

1                                    AMENDMENT TO HOUSE BILL 3064

2            AMENDMENT NO. \_\_\_\_\_. Amend House Bill 3064 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 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

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

1 election, a person who has filed a petition under this  
2 Section or is the subject of a petition filed under this  
3 Section and is a party to such hearing or the Board, may  
4 move for and obtain the entry of an order in the circuit  
5 court of the county in which the majority of the public  
6 employees sought to be represented by such person reside,  
7 such order extending the date upon which the election  
8 shall be held. Such order shall be issued by the circuit  
9 court only upon a judicial finding that there has been a  
10 sufficient showing that there is good cause to extend the  
11 election date beyond such period and shall require the  
12 Board to hold the election as soon as is feasible given  
13 the totality of the circumstances. Such 120 day period  
14 may be extended one or more times by the agreement of all  
15 parties to the hearing to a date certain without the  
16 necessity of obtaining a court order. Nothing in this  
17 Section prohibits the waiving of hearings by stipulation  
18 for the purpose of a consent election in conformity with  
19 the rules and regulations of the Board or an election in  
20 a unit agreed upon by the parties. Other interested  
21 employee organizations may intervene in the proceedings  
22 in the manner and within the time period specified by  
23 rules and regulations of the Board. Interested parties  
24 who are necessary to the proceedings may also intervene  
25 in the proceedings in the manner and within the time  
26 period specified by the rules and regulations of the  
27 Board.

28 (b) The Board shall decide in each case, in order to  
29 assure public employees the fullest freedom in exercising the  
30 rights guaranteed by this Act, a unit appropriate for the  
31 purpose of collective bargaining, based upon but not limited  
32 to such factors as: historical pattern of recognition;  
33 community of interest including employee skills and  
34 functions; degree of functional integration;

1 interchangeability and contact among employees; fragmentation  
2 of employee groups; common supervision, wages, hours and  
3 other working conditions of the employees involved; and the  
4 desires of the employees. For purposes of this subsection,  
5 fragmentation shall not be the sole or predominant factor  
6 used by the Board in determining an appropriate bargaining  
7 unit. Except with respect to non-State fire fighters and  
8 paramedics employed by fire departments and fire protection  
9 districts, non-State peace officers and peace officers in the  
10 State Department of State Police, a single bargaining unit  
11 determined by the Board may not include both supervisors and  
12 nonsupervisors, except for bargaining units in existence on  
13 the effective date of this Act. With respect to non-State  
14 fire fighters and paramedics employed by fire departments and  
15 fire protection districts, non-State peace officers and peace  
16 officers in the State Department of State Police, a single  
17 bargaining unit determined by the Board may not include both  
18 supervisors and nonsupervisors, except for bargaining units  
19 in existence on the effective date of this amendatory Act of  
20 1985.

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

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

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

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

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

33 (e) The Board shall not conduct an election in any  
34 bargaining unit or any subdivision thereof within which a

1 valid election has been held in the preceding 12-month  
2 period. The Board shall determine who is eligible to vote in  
3 an election and shall establish rules governing the conduct  
4 of the election or conduct affecting the results of the  
5 election. The Board shall include on a ballot in a  
6 representation election a choice of "no representation". A  
7 labor organization currently representing the bargaining unit  
8 of employees shall be placed on the ballot in any  
9 representation election. In any election where none of the  
10 choices on the ballot receives a majority, a runoff election  
11 shall be conducted between the 2 choices receiving the  
12 largest number of valid votes cast in the election. A labor  
13 organization which receives a majority of the votes cast in  
14 an election shall be certified by the Board as exclusive  
15 representative of all public employees in the unit.

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

30 (g) Within the 20-day period any other interested  
31 employee organization may petition the Board in the manner  
32 specified by rules and regulations of the Board, provided  
33 that such interested employee organization has been  
34 designated by at least 10% of the employees in an appropriate

1 bargaining unit which includes all or some of the employees  
 2 in the unit recognized by the employer. In such event, the  
 3 Board shall proceed with the petition in the same manner as  
 4 provided by paragraph (1) of subsection (a) of this Section.

5 (h) No election shall be directed by the Board in any  
 6 bargaining unit where there is in force a valid collective  
 7 bargaining agreement. The Board, however, may process an  
 8 election petition filed between 90 and 60 days prior to the  
 9 expiration of the date of an agreement, and may further  
 10 refine, by rule or decision, the implementation of this  
 11 provision. Where more than 4 years have elapsed since the  
 12 effective date of the agreement, the agreement shall continue  
 13 to bar an election, except that the Board may process an  
 14 election petition filed between 90 and 60 days prior to the  
 15 end of the fifth year of such an agreement, and between 90  
 16 and 60 days prior to the end of each successive year of such  
 17 agreement. ~~No--collective--bargaining--agreement---bars---an~~  
 18 ~~election--upon--the--petition--of--persons--not--parties--thereto~~  
 19 ~~where--more--than--3--years--have--elapsed--since--the--effective--date~~  
 20 ~~of--the--agreement.~~

21 (i) An order of the Board dismissing a representation  
 22 petition, determining and certifying that a labor  
 23 organization has been fairly and freely chosen by a majority  
 24 of employees in an appropriate bargaining unit, determining  
 25 and certifying that a labor organization has not been fairly  
 26 and freely chosen by a majority of employees in the  
 27 bargaining unit or certifying a labor organization as the  
 28 exclusive representative of employees in an appropriate  
 29 bargaining unit because of a determination by the Board that  
 30 the labor organization is the historical bargaining  
 31 representative of employees in the bargaining unit, is a  
 32 final order. Any person aggrieved by any such order issued  
 33 on or after the effective date of this amendatory Act of 1987  
 34 may apply for and obtain judicial review in accordance with

1 provisions of the Administrative Review Law, as now or  
2 hereafter amended, except that such review shall be afforded  
3 directly in the Appellate Court for the district in which the  
4 aggrieved party resides or transacts business. Any direct  
5 appeal to the Appellate Court shall be filed within 35 days  
6 from the date that a copy of the decision sought to be  
7 reviewed was served upon the party affected by the decision.  
8 (Source: P.A. 87-736; 88-1.)

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