

SB3188



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

SB3188

Introduced 2/15/2018, by Sen. Daniel Biss

SYNOPSIS AS INTRODUCED:

105 ILCS 5/34-3.5

115 ILCS 5/12

115 ILCS 5/4.5 rep.

from Ch. 48, par. 1712

Amends the Illinois Educational Labor Relations Act. Removes language concerning impasse procedures involving an educational employer whose territorial boundaries are coterminous with those of a city having a population in excess of 500,000. Repeals provisions concerning subjects of collective bargaining with that educational employer. Amends the School Code to make corresponding changes. Effective immediately.

LRB100 18165 AXK 33363 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning education.

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

4 Section 5. The School Code is amended by changing Section
5 34-3.5 as follows:

6 (105 ILCS 5/34-3.5)

7 Sec. 34-3.5. Partnership agreement on advancing student
8 achievement; No Child Left Behind Act of 2001.

9 (a) The General Assembly finds that the Chicago Teachers
10 Union, the Chicago Board of Education, and the district's chief
11 executive officer have a common responsibility beyond their
12 statutory collective bargaining relationship to institute
13 purposeful education reforms in the Chicago Public Schools that
14 maximize the number of students in the Chicago Public Schools
15 who reach or exceed proficiency with regard to State academic
16 standards and assessments. The General Assembly further finds
17 that education reform in the Chicago Public Schools must be
18 premised on a commitment by all stakeholders to redefine
19 relationships, develop, implement, and evaluate programs, seek
20 new and additional resources, improve the value of educational
21 programs to students, accelerate the quality of teacher
22 training, improve instructional excellence, and develop and
23 implement strategies to comply with the federal No Child Left

1 Behind Act of 2001 (Public Law 107-110).

2 The Chicago Board of Education and the district's chief
3 executive officer shall enter into a partnership agreement with
4 the Chicago Teachers Union to allow the parties to work
5 together to advance the Chicago Public Schools to the next
6 level of education reform. This agreement must be entered into
7 and take effect within 90 days after the effective date of this
8 amendatory Act of the 93rd General Assembly. As part of this
9 agreement, the Chicago Teachers Union, the Chicago Board of
10 Education, and the district's chief executive officer shall
11 jointly file a report with the General Assembly at the end of
12 each school year with respect to the nature of the reforms that
13 the parties have instituted, the effect of these reforms on
14 student achievement, and any other matters that the parties
15 deem relevant to evaluating the effectiveness of the agreement.

16 (b) Decisions concerning matters of inherent managerial
17 policy necessary to comply with the federal No Child Left
18 Behind Act of 2001 (Public Law 107-110), including such areas
19 of discretion or policy as the functions of the employer, the
20 standards and delivery of educational services and programs,
21 the district's overall budget, the district's organizational
22 structure, student assignment, school choice, and the
23 selection of new employees and direction of employees, and the
24 impact of these decisions on individual employees or the
25 bargaining unit shall be permissive subjects of bargaining
26 between the educational employer and the exclusive bargaining

1 representative and are within the sole discretion of the
2 educational employer to decide to bargain. ~~This subsection (b)~~
3 ~~is exclusive of the parties' obligations and responsibilities~~
4 ~~under Section 4.5 of the Illinois Educational Labor Relations~~
5 ~~Act (provided that any dispute or impasse that may arise under~~
6 ~~this subsection (b) shall be resolved exclusively as set forth~~
7 ~~in subsection (b) of Section 12 of the Illinois Educational~~
8 ~~Labor Relations Act in lieu of a strike under Section 13 of the~~
9 ~~Illinois Educational Labor Relations Act).~~

10 (Source: P.A. 93-3, eff. 4-16-03.)

11 Section 10. The Illinois Educational Labor Relations Act is
12 amended by changing Section 12 as follows:

13 (115 ILCS 5/12) (from Ch. 48, par. 1712)

14 Sec. 12. Impasse procedures.

15 (a) This subsection (a) applies only to collective
16 bargaining between an educational employer that is not a public
17 school district organized under Article 34 of the School Code
18 and an exclusive representative of its employees. If the
19 parties engaged in collective bargaining have not reached an
20 agreement by 90 days before the scheduled start of the
21 forthcoming school year, the parties shall notify the Illinois
22 Educational Labor Relations Board concerning the status of
23 negotiations. This notice shall include a statement on whether
24 mediation has been used.

1 Upon demand of either party, collective bargaining between
2 the employer and an exclusive bargaining representative must
3 begin within 60 days of the date of certification of the
4 representative by the Board, or in the case of an existing
5 exclusive bargaining representative, within 60 days of the
6 receipt by a party of a demand to bargain issued by the other
7 party. Once commenced, collective bargaining must continue for
8 at least a 60 day period, unless a contract is entered into.

9 Except as otherwise provided in subsection (b) of this
10 Section, if after a reasonable period of negotiation and within
11 90 days of the scheduled start of the forth-coming school year,
12 the parties engaged in collective bargaining have reached an
13 impasse, either party may petition the Board to initiate
14 mediation. Alternatively, the Board on its own motion may
15 initiate mediation during this period. However, mediation
16 shall be initiated by the Board at any time when jointly
17 requested by the parties and the services of the mediators
18 shall continuously be made available to the employer and to the
19 exclusive bargaining representative for purposes of
20 arbitration of grievances and mediation or arbitration of
21 contract disputes. If requested by the parties, the mediator
22 may perform fact-finding and in so doing conduct hearings and
23 make written findings and recommendations for resolution of the
24 dispute. Such mediation shall be provided by the Board and
25 shall be held before qualified impartial individuals. Nothing
26 prohibits the use of other individuals or organizations such as

1 the Federal Mediation and Conciliation Service or the American
2 Arbitration Association selected by both the exclusive
3 bargaining representative and the employer.

4 If the parties engaged in collective bargaining fail to
5 reach an agreement within 45 days of the scheduled start of the
6 forthcoming school year and have not requested mediation, the
7 Illinois Educational Labor Relations Board shall invoke
8 mediation.

9 Whenever mediation is initiated or invoked under this
10 subsection (a), the parties may stipulate to defer selection of
11 a mediator in accordance with rules adopted by the Board.

12 (a-5) This subsection (a-5) applies only to collective
13 bargaining between a public school district or a combination of
14 public school districts, including, but not limited to, joint
15 cooperatives, that is not organized under Article 34 of the
16 School Code and an exclusive representative of its employees.

17 (1) Any time 15 days after mediation has commenced,
18 either party may initiate the public posting process. The
19 mediator may initiate the public posting process at any
20 time 15 days after mediation has commenced during the
21 mediation process. Initiation of the public posting
22 process must be filed in writing with the Board, and copies
23 must be submitted to the parties on the same day the
24 initiation is filed with the Board.

25 (2) Within 7 days after the initiation of the public
26 posting process, each party shall submit to the mediator,

1 the Board, and the other party in writing the most recent
2 offer of the party, including a cost summary of the offer.
3 Seven days after receipt of the parties' offers, the Board
4 shall make public the offers and each party's cost summary
5 dealing with those issues on which the parties have failed
6 to reach agreement by immediately posting the offers on its
7 Internet website, unless otherwise notified by the
8 mediator or jointly by the parties that agreement has been
9 reached. On the same day of publication by the Board, at a
10 minimum, the school district shall distribute notice of the
11 availability of the offers on the Board's Internet website
12 to all news media that have filed an annual request for
13 notices from the school district pursuant to Section 2.02
14 of the Open Meetings Act. The parties' offers shall remain
15 on the Board's Internet website until the parties have
16 reached and ratified an agreement.

17 (a-10) This subsection (a-10) applies only to collective
18 bargaining between a public school district organized under
19 Article 34 of the School Code and an exclusive representative
20 of its employees.

21 (1) For collective bargaining agreements between an
22 educational employer to which this subsection (a-10)
23 applies and an exclusive representative of its employees,
24 if the parties fail to reach an agreement after a
25 reasonable period of mediation, the dispute shall be
26 submitted to fact-finding in accordance with this

1 subsection (a-10). Either the educational employer or the
2 exclusive representative may initiate fact-finding by
3 submitting a written demand to the other party with a copy
4 of the demand submitted simultaneously to the Board.

5 (2) Within 3 days following a party's demand for
6 fact-finding, each party shall appoint one member of the
7 fact-finding panel, unless the parties agree to proceed
8 without a tri-partite panel. Following these appointments,
9 if any, the parties shall select a qualified impartial
10 individual to serve as the fact-finder and chairperson of
11 the fact-finding panel, if applicable. An individual shall
12 be considered qualified to serve as the fact-finder and
13 chairperson of the fact-finding panel, if applicable, if he
14 or she was not the same individual who was appointed as the
15 mediator and if he or she satisfies the following
16 requirements: membership in good standing with the
17 National Academy of Arbitrators, Federal Mediation and
18 Conciliation Service, or American Arbitration Association
19 for a minimum of 10 years; membership on the mediation
20 roster for the Illinois Labor Relations Board or Illinois
21 Educational Labor Relations Board; issuance of at least 5
22 interest arbitration awards arising under the Illinois
23 Public Labor Relations Act; and participation in impasse
24 resolution processes arising under private or public
25 sector collective bargaining statutes in other states. If
26 the parties are unable to agree on a fact-finder, the

1 parties shall request a panel of fact-finders who satisfy
2 the requirements set forth in this paragraph (2) from
3 either the Federal Mediation and Conciliation Service or
4 the American Arbitration Association and shall select a
5 fact-finder from such panel in accordance with the
6 procedures established by the organization providing the
7 panel.

8 (3) The fact-finder shall have the following duties and
9 powers:

10 (A) to require the parties to submit a statement of
11 disputed issues and their positions regarding each
12 issue either jointly or separately;

13 (B) to identify disputed issues that are economic
14 in nature;

15 (C) to meet with the parties either separately or
16 in executive sessions;

17 (D) to conduct hearings and regulate the time,
18 place, course, and manner of the hearings;

19 (E) to request the Board to issue subpoenas
20 requiring the attendance and testimony of witnesses or
21 the production of evidence;

22 (F) to administer oaths and affirmations;

23 (G) to examine witnesses and documents;

24 (H) to create a full and complete written record of
25 the hearings;

26 (I) to attempt mediation or remand a disputed issue

1 to the parties for further collective bargaining;

2 (J) to require the parties to submit final offers
3 for each disputed issue either individually or as a
4 package or as a combination of both; and

5 (K) to employ any other measures deemed
6 appropriate to resolve the impasse.

7 (4) If the dispute is not settled within 75 days after
8 the appointment of the fact-finding panel, the
9 fact-finding panel shall issue a private report to the
10 parties that contains advisory findings of fact and
11 recommended terms of settlement for all disputed issues and
12 that sets forth a rationale for each recommendation. The
13 fact-finding panel, acting by a majority of its members,
14 shall base its findings and recommendations upon the
15 following criteria as applicable:

16 (A) the lawful authority of the employer;

17 (B) the federal and State statutes or local
18 ordinances and resolutions applicable to the employer;

19 (C) prior collective bargaining agreements and the
20 bargaining history between the parties;

21 (D) stipulations of the parties;

22 (E) the interests and welfare of the public and the
23 students and families served by the employer;

24 (F) the employer's financial ability to fund the
25 proposals based on existing available resources,
26 provided that such ability is not predicated on an

1 assumption that lines of credit or reserve funds are
2 available or that the employer may or will receive or
3 develop new sources of revenue or increase existing
4 sources of revenue;

5 (G) the impact of any economic adjustments on the
6 employer's ability to pursue its educational mission;

7 (H) the present and future general economic
8 conditions in the locality and State;

9 (I) a comparison of the wages, hours, and
10 conditions of employment of the employees involved in
11 the dispute with the wages, hours, and conditions of
12 employment of employees performing similar services in
13 public education in the 10 largest U.S. cities;

14 (J) the average consumer prices in urban areas for
15 goods and services, which is commonly known as the cost
16 of living;

17 (K) the overall compensation presently received by
18 the employees involved in the dispute, including
19 direct wage compensation; vacations, holidays, and
20 other excused time; insurance and pensions; medical
21 and hospitalization benefits; the continuity and
22 stability of employment and all other benefits
23 received; and how each party's proposed compensation
24 structure supports the educational goals of the
25 district;

26 (L) changes in any of the circumstances listed in

1 items (A) through (K) of this paragraph (4) during the
2 fact-finding proceedings;

3 (M) the effect that any term the parties are at
4 impasse on has or may have on the overall educational
5 environment, learning conditions, and working
6 conditions with the school district; and

7 (N) the effect that any term the parties are at
8 impasse on has or may have in promoting the public
9 policy of this State.

10 (5) The fact-finding panel's recommended terms of
11 settlement shall be deemed agreed upon by the parties as
12 the final resolution of the disputed issues and
13 incorporated into the collective bargaining agreement
14 executed by the parties, unless either party tenders to the
15 other party and the chairperson of the fact-finding panel a
16 notice of rejection of the recommended terms of settlement
17 with a rationale for the rejection, within 15 days after
18 the date of issuance of the fact-finding panel's report. If
19 either party submits a notice of rejection, the chairperson
20 of the fact-finding panel shall publish the fact-finding
21 panel's report and the notice of rejection for public
22 information by delivering a copy to all newspapers of
23 general circulation in the community with simultaneous
24 written notice to the parties.

25 (b) (Blank). ~~If, after a period of bargaining of at least~~
26 ~~60 days, a dispute or impasse exists between an educational~~

1 ~~employer whose territorial boundaries are coterminous with~~
2 ~~those of a city having a population in excess of 500,000 and~~
3 ~~the exclusive bargaining representative over a subject or~~
4 ~~matter set forth in Section 4.5 of this Act, the parties shall~~
5 ~~submit the dispute or impasse to the dispute resolution~~
6 ~~procedure agreed to between the parties. The procedure shall~~
7 ~~provide for mediation of disputes by a rotating mediation panel~~
8 ~~and may, at the request of either party, include the issuance~~
9 ~~of advisory findings of fact and recommendations.~~

10 (c) The costs of fact finding and mediation shall be shared
11 equally between the employer and the exclusive bargaining
12 agent, provided that, for purposes of mediation under this Act,
13 if either party requests the use of mediation services from the
14 Federal Mediation and Conciliation Service, the other party
15 shall either join in such request or bear the additional cost
16 of mediation services from another source. All other costs and
17 expenses of complying with this Section must be borne by the
18 party incurring them.

19 (c-5) If an educational employer or exclusive bargaining
20 representative refuses to participate in mediation or fact
21 finding when required by this Section, the refusal shall be
22 deemed a refusal to bargain in good faith.

23 (d) Nothing in this Act prevents an employer and an
24 exclusive bargaining representative from mutually submitting
25 to final and binding impartial arbitration unresolved issues
26 concerning the terms of a new collective bargaining agreement.

1 (Source: P.A. 97-7, eff. 6-13-11; 97-8, eff. 6-13-11; 98-513,
2 eff. 1-1-14.)

3 (115 ILCS 5/4.5 rep.)

4 Section 15. The Illinois Educational Labor Relations Act is
5 amended by repealing Section 4.5.

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