



Rep. Elaine Nekritz

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LRB097 08777 JDS 52967 a

1 AMENDMENT TO HOUSE BILL 3339

2 AMENDMENT NO. _____. Amend House Bill 3339 by replacing
3 everything after the enacting clause with the following:

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

1 the parties. In the case of negotiations for an initial
2 collective bargaining agreement, mediation shall commence upon
3 15 days notice from either party or at such later time as the
4 mediation services chosen pursuant to subsection (b) of Section
5 12 can be provided to the parties. In mediation under this
6 Section, if either party requests the use of mediation services
7 from the Federal Mediation and Conciliation Service, the other
8 party shall either join in such request or bear the additional
9 cost of mediation services from another source. The mediator
10 shall have a duty to keep the Board informed on the progress of
11 the mediation. If any dispute has not been resolved within 15
12 days after the first meeting of the parties and the mediator,
13 or within such other time limit as may be mutually agreed upon
14 by the parties, either the exclusive representative or employer
15 may request of the other, in writing, arbitration, and shall
16 submit a copy of the request to the Board.

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

23 (c) Within 7 days after the request of either party, the
24 parties shall request a panel of impartial arbitrators from
25 which they shall select the neutral chairman according to the
26 procedures provided in this Section. If the parties have agreed

1 to a contract that contains a grievance resolution procedure as
2 provided in Section 8, the chairman shall be selected using
3 their agreed contract procedure unless they mutually agree to
4 another procedure. If the parties fail to notify the Board of
5 their selection of neutral chairman within 7 days after receipt
6 of the list of impartial arbitrators, the Board shall appoint,
7 at random, a neutral chairman from the list. In the absence of
8 an agreed contract procedure for selecting an impartial
9 arbitrator, either party may request a panel from the Board.
10 Within 7 days of the request of either party, the Board shall
11 select from the Public Employees Labor Mediation Roster 7
12 persons who are on the labor arbitration panels of either the
13 American Arbitration Association or the Federal Mediation and
14 Conciliation Service, or who are members of the National
15 Academy of Arbitrators, as nominees for impartial arbitrator of
16 the arbitration panel. The parties may select an individual on
17 the list provided by the Board or any other individual mutually
18 agreed upon by the parties. Within 7 days following the receipt
19 of the list, the parties shall notify the Board of the person
20 they have selected. Unless the parties agree on an alternate
21 selection procedure, they shall alternatively strike one name
22 from the list provided by the Board until only one name
23 remains. A coin toss shall determine which party shall strike
24 the first name. If the parties fail to notify the Board in a
25 timely manner of their selection for neutral chairman, the
26 Board shall appoint a neutral chairman from the Illinois Public

1 Employees Mediation/Arbitration Roster.

2 (d) The chairman shall call a hearing to begin within 15
3 days and give reasonable notice of the time and place of the
4 hearing. The hearing shall be held at the offices of the Board
5 or at such other location as the Board deems appropriate. The
6 chairman shall preside over the hearing and shall take
7 testimony. Any oral or documentary evidence and other data
8 deemed relevant by the arbitration panel may be received in
9 evidence. The proceedings shall be informal. Technical rules of
10 evidence shall not apply and the competency of the evidence
11 shall not thereby be deemed impaired. A verbatim record of the
12 proceedings shall be made and the arbitrator shall arrange for
13 the necessary recording service. Transcripts may be ordered at
14 the expense of the party ordering them, but the transcripts
15 shall not be necessary for a decision by the arbitration panel.
16 The expense of the proceedings, including a fee for the
17 chairman, established in advance by the Board, shall be borne
18 equally by each of the parties to the dispute. The delegates,
19 if public officers or employees, shall continue on the payroll
20 of the public employer without loss of pay. The hearing
21 conducted by the arbitration panel may be adjourned from time
22 to time, but unless otherwise agreed by the parties, shall be
23 concluded within 30 days of the time of its commencement.
24 Majority actions and rulings shall constitute the actions and
25 rulings of the arbitration panel. Arbitration proceedings
26 under this Section shall not be interrupted or terminated by

1 reason of any unfair labor practice charge filed by either
2 party at any time.

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

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

25 (g) At or before the conclusion of the hearing held
26 pursuant to subsection (d), the arbitration panel shall

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

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

1 (1) The lawful authority of the employer.

2 (2) Stipulations of the parties.

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

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

11 (A) In public employment in comparable
12 communities.

13 (B) In private employment in comparable
14 communities.

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

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

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

24 (8) Such other factors, not confined to the foregoing,
25 which are normally or traditionally taken into
26 consideration in the determination of wages, hours and

1 conditions of employment through voluntary collective
2 bargaining, mediation, fact-finding, arbitration or
3 otherwise between the parties, in the public service or in
4 private employment.

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

26 In the case of fire fighter, and fire department or fire

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

23 The changes to this subsection (i) made by Public Act
24 90-385 (relating to residency requirements) do not apply to
25 persons who are employed by a combined department that performs
26 both police and firefighting services; these persons shall be

1 governed by the provisions of this subsection (i) relating to
2 peace officers, as they existed before the amendment by Public
3 Act 90-385.

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

9 (j) Arbitration procedures shall be deemed to be initiated
10 by the filing of a letter requesting mediation as required
11 under subsection (a) of this Section. The commencement of a new
12 municipal fiscal year after the initiation of arbitration
13 procedures under this Act, but before the arbitration decision,
14 or its enforcement, shall not be deemed to render a dispute
15 moot, or to otherwise impair the jurisdiction or authority of
16 the arbitration panel or its decision. Increases in rates of
17 compensation awarded by the arbitration panel may be effective
18 only at the start of the fiscal year next commencing after the
19 date of the arbitration award. If a new fiscal year has
20 commenced either since the initiation of arbitration
21 procedures under this Act or since any mutually agreed
22 extension of the statutorily required period of mediation under
23 this Act by the parties to the labor dispute causing a delay in
24 the initiation of arbitration, the foregoing limitations shall
25 be inapplicable, and such awarded increases may be retroactive
26 to the commencement of the fiscal year, any other statute or

1 charter provisions to the contrary, notwithstanding. At any
2 time the parties, by stipulation, may amend or modify an award
3 of arbitration.

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

24 (l) During the pendency of proceedings before the
25 arbitration panel, existing wages, hours, and other conditions
26 of employment shall not be changed by action of either party

1 without the consent of the other but a party may so consent
2 without prejudice to his rights or position under this Act. The
3 proceedings are deemed to be pending before the arbitration
4 panel upon the initiation of arbitration procedures under this
5 Act.

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

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

15 The governing body shall review each term decided by the
16 arbitration panel. If the governing body fails to reject one or
17 more terms of the arbitration panel's decision by a 3/5 vote of
18 those duly elected and qualified members of the governing body,
19 within 20 days of issuance, or in the case of firefighters
20 employed by a state university, at the next regularly scheduled
21 meeting of the governing body after issuance, such term or
22 terms shall become a part of the collective bargaining
23 agreement of the parties. If the governing body affirmatively
24 rejects one or more terms of the arbitration panel's decision,
25 it must provide reasons for such rejection with respect to each
26 term so rejected, within 20 days of such rejection and the

1 parties shall return to the arbitration panel for further
2 proceedings and issuance of a supplemental decision with
3 respect to the rejected terms. Any supplemental decision by an
4 arbitration panel or other decision maker agreed to by the
5 parties shall be submitted to the governing body for
6 ratification and adoption in accordance with the procedures and
7 voting requirements set forth in this Section. The voting
8 requirements of this subsection shall apply to all disputes
9 submitted to arbitration pursuant to this Section
10 notwithstanding any contrary voting requirements contained in
11 any existing collective bargaining agreement between the
12 parties.

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

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

26 (q) If a collective bargaining unit that represents peace

1 officers wants to initiate an arbitration procedure and the
2 elected representatives of that unit do not request arbitration
3 on behalf of the unit, then the unit may, by obtaining the
4 signatures of at least three-fifths of the members of the
5 collective bargaining unit and the approval of the governing
6 body of the employer, petition the Illinois Labor Relations
7 Board for review. If the Illinois Labor Relations Board
8 receives such a petition, it shall determine whether or not the
9 petition is a qualified petition. If the Board determines that
10 the petition is a qualified petition, it shall notify the
11 employer and the elected representatives of the collective
12 bargaining unit that it recommends that the petitioned issue be
13 submitted to arbitration. All costs of arbitration resulting
14 from this Section shall be the sole responsibility of the
15 employer.

16 (Source: P.A. 96-813, eff. 10-30-09.)

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