



## 94TH GENERAL ASSEMBLY

### State of Illinois

2005 and 2006

SB2586

Introduced 1/20/2006, by Sen. John J. Millner

#### SYNOPSIS AS INTRODUCED:

5 ILCS 315/14

from Ch. 48, par. 1614

30 ILCS 805/8.30 new

Amends the Illinois Public Labor Relations Act. In the case of peace officers, expands the scope of arbitration to include residency requirements in municipalities of 1,000,000 or more. Amends the State Mandates Act to require implementation without reimbursement. Effective immediately.

LRB094 17515 HLH 52811 b

FISCAL NOTE ACT  
MAY APPLY

STATE MANDATES  
ACT MAY REQUIRE  
REIMBURSEMENT

1 AN ACT concerning labor.

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  
24 party shall either join in such request or bear the additional  
25 cost of mediation services from another source. The mediator  
26 shall have a duty to keep the Board informed on the progress of  
27 the mediation. If any dispute has not been resolved within 15  
28 days after the first meeting of the parties and the mediator,  
29 or within such other time limit as may be mutually agreed upon  
30 by the parties, either the exclusive representative or employer  
31 may request of the other, in writing, arbitration, and shall  
32 submit a copy of the request to the Board.

1           (b) Within 10 days after such a request for arbitration has  
2 been made, the employer shall choose a delegate and the  
3 employees' exclusive representative shall choose a delegate to  
4 a panel of arbitration as provided in this Section. The  
5 employer and employees shall forthwith advise the other and the  
6 Board of their selections.

7           (c) Within 7 days of the request of either party, the Board  
8 shall select from the Public Employees Labor Mediation Roster 7  
9 persons who are on the labor arbitration panels of either the  
10 American Arbitration Association or the Federal Mediation and  
11 Conciliation Service, or who are members of the National  
12 Academy of Arbitrators, as nominees for impartial arbitrator of  
13 the arbitration panel. The parties may select an individual on  
14 the list provided by the Board or any other individual mutually  
15 agreed upon by the parties. Within 7 days following the receipt  
16 of the list, the parties shall notify the Board of the person  
17 they have selected. Unless the parties agree on an alternate  
18 selection procedure, they shall alternatively strike one name  
19 from the list provided by the Board until only one name  
20 remains. A coin toss shall determine which party shall strike  
21 the first name. If the parties fail to notify the Board in a  
22 timely manner of their selection for neutral chairman, the  
23 Board shall appoint a neutral chairman from the Illinois Public  
24 Employees Mediation/Arbitration Roster.

25           (d) The chairman shall call a hearing to begin within 15  
26 days and give reasonable notice of the time and place of the  
27 hearing. The hearing shall be held at the offices of the Board  
28 or at such other location as the Board deems appropriate. The  
29 chairman shall preside over the hearing and shall take  
30 testimony. Any oral or documentary evidence and other data  
31 deemed relevant by the arbitration panel may be received in  
32 evidence. The proceedings shall be informal. Technical rules of  
33 evidence shall not apply and the competency of the evidence  
34 shall not thereby be deemed impaired. A verbatim record of the  
35 proceedings shall be made and the arbitrator shall arrange for  
36 the necessary recording service. Transcripts may be ordered at

1 the expense of the party ordering them, but the transcripts  
2 shall not be necessary for a decision by the arbitration panel.  
3 The expense of the proceedings, including a fee for the  
4 chairman, established in advance by the Board, shall be borne  
5 equally by each of the parties to the dispute. The delegates,  
6 if public officers or employees, shall continue on the payroll  
7 of the public employer without loss of pay. The hearing  
8 conducted by the arbitration panel may be adjourned from time  
9 to time, but unless otherwise agreed by the parties, shall be  
10 concluded within 30 days of the time of its commencement.  
11 Majority actions and rulings shall constitute the actions and  
12 rulings of the arbitration panel. Arbitration proceedings  
13 under this Section shall not be interrupted or terminated by  
14 reason of any unfair labor practice charge filed by either  
15 party at any time.

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

29 (f) At any time before the rendering of an award, the  
30 chairman of the arbitration panel, if he is of the opinion that  
31 it would be useful or beneficial to do so, may remand the  
32 dispute to the parties for further collective bargaining for a  
33 period not to exceed 2 weeks. If the dispute is remanded for  
34 further collective bargaining the time provisions of this Act  
35 shall be extended for a time period equal to that of the  
36 remand. The chairman of the panel of arbitration shall notify

1 the Board of the remand.

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

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

30 (1) The lawful authority of the employer.

31 (2) Stipulations of the parties.

32 (3) The interests and welfare of the public and the  
33 financial ability of the unit of government to meet those  
34 costs.

35 (4) Comparison of the wages, hours and conditions of  
36 employment of the employees involved in the arbitration

1 proceeding with the wages, hours and conditions of  
2 employment of other employees performing similar services  
3 and with other employees generally:

4 (A) In public employment in comparable  
5 communities.

6 (B) In private employment in comparable  
7 communities.

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

10 (6) The overall compensation presently received by the  
11 employees, including direct wage compensation, vacations,  
12 holidays and other excused time, insurance and pensions,  
13 medical and hospitalization benefits, the continuity and  
14 stability of employment and all other benefits received.

15 (7) Changes in any of the foregoing circumstances  
16 during the pendency of the arbitration proceedings.

17 (8) Such other factors, not confined to the foregoing,  
18 which are normally or traditionally taken into  
19 consideration in the determination of wages, hours and  
20 conditions of employment through voluntary collective  
21 bargaining, mediation, fact-finding, arbitration or  
22 otherwise between the parties, in the public service or in  
23 private employment.

24 (i) In the case of peace officers, the arbitration decision  
25 shall be limited to wages, hours, ~~and~~ conditions of employment,  
26 and ~~(which may include~~ residency requirements ~~( in~~  
27 ~~municipalities with a population under 1,000,000, but~~ those  
28 residency requirements shall not allow residency outside of  
29 Illinois) and shall not include the following: (i) ~~i)~~ residency  
30 ~~requirements in municipalities with a population of at least~~  
31 ~~1,000,000; ii)~~ the type of equipment, other than uniforms,  
32 issued or used; (ii) ~~iii)~~ manning; (iii) ~~iv)~~ the total number  
33 of employees employed by the department; (iv) ~~v)~~ mutual aid and  
34 assistance agreements to other units of government; and (v) ~~vi)~~  
35 the criterion pursuant to which force, including deadly force,  
36 can be used; provided, nothing herein shall preclude an

1 arbitration decision regarding equipment or manning levels if  
2 such decision is based on a finding that the equipment or  
3 manning considerations in a specific work assignment involve a  
4 serious risk to the safety of a peace officer beyond that which  
5 is inherent in the normal performance of police duties.  
6 Limitation of the terms of the arbitration decision pursuant to  
7 this subsection shall not be construed to limit the factors  
8 upon which the decision may be based, as set forth in  
9 subsection (h).

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

33 The changes to this subsection (i) made by Public Act  
34 90-385 (relating to residency requirements) do not apply to  
35 persons who are employed by a combined department that performs  
36 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  
27 charter provisions to the contrary, notwithstanding. At any  
28 time the parties, by stipulation, may amend or modify an award  
29 of arbitration.

30 (k) Orders of the arbitration panel shall be reviewable,  
31 upon appropriate petition by either the public employer or the  
32 exclusive bargaining representative, by the circuit court for  
33 the county in which the dispute arose or in which a majority of  
34 the affected employees reside, but only for reasons that the  
35 arbitration panel was without or exceeded its statutory  
36 authority; the order is arbitrary, or capricious; or the order



1 was procured by fraud, collusion or other similar and unlawful  
2 means. Such petitions for review must be filed with the  
3 appropriate circuit court within 90 days following the issuance  
4 of the arbitration order. The pendency of such proceeding for  
5 review shall not automatically stay the order of the  
6 arbitration panel. The party against whom the final decision of  
7 any such court shall be adverse, if such court finds such  
8 appeal or petition to be frivolous, shall pay reasonable  
9 attorneys' fees and costs to the successful party as determined  
10 by said court in its discretion. If said court's decision  
11 affirms the award of money, such award, if retroactive, shall  
12 bear interest at the rate of 12 percent per annum from the  
13 effective retroactive date.

14 (l) During the pendency of proceedings before the  
15 arbitration panel, existing wages, hours, and other conditions  
16 of employment shall not be changed by action of either party  
17 without the consent of the other but a party may so consent  
18 without prejudice to his rights or position under this Act. The  
19 proceedings are deemed to be pending before the arbitration  
20 panel upon the initiation of arbitration procedures under this  
21 Act.

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

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

31 The governing body shall review each term decided by the  
32 arbitration panel. If the governing body fails to reject one or  
33 more terms of the arbitration panel's decision by a 3/5 vote of  
34 those duly elected and qualified members of the governing body,  
35 within 20 days of issuance, or in the case of firefighters  
36 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.

27 (p) Notwithstanding the provisions of this Section the  
28 employer and exclusive representative may agree to submit  
29 unresolved disputes concerning wages, hours, terms and  
30 conditions of employment to an alternative form of impasse  
31 resolution.

32 (Source: P.A. 89-195, eff. 7-21-95; 90-202, eff. 7-24-97;  
33 90-385, eff. 8-15-97; 90-655, eff. 7-30-98.)

34 Section 90. The State Mandates Act is amended by adding  
35 Section 8.30 as follows:

1 (30 ILCS 805/8.30 new)

2 Sec. 8.30. Exempt mandate. Notwithstanding Sections 6 and 8  
3 of this Act, no reimbursement by the State is required for the  
4 implementation of any mandate created by this amendatory Act of  
5 the 94th General Assembly.

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