

1 AN ACT in relation to labor relations.

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 9 as follows:

6 (5 ILCS 315/9) (from Ch. 48, par. 1609)

7 Sec. 9. Elections; recognition.

8 (a) Whenever in accordance with such regulations as may
9 be prescribed by the Board a petition has been filed:

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

21 (2) by a public employer alleging that one or more
22 labor organizations have presented to it a claim that
23 they be recognized as the representative of a majority of
24 the public employees in an appropriate unit, the Board
25 shall investigate such petition, and if it has reasonable
26 cause to believe that a question of representation
27 exists, shall provide for an appropriate hearing upon due
28 notice. Such hearing shall be held at the offices of the
29 Board or such other location as the Board deems
30 appropriate. If it finds upon the record of the hearing
31 that a question of representation exists, it shall direct

1 an election in accordance with subsection (d) of this
2 Section, which election shall be held not later than 120
3 days after the date the petition was filed regardless of
4 whether that petition was filed before or after the
5 effective date of this amendatory Act of 1987; provided,
6 however, the Board may extend the time for holding an
7 election by an additional 60 days if, upon motion by a
8 person who has filed a petition under this Section or is
9 the subject of a petition filed under this Section and is
10 a party to such hearing, or upon the Board's own motion,
11 the Board finds that good cause has been shown for
12 extending the election date; provided further, that
13 nothing in this Section shall prohibit the Board, in its
14 discretion, from extending the time for holding an
15 election for so long as may be necessary under the
16 circumstances, where the purpose for such extension is to
17 permit resolution by the Board of an unfair labor
18 practice charge filed by one of the parties to a
19 representational proceeding against the other based upon
20 conduct which may either affect the existence of a
21 question concerning representation or have a tendency to
22 interfere with a fair and free election, where the party
23 filing the charge has not filed a request to proceed with
24 the election; and provided further that prior to the
25 expiration of the total time allotted for holding an
26 election, a person who has filed a petition under this
27 Section or is the subject of a petition filed under this
28 Section and is a party to such hearing or the Board, may
29 move for and obtain the entry of an order in the circuit
30 court of the county in which the majority of the public
31 employees sought to be represented by such person reside,
32 such order extending the date upon which the election
33 shall be held. Such order shall be issued by the circuit
34 court only upon a judicial finding that there has been a

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

19 (b) The Board shall decide in each case, in order to
20 assure public employees the fullest freedom in exercising the
21 rights guaranteed by this Act, a unit appropriate for the
22 purpose of collective bargaining, based upon but not limited
23 to such factors as: historical pattern of recognition;
24 community of interest including employee skills and
25 functions; degree of functional integration;
26 interchangeability and contact among employees; fragmentation
27 of employee groups; common supervision, wages, hours and
28 other working conditions of the employees involved; and the
29 desires of the employees. For purposes of this subsection,
30 fragmentation shall not be the sole or predominant factor
31 used by the Board in determining an appropriate bargaining
32 unit. Except with respect to non-State fire fighters and
33 paramedics employed by fire departments and fire protection
34 districts, non-State peace officers and peace officers in the

1 State Department of State Police, a single bargaining unit
2 determined by the Board may not include both supervisors and
3 nonsupervisors, except for bargaining units in existence on
4 the effective date of this Act. With respect to non-State
5 fire fighters and paramedics employed by fire departments and
6 fire protection districts, non-State peace officers and peace
7 officers in the State Department of State Police, a single
8 bargaining unit determined by the Board may not include both
9 supervisors and nonsupervisors, except for bargaining units
10 in existence on the effective date of this amendatory Act of
11 1985.

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

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

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

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

1 pursuant to the procedures set forth in this Act.

2 (d) In instances where the employer does not voluntarily
3 recognize a labor organization as the exclusive bargaining
4 representative for a unit of employees, the Board shall
5 determine the majority representative of the public employees
6 in an appropriate collective bargaining unit by conducting a
7 secret ballot election. Within 7 days after the Board issues
8 its bargaining unit determination and direction of election
9 or the execution of a stipulation for the purpose of a
10 consent election, the public employer shall submit to the
11 labor organization the complete names and addresses of those
12 employees who are determined by the Board to be eligible to
13 participate in the election. When the Board has determined
14 that a labor organization has been fairly and freely chosen
15 by a majority of employees in an appropriate unit, it shall
16 certify such organization as the exclusive representative.
17 If the Board determines that a majority of employees in an
18 appropriate unit has fairly and freely chosen not to be
19 represented by a labor organization, it shall so certify. The
20 Board may also revoke the certification of the public
21 employee organizations as exclusive bargaining
22 representatives which have been found by a secret ballot
23 election to be no longer the majority representative.

24 (e) The Board shall not conduct an election in any
25 bargaining unit or any subdivision thereof within which a
26 valid election has been held in the preceding 12-month
27 period. The Board shall determine who is eligible to vote in
28 an election and shall establish rules governing the conduct
29 of the election or conduct affecting the results of the
30 election. The Board shall include on a ballot in a
31 representation election a choice of "no representation". A
32 labor organization currently representing the bargaining unit
33 of employees shall be placed on the ballot in any
34 representation election. In any election where none of the

1 choices on the ballot receives a majority, a runoff election
2 shall be conducted between the 2 choices receiving the
3 largest number of valid votes cast in the election. A labor
4 organization which receives a majority of the votes cast in
5 an election shall be certified by the Board as exclusive
6 representative of all public employees in the unit.

7 (f) Nothing in this or any other Act prohibits
8 recognition of a labor organization as the exclusive
9 representative by a public employer by mutual consent of the
10 employer and the labor organization, provided that the labor
11 organization represents a majority of the public employees in
12 an appropriate unit. Any employee organization which is
13 designated or selected by the majority of public employees,
14 in a unit of the public employer having no other recognized
15 or certified representative, as their representative for
16 purposes of collective bargaining may request recognition by
17 the public employer in writing. The public employer shall
18 post such request for a period of at least 20 days following
19 its receipt thereof on bulletin boards or other places used
20 or reserved for employee notices.

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

30 (h) No election shall be directed by the Board in any
31 bargaining unit where there is in force a valid collective
32 bargaining agreement. The Board, however, may process an
33 election petition filed between 90 and 60 days prior to the
34 expiration of the date of an agreement, and may further

1 refine, by rule or decision, the implementation of this
2 provision. Where more than 4 years have elapsed since the
3 effective date of the agreement, the agreement shall continue
4 to bar an election, except that the Board may process an
5 election petition filed between 90 and 60 days prior to the
6 end of the fifth year of such an agreement, and between 90
7 and 60 days prior to the end of each successive year of such
8 agreement. ~~No--collective--bargaining--agreement---bars---an~~
9 ~~election--upon--the--petition--of--persons--not--parties--thereto~~
10 ~~where--more--than--3--years--have--elapsed--since--the--effective--date~~
11 ~~of--the--agreement.~~

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

33 (Source: P.A. 87-736; 88-1.)

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