

SB1528



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

SB1528

Introduced 2/9/2007, by Sen. Gary Forby

SYNOPSIS AS INTRODUCED:

5 ILCS 315/14

from Ch. 48, par. 1614

30 ILCS 805/8.31 new

Amends the Illinois Public Labor Relations Act. With respect to fire fighters and fire department or district paramedics, expands the scope of arbitration to include residency requirements in municipalities of 1,000,000 or more population. Amends the State Mandates Act to require implementation without reimbursement. Effective immediately.

LRB095 10886 JAM 31167 b

FISCAL NOTE ACT
MAY APPLY

STATE MANDATES
ACT MAY REQUIRE
REIMBURSEMENT

A BILL FOR

1 AN ACT concerning government.

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

4 Section 5. The Illinois Public Labor Relations Act is
5 amended by changing Section 14 as follows:

6 (5 ILCS 315/14) (from Ch. 48, par. 1614)

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

9 (a) In the case of collective bargaining agreements
10 involving units of security employees of a public employer,
11 Peace Officer Units, or units of fire fighters or paramedics,
12 and in the case of disputes under Section 18, unless the
13 parties mutually agree to some other time limit, mediation
14 shall commence 30 days prior to the expiration date of such
15 agreement or at such later time as the mediation services
16 chosen under subsection (b) of Section 12 can be provided to
17 the parties. In the case of negotiations for an initial
18 collective bargaining agreement, mediation shall commence upon
19 15 days notice from either party or at such later time as the
20 mediation services chosen pursuant to subsection (b) of Section
21 12 can be provided to the parties. In mediation under this
22 Section, if either party requests the use of mediation services
23 from the Federal Mediation and Conciliation Service, the other

1 party shall either join in such request or bear the additional
2 cost of mediation services from another source. The mediator
3 shall have a duty to keep the Board informed on the progress of
4 the mediation. If any dispute has not been resolved within 15
5 days after the first meeting of the parties and the mediator,
6 or within such other time limit as may be mutually agreed upon
7 by the parties, either the exclusive representative or employer
8 may request of the other, in writing, arbitration, and shall
9 submit a copy of the request to the Board.

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

16 (c) Within 7 days of the request of either party, the Board
17 shall select from the Public Employees Labor Mediation Roster 7
18 persons who are on the labor arbitration panels of either the
19 American Arbitration Association or the Federal Mediation and
20 Conciliation Service, or who are members of the National
21 Academy of Arbitrators, as nominees for impartial arbitrator of
22 the arbitration panel. The parties may select an individual on
23 the list provided by the Board or any other individual mutually
24 agreed upon by the parties. Within 7 days following the receipt
25 of the list, the parties shall notify the Board of the person
26 they have selected. Unless the parties agree on an alternate

1 selection procedure, they shall alternatively strike one name
2 from the list provided by the Board until only one name
3 remains. A coin toss shall determine which party shall strike
4 the first name. If the parties fail to notify the Board in a
5 timely manner of their selection for neutral chairman, the
6 Board shall appoint a neutral chairman from the Illinois Public
7 Employees Mediation/Arbitration Roster.

8 (d) The chairman shall call a hearing to begin within 15
9 days and give reasonable notice of the time and place of the
10 hearing. The hearing shall be held at the offices of the Board
11 or at such other location as the Board deems appropriate. The
12 chairman shall preside over the hearing and shall take
13 testimony. Any oral or documentary evidence and other data
14 deemed relevant by the arbitration panel may be received in
15 evidence. The proceedings shall be informal. Technical rules of
16 evidence shall not apply and the competency of the evidence
17 shall not thereby be deemed impaired. A verbatim record of the
18 proceedings shall be made and the arbitrator shall arrange for
19 the necessary recording service. Transcripts may be ordered at
20 the expense of the party ordering them, but the transcripts
21 shall not be necessary for a decision by the arbitration panel.
22 The expense of the proceedings, including a fee for the
23 chairman, established in advance by the Board, shall be borne
24 equally by each of the parties to the dispute. The delegates,
25 if public officers or employees, shall continue on the payroll
26 of the public employer without loss of pay. The hearing

1 conducted by the arbitration panel may be adjourned from time
2 to time, but unless otherwise agreed by the parties, shall be
3 concluded within 30 days of the time of its commencement.
4 Majority actions and rulings shall constitute the actions and
5 rulings of the arbitration panel. Arbitration proceedings
6 under this Section shall not be interrupted or terminated by
7 reason of any unfair labor practice charge filed by either
8 party at any time.

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

22 (f) At any time before the rendering of an award, the
23 chairman of the arbitration panel, if he is of the opinion that
24 it would be useful or beneficial to do so, may remand the
25 dispute to the parties for further collective bargaining for a
26 period not to exceed 2 weeks. If the dispute is remanded for

1 further collective bargaining the time provisions of this Act
2 shall be extended for a time period equal to that of the
3 remand. The chairman of the panel of arbitration shall notify
4 the Board of the remand.

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

25 (h) Where there is no agreement between the parties, or
26 where there is an agreement but the parties have begun

1 negotiations or discussions looking to a new agreement or
2 amendment of the existing agreement, and wage rates or other
3 conditions of employment under the proposed new or amended
4 agreement are in dispute, the arbitration panel shall base its
5 findings, opinions and order upon the following factors, as
6 applicable:

7 (1) The lawful authority of the employer.

8 (2) Stipulations of the parties.

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

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

17 (A) In public employment in comparable
18 communities.

19 (B) In private employment in comparable
20 communities.

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

23 (6) The overall compensation presently received by the
24 employees, including direct wage compensation, vacations,
25 holidays and other excused time, insurance and pensions,
26 medical and hospitalization benefits, the continuity and

1 stability of employment and all other benefits received.

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

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

11 (i) In the case of peace officers, the arbitration decision
12 shall be limited to wages, hours, and conditions of employment
13 (which may include residency requirements in municipalities
14 with a population under 1,000,000, but those residency
15 requirements shall not allow residency outside of Illinois) and
16 shall not include the following: i) residency requirements in
17 municipalities with a population of at least 1,000,000; ii) the
18 type of equipment, other than uniforms, issued or used; iii)
19 manning; iv) the total number of employees employed by the
20 department; v) mutual aid and assistance agreements to other
21 units of government; and vi) the criterion pursuant to which
22 force, including deadly force, can be used; provided, nothing
23 herein shall preclude an arbitration decision regarding
24 equipment or manning levels if such decision is based on a
25 finding that the equipment or manning considerations in a
26 specific work assignment involve a serious risk to the safety

1 of a peace officer beyond that which is inherent in the normal
2 performance of police duties. Limitation of the terms of the
3 arbitration decision pursuant to this subsection shall not be
4 construed to limit the factors upon which the decision may be
5 based, as set forth in subsection (h).

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

1 construed to limit the facts upon which the decision may be
2 based, as set forth in subsection (h).

3 The changes to this subsection (i) made by Public Act
4 90-385 (relating to residency requirements) do not apply to
5 persons who are employed by a combined department that performs
6 both police and firefighting services; these persons shall be
7 governed by the provisions of this subsection (i) relating to
8 peace officers, as they existed before the amendment by Public
9 Act 90-385.

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

15 (j) Arbitration procedures shall be deemed to be initiated
16 by the filing of a letter requesting mediation as required
17 under subsection (a) of this Section. The commencement of a new
18 municipal fiscal year after the initiation of arbitration
19 procedures under this Act, but before the arbitration decision,
20 or its enforcement, shall not be deemed to render a dispute
21 moot, or to otherwise impair the jurisdiction or authority of
22 the arbitration panel or its decision. Increases in rates of
23 compensation awarded by the arbitration panel may be effective
24 only at the start of the fiscal year next commencing after the
25 date of the arbitration award. If a new fiscal year has
26 commenced either since the initiation of arbitration

1 procedures under this Act or since any mutually agreed
2 extension of the statutorily required period of mediation under
3 this Act by the parties to the labor dispute causing a delay in
4 the initiation of arbitration, the foregoing limitations shall
5 be inapplicable, and such awarded increases may be retroactive
6 to the commencement of the fiscal year, any other statute or
7 charter provisions to the contrary, notwithstanding. At any
8 time the parties, by stipulation, may amend or modify an award
9 of arbitration.

10 (k) Orders of the arbitration panel shall be reviewable,
11 upon appropriate petition by either the public employer or the
12 exclusive bargaining representative, by the circuit court for
13 the county in which the dispute arose or in which a majority of
14 the affected employees reside, but only for reasons that the
15 arbitration panel was without or exceeded its statutory
16 authority; the order is arbitrary, or capricious; or the order
17 was procured by fraud, collusion or other similar and unlawful
18 means. Such petitions for review must be filed with the
19 appropriate circuit court within 90 days following the issuance
20 of the arbitration order. The pendency of such proceeding for
21 review shall not automatically stay the order of the
22 arbitration panel. The party against whom the final decision of
23 any such court shall be adverse, if such court finds such
24 appeal or petition to be frivolous, shall pay reasonable
25 attorneys' fees and costs to the successful party as determined
26 by said court in its discretion. If said court's decision

1 affirms the award of money, such award, if retroactive, shall
2 bear interest at the rate of 12 percent per annum from the
3 effective retroactive date.

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

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

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

21 The governing body shall review each term decided by the
22 arbitration panel. If the governing body fails to reject one or
23 more terms of the arbitration panel's decision by a 3/5 vote of
24 those duly elected and qualified members of the governing body,
25 within 20 days of issuance, or in the case of firefighters
26 employed by a state university, at the next regularly scheduled

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

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

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

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

8 Section 90. The State Mandates Act is amended by adding
9 Section 8.31 as follows:

10 (30 ILCS 805/8.31 new)

11 Sec. 8.31. Exempt mandate. Notwithstanding Sections 6 and 8
12 of this Act, no reimbursement by the State is required for the
13 implementation of any mandate created by this amendatory Act of
14 the 95th General Assembly.

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