of the initial members appointed pursuant to this amendatory Act of the 93rd General Assembly, 2 shall be designated at the time of appointment to serve a term of 6 years, 2 shall be designated at the time of appointment to

serve a term of 4 years, and the other shall be designated at the time of his or her appointment to serve a term of 4 years, with each to serve until his or her successor is appointed and qualified.

Each subsequent member shall be appointed in like manner for a term of 6 years and until his or her successor is appointed and qualified. Each member of the Board is eligible for reappointment. Vacancies shall be filled in the same manner as original appointments for the balance of the unexpired term.

(c) The chairman shall be paid \$50,000 per year, or an amount set by the Compensation Review Board, whichever is greater. Other members of the Board shall each be paid \$45,000 per year, or an amount set by the Compensation Review Board, whichever is greater. They shall be entitled to reimbursement for necessary traveling and other official expenditures necessitated by their official duties.

Each member shall devote his entire time to the duties of the office, and shall hold no other office or position of profit, nor engage in any other business, employment or vocation.

(d) Three members of the Board constitute a quorum and a vacancy on the Board does not impair the right of the remaining members to exercise all of the powers of the Board.

(e) Any member of the Board may be removed by the Governor, upon notice, for neglect of duty or malfeasance in office, but for no other cause.

(f) The Board may appoint or employ an executive director, attorneys, hearing officers, and such other employees as it deems necessary to perform its functions, except that the Board shall employ a minimum of 8 attorneys and 5 investigators. The Board shall prescribe the duties and qualifications of such persons appointed and, subject to the annual appropriation, fix their compensation and provide for reimbursement of actual and necessary expenses incurred in the performance of their duties.

(g) The Board may promulgate rules and regulations which allow parties in proceedings before the Board to be represented by counsel or any other person knowledgeable in the matters under consideration.

(h) To accomplish the objectives and to carry out the duties prescribed by this Act, the Board may subpoena witnesses, subpoena the production of books, papers, records and documents which may be needed as evidence on any matter under inquiry and may administer oaths and affirmations.

In cases of neglect or refusal to obey a subpoena issued to any person, the circuit court in the county in which the investigation or the public hearing is taking place, upon application by the Board, may issue an order requiring such person to appear before the Board or any member or agent of the Board to produce evidence or give testimony. A failure to obey such order may be punished by the court as in civil contempt.

Any subpoena, notice of hearing, or other process or notice of the Board issued under the provisions of this Act may be

served personally, by registered mail or by leaving a copy at the principal office of the respondent required to be served. A return, made and verified by the individual making such service and setting forth the manner of such service, is proof of service. A post office receipt, when registered mail is used, is proof of service. All process of any court to which application may be made under the provisions of this Act may be served in the county where the persons required to be served reside or may be found.

(i) The Board shall adopt, promulgate, amend, or rescind rules and regulations in accordance with the Illinois Administrative Procedure Act as it deems necessary and feasible to carry out this Act.

(j) The Board at the end of every State fiscal year shall make a report in writing to the Governor and the General Assembly, stating in detail the work it has done in hearing and deciding cases and otherwise.

(Source: P.A. 93-509, eff. 8-11-03.)

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

Sec. 7. Recognition of exclusive bargaining representatives - unit determination. The Board is empowered to administer the recognition of bargaining representatives of employees of public school districts, including employees of districts which have entered into joint agreements, or employees of public community college districts, or any State

college or university, and any State agency whose major function is providing educational services, making certain that each bargaining unit contains employees with an identifiable community of interest and that no unit includes both professional employees and nonprofessional employees unless a majority of employees in each group vote for inclusion in the unit.

(a) In determining the appropriateness of a unit, the Board shall decide in each case, in order to ensure employees the fullest freedom in exercising the rights guaranteed by this Act, the unit appropriate for the purpose of collective bargaining, based upon but not limited to such factors as historical pattern of recognition, community of interest, including employee skills and functions, degree of functional integration, interchangeability and contact among employees, common supervision, wages, hours and other working conditions of the employees involved, and the desires of the employees. Nothing in this Act, except as herein provided, shall interfere with or negate the current representation rights or patterns and practices of employee organizations which have historically represented employees for the purposes of collective bargaining, including but not limited to the negotiations of wages, hours and working conditions, resolutions of employees' grievances, or resolution of jurisdictional disputes, or the establishment and maintenance of prevailing wage rates, unless a majority of the employees so

represented expresses a contrary desire under the procedures set forth in this Act. This Section, however, does not prohibit multi-unit bargaining. Notwithstanding the above factors, where the majority of public employees of a craft so decide, the Board shall designate such craft as a unit appropriate for the purposes of collective bargaining.

The sole appropriate bargaining unit for tenured and tenure-track academic faculty at each campus of the University of Illinois shall be a unit that is comprised of non-supervisory academic faculty employed more than half-time and that includes all tenured and tenure-track faculty of that University campus employed by the board of trustees in all of the campus's undergraduate, graduate, and professional schools and degree and non-degree programs (with the exception of the college of medicine, the college of pharmacy, the college of dentistry, the college of law, and the college of veterinary medicine, each of which shall have its own separate unit), regardless of current or historical representation rights or patterns or the application of any other factors. Any decision, rule, or regulation promulgated by the Board to the contrary shall be null and void.

(b) An educational employer shall voluntarily recognize a labor organization for collective bargaining purposes if that organization appears to represent a majority of employees in the unit. The employer shall post notice of its intent to so recognize for a period of at least 20 school days on bulletin

boards or other places used or reserved for employee notices. Thereafter, the employer, if satisfied as to the majority status of the employee organization, shall send written notification of such recognition to the Board for certification. Any dispute regarding the majority status of a labor organization shall be resolved by the Board which shall make the determination of majority status.

Within the 20 day notice period, however, any other interested employee organization may petition the Board to seek recognition as the exclusive representative of the unit in the manner specified by rules and regulations prescribed by the Board, if such interested employee organization has been designated by at least 15% of the employees in an appropriate bargaining unit which includes all or some of the employees in the unit intended to be recognized by the employer. In such event, the Board shall proceed with the petition in the same manner as provided in paragraph (c) of this Section.

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

(1) by an employee or group of employees or any labor organizations acting on their behalf alleging and presenting evidence that 30% or more of the employees in a bargaining unit wish to be represented for collective bargaining or that the labor organization which has been

acting as the exclusive bargaining representative is no longer representative of a majority of the employees in the unit; or

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

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

(c-5) The Board shall designate an exclusive representative for purposes of collective bargaining when the representative demonstrates a showing of majority interest by employees in the unit. If the parties to a dispute are without agreement on the means to ascertain the choice, if any, of employee organization as their representative, the Board shall ascertain the employees' choice of employee organization, on the basis of dues deduction authorization or ~~and~~ other

evidence, or, if necessary, by conducting an election. All evidence submitted by an employee organization to the Board to ascertain an employee's choice of an employee organization is confidential and shall not be submitted to the employer for review. The Board shall ascertain the employee's choice of employee organization within 120 days after the filing of the majority interest petition; however, the Board may extend time by an additional 60 days, upon its own motion or upon the motion of a party to the proceeding. If either party provides to the Board, before the designation of a representative, clear and convincing evidence that the 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. The Board shall also investigate and consider a party's allegations that the dues deduction authorizations and other evidence submitted in support of a designation of representative without an election were subsequently changed, altered, withdrawn, or withheld as a result of employer fraud, coercion, or any other unfair labor practice by the employer. If the Board determines that a labor organization would have had a majority interest but for an employer's fraud, coercion, or unfair labor practice, it shall designate the labor organization as an exclusive representative without conducting an election. If a hearing is necessary to resolve any issues of

representation under this Section, the Board shall conclude its hearing process and issue a certification of the entire appropriate unit not later than 120 days after the date the petition was filed. The 120-day period may be extended one or more times by the agreement of all parties to a hearing to a date certain.

(c-6) A labor organization or an employer may file a unit clarification petition seeking to clarify an existing bargaining unit. The Board shall conclude its investigation, including any hearing process deemed necessary, and issue a certification of clarified unit or dismiss the petition not later than 120 days after the date the petition was filed. The 120-day period may be extended one or more times by the agreement of all parties to a hearing to a date certain.

(d) An order of the Board dismissing a representation petition, determining and certifying that a labor organization has been fairly and freely chosen by a majority of employees in an appropriate bargaining unit, determining and certifying that a labor organization has not been fairly and freely chosen by a majority of employees in the bargaining unit or certifying a labor organization as the exclusive representative of employees in an appropriate bargaining unit because of a determination by the Board that the labor organization is the historical bargaining representative of employees in the bargaining unit, is a final order. Any person aggrieved by any such order issued on or after the effective date of this

amendatory Act of 1987 may apply for and obtain judicial review in accordance with provisions of the Administrative Review Law, as now or hereafter amended, except that such review shall be afforded directly in the Appellate Court of a judicial district in which the Board maintains an office. Any direct appeal to the Appellate Court shall be filed within 35 days from the date that a copy of the decision sought to be reviewed was served upon the party affected by the decision.

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

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

Section 99. Effective date. This Act takes effect upon becoming law.