

Section 1. Short title

This Act shall be known and may be cited as the "Illinois Public Labor Relations Act".

Title of Act:

An Act regulating labor relations between public employers and employees and creating the Illinois Labor Relations Board in connection therewith.

Section 2. Policy

It is the public policy of the State of Illinois to grant public employees full freedom of association, self-organization, and designation of representatives of their own choosing for the purpose of negotiating wages, hours and other conditions of employment or other mutual aid or protection.

It is the purpose of this Act to regulate labor relations between public employers and employees, including the designation of employee representatives, negotiation of wages, hours and other conditions of employment, and resolution of disputes arising under collective bargaining agreements.

It is the purpose of this Act to prescribe the legitimate rights of both public employees and public employers, to protect the public health and safety of the citizens of Illinois, and to provide peaceful and orderly procedures for protection of the rights of all. To prevent labor strife and to protect the public health and safety of the citizens of Illinois, all collective bargaining disputes involving persons designated by the Board as performing essential services and those persons defined herein as security employees shall be submitted to impartial arbitrators, who shall be authorized to issue awards in order to resolve such disputes. It is the public policy of the State of Illinois that where the right of employees to strike is prohibited by law, it is necessary to afford an alternate, expeditious, equitable and effective procedure for the resolution of labor disputes subject to approval procedures mandated by this Act. To that end, the provisions for such awards shall be liberally construed.

Section 3. Definitions

As used in this Act, unless the context otherwise requires:

- (a) "Board" means the Illinois Labor Relations Board or, with respect to a matter over which the jurisdiction of the Board is assigned to the State Panel or the Local Panel under Section 5, the panel having jurisdiction over the matter.
- (b) "Collective bargaining" means bargaining over terms and conditions of employment, including hours, wages, and other conditions of employment, as detailed in Section 7 and which are not excluded by Section 4.
- (c) "Confidential employee" means an employee who in the regular course of his or her duties, assists and acts in a confidential capacity to persons who formulate, determine, and effectuate management policies with regard to labor relations or who, in the regular course of his or her duties, has authorized access to information relating to the effectuation or review of the employer's collective bargaining policies.

- (d) "Craft employees" means skilled journeymen, crafts persons, and their apprentices and helpers.
- (e) "Essential services employees" means those public employees performing functions so essential that the interruption or termination of the function will constitute a clear and present danger to the health and safety of the persons in the affected community.
- (f) "Exclusive representative", except with respect to non-State fire fighters and paramedics employed by fire departments and fire protection districts, non-State peace officers, and peace officers in the Department of State Police, means the labor organization that has been (i) designated by the Board as the representative of a majority of public employees in an appropriate bargaining unit in accordance with the procedures contained in this Act, (ii) historically recognized by the State of Illinois or any political subdivision of the State before July 1, 1984 (the effective date of this Act) as the exclusive representative of the employees in an appropriate bargaining unit, (iii) after July 1, 1984 (the effective date of this Act) recognized by an employer upon evidence, acceptable to the Board, that the labor organization has been designated as the exclusive representative by a majority of the employees in an appropriate bargaining unit; or (iv) recognized as the exclusive representative of personal care attendants or personal assistants under Executive Order 2003-8 prior to the effective date of this amendatory Act of the 93rd General Assembly, and the organization shall be considered to be the exclusive representative of the personal care attendants or personal assistants as defined in this Section.

With respect to non-State fire fighters and paramedics employed by fire departments and fire protection districts, non-State peace officers, and peace officers in the Department of State Police, "exclusive representative" means the labor organization that has been (i) designated by the Board as the representative of a majority of peace officers or fire fighters in an appropriate bargaining unit in accordance with the procedures contained in this Act, (ii) historically recognized by the State of Illinois or any political subdivision of the State before January 1, 1986 (the effective date of this amendatory Act of 1985) as the exclusive representative by a majority of the peace officers or fire fighters in an appropriate bargaining unit, or (iii) after January 1, 1986 (the effective date of this amendatory Act of 1985) recognized by an employer upon evidence, acceptable to the Board, that the labor organization has been designated as the exclusive representative by a majority of the peace officers or fire fighters in an appropriate bargaining unit.

- (g) "Fair share agreement" means an agreement between the employer and an employee organization under which all or any of the employees in a collective bargaining unit are required to pay their proportionate share of the costs of the collective bargaining process, contract administration, and pursuing matters affecting wages, hours, and other conditions of employment, but not to exceed the amount of dues uniformly required of members. The amount certified by the exclusive representative shall not include any fees for contributions related to the election or support of any candidate for political office. Nothing in this subsection (g) shall preclude an employee from making voluntary political contributions in conjunction with his or her fair share payment.
- (g-1) "Fire fighter" means, for the purposes of this Act only, any person who has been or is hereafter appointed to a fire department or fire protection district or

employed by a state university and sworn or commissioned to perform fire fighter duties or paramedic duties, except that the following persons are not included: part-time fire fighters, auxiliary, reserve or voluntary fire fighters, including paid on-call fire fighters, clerks and dispatchers or other civilian employees of a fire department or fire protection district who are not routinely expected to perform fire fighter duties, or elected officials.

"General Assembly of the State of Illinois" means the legislative branch of the government of the State of Illinois, as provided for under Article IV of the Constitution of the State of Illinois, and includes but is not limited to the House of Representatives, the Senate, the Speaker of the House of Representatives, the Minority Leader of the House of Representatives, the President of the Senate, the Minority Leader of the Senate, the Joint Committee on Legislative Support Services and any legislative support services agency listed in the Legislative Commission Reorganization Act of 1984.

- (h) "Governing body" means, in the case of the State, the State Panel of the Illinois Labor Relations Board, the Director of the Department of Central Management Services, and the Director of the Department of Labor; the county board in the case of a county; the corporate authorities in the case of a municipality; and the appropriate body authorized to provide for expenditures of its funds in the case of any other unit of government.
- (i) "Labor organization" means any organization in which public employees participate and that exists for the purpose, in whole or in part, of dealing with a public employer concerning wages, hours, and other terms and conditions of employment, including the settlement of grievances.
- (j) "Managerial employee" means an individual who is engaged predominantly in executive and management functions and is charged with the responsibility of directing the effectuation of management policies and practices.
- (k) "Peace officer" means, for the purposes of this Act only, any persons who have been or are hereafter appointed to a police force, department, or agency and sworn or commissioned to perform police duties, except that the following persons are not included: part-time police officers, special police officers, auxiliary police as defined by Section 3.1-30-20 of the Illinois Municipal Code, night watchmen, "merchant police", court security officers as defined by Section 3-6012.1 of the Counties Code, temporary employees, traffic guards or wardens, civilian parking meter and parking facilities personnel or other individuals specially appointed to aid or direct traffic at or near schools or public functions or to aid in civil defense or disaster, parking enforcement employees who are not commissioned as peace officers and who are not armed and who are not routinely expected to effect arrests, parking lot attendants, clerks and dispatchers or other civilian employees of a police department who are not routinely expected to effect arrests, or elected officials.
- (l) "Person" includes one or more individuals, labor organizations, public employees, associations, corporations, legal representatives, trustees, trustees in bankruptcy, receivers, or the State of Illinois or any political subdivision of the State or governing body, but does not include the General Assembly of the State of Illinois or any individual employed by the General Assembly of the State of Illinois.

- (m) "Professional employee" means any employee engaged in work predominantly intellectual and varied in character rather than routine mental, manual, mechanical or physical work; involving the consistent exercise of discretion and adjustment in its performance; of such a character that the output produced or the result accomplished cannot be standardized in relation to a given period of time; and requiring advanced knowledge in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning or a hospital, as distinguished from a general academic education or from apprenticeship or from training in the performance of routine mental, manual, or physical processes; or any employee who has completed the courses of specialized intellectual instruction and study prescribed in this subsection (m) and is performing related work under the supervision of a professional person to qualify to become a professional employee as defined in this subsection (m).
- (n) "Public employee" or "employee", for the purposes of this Act, means any individual employed by a public employer, including interns and residents at public hospitals and, as of the effective date of this amendatory Act of the 93rd General Assembly, but not before, personal care attendants and personal assistants working under the Home Services Program under Section 3 of the Disabled Persons Rehabilitation Act, subject to the limitations set forth in this Act and in the Disabled Persons Rehabilitation Act, but excluding all of the following: employees of the General Assembly of the State of Illinois; elected officials; executive heads of a department; members of boards or commissions; employees of any agency, board or commission created by this Act; employees appointed to State positions of a temporary or emergency nature; all employees of school districts and higher education institutions except firefighters and peace officers employed by a state university; managerial employees; short-term employees; confidential employees; independent contractors; and supervisors except as provided in this Act.

Personal care attendants and personal assistants shall not be considered public employees for any purposes not specifically provided for in this amendatory Act of the 93rd General Assembly, including but not limited to, purposes of vicarious liability in tort and purposes of statutory retirement or health insurance benefits. Personal care attendants and personal assistants shall not be covered by the State Employees Group Insurance Act of 1971 (5 ILCS 375/).

Notwithstanding Section 9, subsection (c), or any other provisions of this Act, all peace officers above the rank of captain in municipalities with more than 1,000,000 inhabitants shall be excluded from this Act.

- (o) "Public employer" or "employer" means the State of Illinois; any political subdivision of the State, unit of local government or school district; authorities including departments, divisions, bureaus, boards, commissions, or other agencies of the foregoing entities; and any person acting within the scope of his or her authority, express or implied, on behalf of those entities in dealing with its employees. As of the effective date of this amendatory Act of the 93rd General Assembly, but not before, the State of Illinois shall be considered the employer of the personal care attendants and personal assistants working under the Home Services Program under Section 3 of the Disabled Persons Rehabilitation Act, subject to the limitations set forth in this Act and in the Disabled Persons Rehabilitation Act. The State shall not be considered to be the employer of personal care attendants and personal assistants for any purposes not

specifically provided for in this amendatory Act of the 93rd General Assembly, including but not limited to, purposes of vicarious liability in tort and purposes of statutory retirement or health insurance benefits. Personal care attendants and personal assistants shall not be covered by the State Employees Group Insurance Act of 1971 (5 ILCS 375/). "Public employer" or "employer" as used in this Act, however, does not mean and shall not include the General Assembly of the State of Illinois and educational employers or employers as defined in the Illinois Educational Labor Relations Act, except with respect to a state university in its employment of firefighters and peace officers. County boards and county sheriffs shall be designated as joint or co-employers of county peace officers appointed under the authority of a county sheriff. Nothing in this subsection (o) shall be construed to prevent the State Panel or the Local Panel from determining that employers are joint or co-employers.

- (p) "Security employee" means an employee who is responsible for the supervision and control of inmates at correctional facilities. The term also includes other non-security employees in bargaining units having the majority of employees being responsible for the supervision and control of inmates at correctional facilities.
- (q) "Short-term employee" means an employee who is employed for less than two consecutive calendar quarters during a calendar year and who does not have a reasonable assurance that he or she will be rehired by the same employer for the same service in a subsequent calendar year.
- (r) "Supervisor" is an employee whose principal work is substantially different from that of his or her subordinates and who has authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, direct, reward, or discipline employees, to adjust their grievances, or to effectively recommend any of those actions, if the exercise of that authority is not of a merely routine or clerical nature, but requires the consistent use of independent judgment. Except with respect to police employment, the term "supervisor" includes only those individuals who devote a preponderance of their employment time to exercising that authority, State supervisors notwithstanding. In addition, in determining supervisory status in police employment, rank shall not be determinative. The Board shall consider, as evidence of bargaining unit inclusion or exclusion, the common law enforcement policies and relationships between police officer ranks and certification under applicable civil service law, ordinances, personnel codes or Division 2.1 of Article 10 of the Illinois Municipal Code, but these factors shall not be the sole or predominant factors considered by the Board in determining police supervisory status.

Notwithstanding the provisions of the preceding paragraph, in determining supervisory status in fire fighter employment, no fire fighter shall be excluded as a supervisor who has established representation rights under Section 9 of this Act. Further, in new fire fighter units, employees shall consist of fire fighters of the rank of company officer and below. If a company officer otherwise qualifies as a supervisor under the preceding paragraph, however, he or she shall not be included in the fire fighter unit. If there is no rank between that of chief and the highest company officer, the employer may designate a position on each shift as a Shift Commander, and the persons occupying those positions shall be supervisors. All other ranks above that of company officer shall be supervisors.

- (s) (1) "Unit" means a class of jobs or positions that are held by employees whose collective interests may suitably be represented by a labor organization for

collective bargaining. Except with respect to non-State fire fighters and paramedics employed by fire departments and fire protection districts, non-State peace officers and peace officers in the Department of State Police, a bargaining unit determined by the Board shall not include both employees and supervisors, or supervisors only, except as provided in paragraph (2) of this subsection (s) and except for bargaining units in existence on July 1, 1984 (the effective date of this Act). With respect to non-State fire fighters and paramedics employed by fire departments and fire protection districts, non-State peace officers, and peace officers in the Department of State Police, a bargaining unit determined by the Board shall not include both supervisors and nonsupervisors, or supervisors only, except as provided in paragraph (2) of this subsection (s) and except for bargaining units in existence on the January 1, 1986 (the effective date of this amendatory Act of 1985). A bargaining unit determined by the Board to contain peace officers shall contain no employees other than peace officers unless otherwise agreed to by the employer and the labor organization or labor organizations involved. Notwithstanding any other provision of this Act, a bargaining unit, including a historical bargaining unit, containing sworn peace officers of the Department of Conservation shall contain no employees other than such sworn peace officers upon the effective date of this amendatory Act of 1990 or upon the expiration date of any collective bargaining agreement in effect upon the effective date of this amendatory Act of 1990 covering both such sworn peace officers and other employees.

(2) Notwithstanding the exclusion of supervisors from bargaining units as provided in paragraph (1) of this subsection (s), a public employer may agree to permit its supervisory employees to form bargaining units and may bargain with those units. This Act shall apply if the public employer chooses to bargain under this subsection.

The above amended Section 3(f), (n) and (o), Public Act 093-0204, became law effective July 16, 2003.

Section 4. Management Rights

Employers shall not be required to bargain over matters of inherent managerial policy, which shall include such areas of discretion or policy as the functions of the employer, standards of services, its overall budget, the organizational structure and selection of new employees, examination techniques and direction of employees. Employers, however, shall be required to bargain collectively with regard to policy matters directly affecting wages, hours and terms and conditions of employment as well as the impact thereon upon request by employee representatives.

To preserve the rights of employers and exclusive representatives which have established collective bargaining relationships or negotiated collective bargaining agreements prior to the effective date of this Act, employers shall be required to bargain collectively with regard to any matter concerning wages, hours or conditions of employment about which they have bargained for and agreed to in a collective bargaining agreement prior to the effective date of this Act.

Section 5. Illinois Labor Relations Board: State Panel; Local Panel

(a) There is created the Illinois Labor Relations Board. The Board shall be comprised of 2 panels, to be known as the State Panel and the Local Panel.

The State Panel shall have jurisdiction over collective bargaining matters between employee organizations and the State of Illinois, excluding the General Assembly of the State of Illinois, between employee organizations and units of local government and school districts with a population not in excess of 2 million persons, and between employee organizations and the Regional Transportation Authority.

The State Panel shall consist of 5 members appointed by the Governor, with the advice and consent of the Senate. The Governor shall appoint to the State Panel only persons who have had a minimum of 5 years of experience directly related to labor and employment relations in representing public employers, private employers or labor organizations; or teaching labor or employment relations; or administering executive orders or regulations applicable to labor or employment relations. At the time of his or her appointment, each member of the State Panel shall be an Illinois resident. The Governor shall designate one member to serve as the Chairman of the State Panel and the Board.

Notwithstanding any other provision of this Section, the term of each member of the State Panel who was appointed by the Governor and is in office on June 30, 2003 shall terminate at the close of business on that date or when all of the successor members to be appointed pursuant to this amendatory Act of the 93rd General Assembly have been appointed by the Governor, whichever occurs later. As soon as possible, the Governor shall appoint persons to fill the vacancies created by this amendatory Act.

The initial appointments under this amendatory Act of the 93rd General Assembly shall be for terms as follows: The Chairman shall initially be appointed for a term ending on the 4th Monday in January, 2007; 2 members shall be initially appointed for terms ending on the 4th Monday in January, 2006; one member shall be initially appointed for a term ending on the 4th Monday in January, 2005; and one member shall be initially appointed for a term ending on the 4th Monday in January, 2004. Each subsequent member shall be appointed for a term of 4 years, commencing on the 4th Monday in January. Upon expiration of the term of office of any appointive member, that member shall continue to serve until a successor shall be appointed and qualified. In case of a vacancy, a successor shall be appointed to serve for the unexpired portion of the term. If the Senate is not in session at the time the initial appointments are made, the Governor shall make temporary appointments in the same manner successors are appointed to fill vacancies. A temporary appointment shall remain in effect no longer than 20 calendar days after the commencement of the next Senate session.

- (b) The Local Panel shall have jurisdiction over collective bargaining agreement matters between employee organizations and units of local government with a population in excess of 2 million persons, but excluding the Regional Transportation Authority.

The Local Panel shall consist of one person appointed by the Governor with the advice and consent of the Senate (or, if no such person is appointed, the Chairman of the State Panel) and two additional members, one appointed by the Mayor of the City of Chicago and one appointed by the President of the Cook County Board of Commissioners. Appointees to the Local Panel must have had a minimum of 5 years of experience directly related to labor and employment relations in representing public employers, private employers or labor organizations; or teaching labor or employment relations; or administering

executive orders or regulations applicable to labor or employment relations. Each member of the Local Panel shall be an Illinois resident at the time of his or her appointment. The member appointed by the Governor (or, if no such person is appointed, the Chairman of the State Panel) shall serve as the Chairman of the Local Panel.

Notwithstanding any other provision of this Section, the term of the member of the Local Panel who was appointed by the Governor and is in office on June 30, 2003 shall terminate at the close of business on that date or when his or her successor has been appointed by the Governor, whichever occurs later. As soon as possible, the Governor shall appoint a person to fill the vacancy created by this amendatory Act. The initial appointment under this amendatory Act of the 93rd General Assembly shall be for a term ending on the 4th Monday in January, 2007.

The initial appointments under this amendatory Act of the 91st General Assembly shall be for terms as follows: The member appointed by the Governor shall initially be appointed for a term ending on the 4th Monday in January, 2001; the member appointed by the President of the Cook County Board shall be initially appointed for a term ending on the 4th Monday in January, 2003; and the member appointed by the Mayor of the City of Chicago shall be initially appointed for a term ending on the 4th Monday in January, 2004. Each subsequent member shall be appointed for a term of 4 years, commencing on the 4th Monday in January. Upon expiration of the term of office of any appointive member, the member shall continue to serve until a successor shall be appointed and qualified. In the case of a vacancy, a successor shall be appointed by the applicable appointive authority to serve for the unexpired portion of the term.

- (c) Three members of the State Panel shall at all times constitute a quorum. Two members of the Local Panel shall at all times constitute a quorum. A vacancy on a panel does not impair the right of the remaining members to exercise all of the powers of that panel. Each panel shall adopt an official seal which shall be judicially noticed. The salary of the Chairman of the State Panel shall be \$82,429 per year, or as set by the Compensation Review Board, whichever is greater, and that of the other members of the State and Local Panels shall be \$74,188 per year, or as set by the Compensation Review Board, whichever is greater.
- (d) Each member shall devote his or her entire time to the duties of the office, and shall hold no other office or position of profit, nor engage in any other business, employment, or vocation. No member shall hold any other public office or be employed as a labor or management representative by the State or any political subdivision of the State or of any department or agency thereof, or actively represent or act on behalf of an employer or an employee organization or an employer in labor relations matters. Any member of the State Panel may be removed from office by the Governor for inefficiency, neglect of duty, misconduct or malfeasance in office, and for no other cause, and only upon notice and hearing. Any member of the Local Panel may be removed from office by the applicable appointive authority for inefficiency, neglect of duty, misconduct or malfeasance in office, and for no other cause, and only upon notice and hearing.
- (e) Each panel at the end of every State fiscal year shall make a report in writing to the Governor and the General Assembly, stating in detail the work it has done in hearing and deciding cases and otherwise.

- (f) In order to accomplish the objectives and carry out the duties prescribed by this Act, a panel or its authorized designees may hold elections to determine whether a labor organization has majority status; investigate and attempt to resolve or settle charges of unfair labor practices; hold hearings in order to carry out its functions; develop and effectuate appropriate impasse resolution procedures for purposes of resolving labor disputes; require the appearance of witnesses and the production of evidence on any matter under inquiry; and administer oaths and affirmations. The panels shall sign and report in full an opinion in every case which they decide.
- (g) Each panel may appoint or employ an executive director, attorneys, hearing officers, mediators, fact-finders, arbitrators, and such other employees as it may deem necessary to perform its functions. The governing boards shall prescribe the duties and qualifications of such persons appointed and, subject to the annual appropriation, fix their compensation and provide for reimbursement of actual and necessary expenses incurred in the performance of their duties.
- (h) Each panel shall exercise general supervision over all attorneys which it employs and over the other persons employed to provide necessary support services for such attorneys. The panels shall have final authority in respect to complaints brought pursuant to this Act.
- (i) The following rules and regulations shall be adopted by the panels meeting in joint session: (1) procedural rules and regulations which shall govern all Board proceedings; (2) procedures for election of exclusive bargaining representatives pursuant to Section 9, except for the determination of appropriate bargaining units; and (3) appointment of counsel pursuant to subsection (k) of this Section.
- (j) Rules and regulations may be adopted, amended or rescinded only upon a vote of 5 of the members of the State and Local Panels meeting in joint session. The adoption, amendment or rescission of rules and regulations shall be in conformity with the requirements of the Illinois Administrative Procedure Act.
- (k) The panels in joint session shall promulgate rules and regulations providing for the appointment of attorneys or other Board representatives to represent persons in unfair labor practice proceedings before a panel. The regulations governing appointment shall require the applicant to demonstrate an inability to pay for or inability to otherwise provide for adequate representation before a panel. Such rules must also provide: (1) that an attorney may not be appointed in cases which, in the opinion of a panel, are clearly without merit; (2) the stage of the unfair labor proceeding at which counsel will be appointed; and (3) the circumstances under which a client will be allowed to select counsel.
- (l) The panels in joint session may promulgate rules and regulations which allow parties in proceedings before a panel to be represented by counsel or any other representative of the party's choice.
- (m) The Chairman of the State Panel shall serve as Chairman of a joint session of the panels. Attendance of at least 2 members of the State Panel and at least one member of the Local Panel, in addition to the Chairman, shall constitute a quorum at a joint session. The panels shall meet in joint session at least annually.

The above amended Section 5(a), (b) and (d), Public Act 093-0509, became law effective August 11, 2003.

Section 5.1. Dissolution of the Illinois State Labor Relations Board and Illinois Local Labor Relations Board; transfer and savings provisions

- (a) The Illinois State Labor Relations Board is dissolved. The State Panel of the Illinois Labor Relations Board, created by this amendatory Act of the 91st General Assembly, shall succeed to all of the powers, duties, rights, and property, including contractual rights and obligations, of the Illinois State Labor Relations Board. Rules, procedures, and decisions of the Illinois State Labor Relations Board in effect at the time of its dissolution shall be deemed to be those of the State Panel of the Illinois Labor Relations Board. Matters pending before the Illinois State Labor Relations Board at the time of its dissolution shall continue as matters before the State Panel of the Illinois Labor Relations Board. The State Panel of the Illinois Labor Relations Board shall be deemed successor in interest to the Illinois State Labor Relations Board for the purposes of any pending litigation.
- (b) The Illinois Local Labor Relations Board is dissolved. The Local Panel of the Illinois Labor Relations Board, created by this amendatory Act of the 91st General Assembly, shall succeed to all of the powers, duties, rights, and property, including contractual rights and obligations, of the Illinois Local Labor Relations Board. Rules, procedures, and decisions of the Illinois Local Labor Relations Board in effect at the time of its dissolution shall be deemed to be those of the Local Panel of the Illinois Labor Relations Board. Matters pending before the Illinois Local Labor Relations Board at the time of dissolution shall continue as matters before the Local Panel of the Illinois Labor Relations Board. The Local Panel of the Illinois Labor Relations Board shall be deemed successor in interest to the Illinois Local Labor Relations Board for the purposes of any pending litigation.
- (c) Rules and procedures adopted jointly by the Illinois State Labor Relations Board and the Illinois Local Labor Relations Board that are in effect at the time of the dissolution of those Boards shall be deemed to have been adopted jointly by the State and Local Panels of the Illinois Labor Relations Board.
- (d) Fiscal Year 2000 appropriations to the Illinois State Labor Relations Board and the Illinois Local Labor Relations Board may be expended by the Illinois Labor Relations Board.
- (e) Persons employed by the Illinois State Labor Relations Board or the Illinois Local Labor Relations Board on the date of the dissolution of those Boards shall thereupon become employees, respectively, of the State Panel or the Local Panel of the Illinois Labor Relations Board, without loss of seniority or accrued benefits.

Section 6. Right to organize and bargain collectively; exclusive representation; and fair share arrangements

- (a) Employees of the State and any political subdivision of the State, excluding employees of the General Assembly of the State of Illinois, have, and are protected in the exercise of, the right of self-organization, and may form, join or assist any labor organization, to bargain collectively through representatives of their own choosing on questions of wages, hours and other conditions of employment, not excluded by Section 4 of this Act, and to engage in other concerted activities not otherwise prohibited by law for the purposes of collective

bargaining or other mutual aid or protection, free from interference, restraint or coercion. Employees also have, and are protected in the exercise of, the right to refrain from participating in any such concerted activities. Employees may be required, pursuant to the terms of a lawful fair share agreement, to pay a fee which shall be their proportionate share of the costs of the collective bargaining process, contract administration and pursuing matters affecting wages, hours and other conditions of employment as defined in Section 3(g).

- (b) Nothing in this Act prevents an employee from presenting a grievance to the employer and having the grievance heard and settled without the intervention of an employee organization; provided that the exclusive bargaining representative is afforded the opportunity to be present at such conference and that any settlement made shall not be inconsistent with the terms of any agreement in effect between the employer and the exclusive bargaining representative.
- (c) A labor organization designated by the Board as the representative of the majority of public employees in an appropriate unit in accordance with the procedures herein or recognized by a public employer as the representative of the majority of public employees in an appropriate unit is the exclusive representative for the employees of such unit for the purpose of collective bargaining with respect to rates of pay, wages, hours and other conditions of employment not excluded by Section 4 of this Act.
- (d) Labor organizations recognized by a public employer as the exclusive representative or so designated in accordance with the provisions of this Act are responsible for representing the interests of all public employees in the unit. Nothing herein shall be construed to limit an exclusive representative's right to exercise its discretion to refuse to process grievances of employees that are unmeritorious.
- (e) When a collective bargaining agreement is entered into with an exclusive representative, it may include in the agreement a provision requiring employees covered by the agreement who are not members of the organization to pay their proportionate share of the costs of the collective bargaining process, contract administration and pursuing matters affecting wages, hours and conditions of employment, as defined in Section 3(g), but not to exceed the amount of dues uniformly required of members. The organization shall certify to the employer the amount constituting each nonmember employee's proportionate share which shall not exceed dues uniformly required of members. In such case, the proportionate share payment in this Section shall be deducted by the employer from the earnings of the nonmember employees and paid to the employee organization.
- (f) Only the exclusive representative may negotiate provisions in a collective bargaining agreement providing for the payroll deduction of labor organization dues, fair share payment, initiation fees and assessments. Except as provided in subsection (e) of this Section, any such deductions shall only be made upon an employee's written authorization, and continued until revoked in writing in the same manner or until the termination date of an applicable collective bargaining agreement. Such payments shall be paid to the exclusive representative. Where a collective bargaining agreement is terminated, or continues in effect beyond its scheduled expiration date pending the negotiation of a successor agreement or the resolution of an impasse under Section 14, the employer shall continue to honor and abide by any dues deduction or fair share clause contained therein

until a new agreement is reached including dues deduction or a fair share clause. For the benefit of any successor exclusive representative certified under this Act, this provision shall be applicable, provided the successor exclusive representative:

(i) certifies to the employer the amount constituting each non-member's proportionate share under subsection (e); or

(ii) presents the employer with employee written authorizations for the deduction of dues, assessments, and fees under this subsection.

Failure to so honor and abide by dues deduction or fair share clauses for the benefit of any exclusive representative, including a successor, shall be a violation of the duty to bargain and an unfair labor practice.

- (g) Agreements containing a fair share agreement must safeguard the right of nonassociation of employees based upon bona fide religious tenets or teachings of a church or religious body of which such employees are members. Such employees may be required to pay an amount equal to their fair share, determined under a lawful fair share agreement, to a nonreligious charitable organization mutually agreed upon by the employees affected and the exclusive bargaining representative to which such employees would otherwise pay such service fee. If the affected employees and the bargaining representative are unable to reach an agreement on the matter, the Board may establish an approved list of charitable organizations to which such payments may be made.

Section 7. Duty to Bargain

A public employer and the exclusive representative have the authority and the duty to bargain collectively set forth in this Section.

For the purposes of this Act, "to bargain collectively" means the performance of the mutual obligation of the public employer or his designated representative and the representative of the public employees to meet at reasonable times, including meetings in advance of the budget-making process, and to negotiate in good faith with respect to wages, hours, and other conditions of employment, not excluded by Section 4 of this Act, or the negotiation of an agreement, or any question arising thereunder and the execution of a written contract incorporating any agreement reached if requested by either party, but such obligation does not compel either party to agree to a proposal or require the making of a concession.

The duty "to bargain collectively" shall also include an obligation to negotiate over any matter with respect to wages, hours and other conditions of employment, not specifically provided for in any other law or not specifically in violation of the provisions of any law. If any other law pertains, in part, to a matter affecting the wages, hours and other conditions of employment, such other law shall not be construed as limiting the duty "to bargain collectively" and to enter into collective bargaining agreements containing clauses which either supplement, implement, or relate to the effect of such provisions in other laws.

The duty "to bargain collectively" shall also include negotiations as to the terms of a collective bargaining agreement. The parties may, by mutual agreement, provide for arbitration of impasses resulting from their inability to agree upon wages, hours and terms and conditions of employment to be included in a collective bargaining

agreement. Such arbitration provisions shall be subject to the Illinois "Uniform Arbitration Act" unless agreed by the parties.

The duty "to bargain collectively" shall also mean that no party to a collective bargaining contract shall terminate or modify such contract, unless the party desiring such termination or modification:

- (1) serves a written notice upon the other party to the contract of the proposed termination or modification 60 days prior to the expiration date thereof, or in the event such contract contains no expiration date, 60 days prior to the time it is proposed to make such termination or modification;
- (2) offers to meet and confer with the other party for the purpose of negotiating a new contract or a contract containing the proposed modifications;
- (3) notifies the Board within 30 days after such notice of the existence of a dispute, provided no agreement has been reached by that time; and
- (4) continues in full force and effect, without resorting to strike or lockout, all the terms and conditions of the existing contract for a period of 60 days after such notice is given to the other party or until the expiration date of such contract, whichever occurs later.

The duties imposed upon employers, employees and labor organizations by paragraphs (2), (3) and (4) shall become inapplicable upon an intervening certification of the Board, under which the labor organization, which is a party to the contract, has been superseded as or ceased to be the exclusive representative of the employees pursuant to the provisions of subsection (a) of Section 9, and the duties so imposed shall not be construed as requiring either party to discuss or agree to any modification of the terms and conditions contained in a contract for a fixed period, if such modification is to become effective before such terms and conditions can be reopened under the provisions of the contract.

Section 8. Grievance Procedure

The collective bargaining agreement negotiated between the employer and the exclusive representative shall contain a grievance resolution procedure which shall apply to all employees in the bargaining unit and shall provide for final and binding arbitration of disputes concerning the administration or interpretation of the agreement unless mutually agreed otherwise. Any agreement containing a final and binding arbitration provision shall also contain a provision prohibiting strikes for the duration of the agreement. The grievance and arbitration provisions of any collective bargaining agreement shall be subject to the Illinois "Uniform Arbitration Act". The costs of such arbitration shall be borne equally by the employer and the employee organization.

Section 9. Elections; recognition

- (a) Whenever in accordance with such regulations as may be prescribed by the Board a petition has been filed:
 - (1) by a public employee or group of public employees or any labor organization acting in their behalf demonstrating that 30% of the public employees in an appropriate unit (A) wish to be represented for the purposes of collective bargaining by a labor organization as exclusive

representative, or (B) asserting that the labor organization which has been certified or is currently recognized by the public employer as bargaining representative is no longer the representative of the majority of public employees in the unit; or

- (2) by a public employer alleging that one or more labor organizations have presented to it a claim that they be recognized as the representative of a majority of the public employees in an appropriate unit, the Board shall investigate such petition, and if it has reasonable cause to believe that a question of representation exists, shall provide for an appropriate hearing upon due notice. Such hearing shall be held at the offices of the Board or such other location as the Board deems appropriate. If it finds upon the record of the hearing that a question of representation exists, it shall direct an election in accordance with subsection (d) of this Section, which election shall be held not later than 120 days after the date the petition was filed regardless of whether that petition was filed before or after the effective date of this amendatory Act of 1987; provided, however, the Board may extend the time for holding an election by an additional 60 days if, upon motion by a person who has filed a petition under this Section or is the subject of a petition filed under this Section and is a party to such hearing, or upon the Board's own motion, the Board finds that good cause has been shown for extending the election date; provided further, that nothing in this Section shall prohibit the Board, in its discretion, from extending the time for holding an election for so long as may be necessary under the circumstances, where the purpose for such extension is to permit resolution by the Board of an unfair labor practice charge filed by one of the parties to a representational proceeding against the other based upon conduct which may either affect the existence of a question concerning representation or have a tendency to interfere with a fair and free election, where the party filing the charge has not filed a request to proceed with the election; and provided further that prior to the expiration of the total time allotted for holding an election, a person who has filed a petition under this Section or is the subject of a petition filed under this Section and is a party to such hearing or the Board, may move for and obtain the entry of an order in the circuit court of the county in which the majority of the public employees sought to be represented by such person reside, such order extending the date upon which the election shall be held. Such order shall be issued by the circuit court only upon a judicial finding that there has been a sufficient showing that there is good cause to extend the election date beyond such period and shall require the Board to hold the election as soon as is feasible given the totality of the circumstances. Such 120 day period may be extended one or more times by the agreement of all parties to the hearing to a date certain without the necessity of obtaining a court order. Nothing in this Section prohibits the waiving of hearings by stipulation for the purpose of a consent election in conformity with the rules and regulations of the Board or an election in a unit agreed upon by the parties. Other interested employee organizations may intervene in the proceedings in the manner and within the time period specified by rules and regulations of the Board. Interested parties who are necessary to the proceedings may also intervene in the proceedings in the manner and within the time period specified by the rules and regulations of the Board.

Note: There is no Section 9(a)(3) or (4)

- (5) The Board shall designate an exclusive representative for purposes of collective bargaining when the representative demonstrates a showing of majority interest by employees in the unit. If the parties to a dispute are without agreement on the means to ascertain the choice, if any, of employee organization as their representative, the Board shall ascertain the employees' choice of employee organization, on the basis of dues deduction authorization and other evidence, or, if necessary, by conducting an election. If either party provides to the Board, before the designation of a representative, clear and convincing evidence that the dues deduction authorizations, and other evidence upon which the Board would otherwise rely to ascertain the employees' choice of representative, are fraudulent or were obtained through coercion, the Board shall promptly thereafter conduct an election. The Board shall also investigate and consider a party's allegations that the dues deduction authorizations and other evidence submitted in support of a designation of representative without an election were subsequently changed, altered, withdrawn, or withheld as a result of employer fraud, coercion, or any other unfair labor practice by the employer. If the Board determines that a labor organization would have had a majority interest but for an employer's fraud, coercion, or unfair labor practice, it shall designate the labor organization as an exclusive representative without conducting an election.
- (b) The Board shall decide in each case, in order to assure public employees the fullest freedom in exercising the rights guaranteed by this Act, a unit appropriate for the purpose of collective bargaining, based upon but not limited to such factors as: historical pattern of recognition; community of interest including employee skills and functions; degree of functional integration; interchangeability and contact among employees; fragmentation of employee groups; common supervision, wages, hours and other working conditions of the employees involved; and the desires of the employees. For purposes of this subsection, fragmentation shall not be the sole or predominant factor used by the Board in determining an appropriate bargaining unit. Except with respect to non-State fire fighters and paramedics employed by fire departments and fire protection districts, non-State peace officers and peace officers in the State Department of State Police, a single bargaining unit determined by the Board may not include both supervisors and nonsupervisors, except for bargaining units in existence on the effective date of this Act. With respect to non-State fire fighters and paramedics employed by fire departments and fire protection districts, non-State peace officers and peace officers in the State Department of State Police, a single bargaining unit determined by the Board may not include both supervisors and nonsupervisors, except for bargaining units in existence on the effective date of this amendatory Act of 1985.

In cases involving an historical pattern of recognition, and in cases where the employer has recognized the union as the sole and exclusive bargaining agent for a specified existing unit, the Board shall find the employees in the unit then represented by the union pursuant to the recognition to be the appropriate unit. Notwithstanding the above factors, where the majority of public employees of a craft so decide, the Board shall designate such craft as a unit appropriate for the purposes of collective bargaining.

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

- (c) Nothing in this Act shall interfere with or negate the current representation rights or patterns and practices of labor organizations which have historically represented public employees for the purpose of collective bargaining, including but not limited to the negotiations of wages, hours and working conditions, discussions of employees' grievances, resolution of jurisdictional disputes, or the establishment and maintenance of prevailing wage rates, unless a majority of employees so represented express a contrary desire pursuant to the procedures set forth in this Act.
- (d) In instances where the employer does not voluntarily recognize a labor organization as the exclusive bargaining representative for a unit of employees, the Board shall determine the majority representative of the public employees in an appropriate collective bargaining unit by conducting a secret ballot election, except as otherwise provided in subsection (a-5). Within 7 days after the Board issues its bargaining unit determination and direction of election or the execution of a stipulation for the purpose of a consent election, the public employer shall submit to the labor organization the complete names and addresses of those employees who are determined by the Board to be eligible to participate in the election. When the Board has determined that a labor organization has been fairly and freely chosen by a majority of employees in an appropriate unit, it shall certify such organization as the exclusive representative. If the Board determines that a majority of employees in an appropriate unit has fairly and freely chosen not to be represented by a labor organization, it shall so certify. The Board may also revoke the certification of the public employee organizations as exclusive bargaining representatives which have been found by a secret ballot election to be no longer the majority representative.
- (e) The Board shall not conduct an election in any bargaining unit or any subdivision thereof within which a valid election has been held in the preceding 12-month period. The Board shall determine who is eligible to vote in an election and shall establish rules governing the conduct of the election or conduct affecting the results of the election. The Board shall include on a ballot in a representation election a choice of "no representation". A labor organization currently representing the bargaining unit of employees shall be placed on the ballot in any representation election. In any election where none of the choices on the ballot receives a majority, a runoff election shall be conducted between the 2 choices receiving the largest number of valid votes cast in the election. A labor organization which receives a majority of the votes cast in an election shall be certified by the Board as exclusive representative of all public employees in the unit.
- (f) A labor organization shall be designated as the exclusive representative by a public employer, provided that the labor organization represents a majority of the public employees in an appropriate unit. Any employee organization which is designated or selected by the majority of public employees, in a unit of the public employer having no other recognized or certified representative, as their representative for purposes of collective bargaining may request recognition by the public employer in writing. The public employer shall post such request for a period of at least 20 days following its receipt thereof on bulletin boards or other places used or reserved for employee notices.
- (g) Within the 20-day period any other interested employee organization may petition the Board in the manner specified by rules and regulations of the Board, provided

that such interested employee organization has been designated by at least 10% of the employees in an appropriate bargaining unit which includes all or some of the employees in the unit recognized by the employer. In such event, the Board shall proceed with the petition in the same manner as provided by paragraph (1) of subsection (a) of this Section.

- (h) No election shall be directed by the Board in any bargaining unit where there is in force a valid collective bargaining agreement. The Board, however, may process an election petition filed between 90 and 60 days prior to the expiration of the date of an agreement, and may further refine, by rule or decision, the implementation of this provision. Where more than 4 years have elapsed since the effective date of the agreement, the agreement shall continue to bar an election, except that the Board may process an election petition filed between 90 and 60 days prior to the end of the fifth year of such an agreement, and between 90 and 60 days prior to the end of each successive year of such agreement.
- (i) An order of the Board dismissing a representation petition, determining and certifying that a labor organization has been fairly and freely chosen by a majority of employees in an appropriate bargaining unit, determining and certifying that a labor organization has not been fairly and freely chosen by a majority of employees in the bargaining unit or certifying a labor organization as the exclusive representative of employees in an appropriate bargaining unit because of a determination by the Board that the labor organization is the historical bargaining representative of employees in the bargaining unit, is a final order. Any person aggrieved by any such order issued on or after the effective date of this amendatory Act of 1987 may apply for and obtain judicial review in accordance with provisions of the Administrative Review Law, as now or hereafter amended, except that such review shall be afforded directly in the Appellate Court for the district in which the aggrieved party resides or transacts business. Any direct appeal to the Appellate Court shall be filed within 35 days from the date that a copy of the decision sought to be reviewed was served upon the party affected by the decision.

The above amended Section 9(a)(5), (d) and (f), Public Act 093-0444, became law effective August 5, 2003.

The above amended Section 9(h), Public Act 093-0427, became law effective August 5, 2003.

Section 10. Unfair labor practices

- (a) It shall be an unfair labor practice for an employer or its agents:
 - (1) to interfere with, restrain or coerce public employees in the exercise of the rights guaranteed in this Act or to dominate or interfere with the formation, existence or administration of any labor organization or contribute financial or other support to it; provided, an employer shall not be prohibited from permitting employees to confer with him during working hours without loss of time or pay;
 - (2) to discriminate in regard to hire or tenure of employment or any term or condition of employment in order to encourage or discourage membership in or other support for any labor organization. Nothing in this Act or any other law precludes a public employer from making an agreement with a

labor organization to require as a condition of employment the payment of a fair share under paragraph (e) of Section 6;

- (3) to discharge or otherwise discriminate against a public employee because he has signed or filed an affidavit, petition or charge or provided any information or testimony under this Act;
 - (4) to refuse to bargain collectively in good faith with a labor organization which is the exclusive representative of public employees in an appropriate unit, including, but not limited to, the discussing of grievances with the exclusive representative;
 - (5) to violate any of the rules and regulations established by the Board with jurisdiction over them relating to the conduct of representation elections or the conduct affecting the representation elections;
 - (6) to expend or cause the expenditure of public funds to any external agent, individual, firm, agency, partnership or association in any attempt to influence the outcome of representational elections held pursuant to Section 9 of this Act; provided, that nothing in this subsection shall be construed to limit an employer's right to internally communicate with its employees as provided in subsection (c) of this Section, to be represented on any matter pertaining to unit determinations, unfair labor practice charges or pre-election conferences in any formal or informal proceeding before the Board, or to seek or obtain advice from legal counsel. Nothing in this paragraph shall be construed to prohibit an employer from expending or causing the expenditure of public funds on, or seeking or obtaining services or advice from, any organization, group, or association established by and including public or educational employers, whether covered by this Act, the Illinois Educational Labor Relations Act or the public employment labor relations law of any other state or the federal government, provided that such services or advice are generally available to the membership of the organization, group or association, and are not offered solely in an attempt to influence the outcome of a particular representational election; or
 - (7) to refuse to reduce a collective bargaining agreement to writing or to refuse to sign such agreement.
- (b) It shall be an unfair labor practice for a labor organization or its agents:
- (1) to restrain or coerce public employees in the exercise of the rights guaranteed in this Act, provided, (i) that this paragraph shall not impair the right of a labor organization to prescribe its own rules with respect to the acquisition or retention of membership therein or the determination of fair share payments and (ii) that a labor organization or its agents shall commit an unfair labor practice under this paragraph in duty of fair representation cases only by intentional misconduct in representing employees under this Act;
 - (2) to restrain or coerce a public employer in the selection of his representatives for the purposes of collective bargaining or the settlement of grievances; or

- (3) to cause, or attempt to cause, an employer to discriminate against an employee in violation of subsection (a)(2);
 - (4) to refuse to bargain collectively in good faith with a public employer, if it has been designated in accordance with the provisions of this Act as the exclusive representative of public employees in an appropriate unit;
 - (5) to violate any of the rules and regulations established by the boards with jurisdiction over them relating to the conduct of representation elections or the conduct affecting the representation elections;
 - (6) to discriminate against any employee because he has signed or filed an affidavit, petition or charge or provided any information or testimony under this Act;
 - (7) to picket or cause to be picketed, or threaten to picket or cause to be picketed, any public employer where an object thereof is forcing or requiring an employer to recognize or bargain with a labor organization of the representative of its employees, or forcing or requiring the employees of an employer to accept or select such labor organization as their collective bargaining representative, unless such labor organization is currently certified as the representative of such employees:
 - (A) where the employer has lawfully recognized in accordance with this Act any labor organization and a question concerning representation may not appropriately be raised under Section 9 of this Act;
 - (B) where within the preceding 12 months a valid election under Section 9 of this Act has been conducted; or
 - (C) where such picketing has been conducted without a petition under Section 9 being filed within a reasonable period of time not to exceed 30 days from the commencement of such picketing; provided that when such a petition has been filed the Board shall forthwith, without regard to the provisions of subsection (a) of Section 9 or the absence of a showing of a substantial interest on the part of the labor organization, direct an election in such unit as the Board finds to be appropriate and shall certify the results thereof; provided further, that nothing in this subparagraph shall be construed to prohibit any picketing or other publicity for the purpose of truthfully advising the public that an employer does not employ members of, or have a contract with, a labor organization unless an effect of such picketing is to induce any individual employed by any other person in the course of his employment, not to pick up, deliver, or transport any goods or not to perform any services; or
 - (8) to refuse to reduce a collective bargaining agreement to writing or to refuse to sign such agreement.
- (c) The expressing of any views, argument, or opinion or the dissemination thereof, whether in written, printed, graphic, or visual form, shall not constitute or be evidence of an unfair labor practice under any of the provisions of this Act, if such expression contains no threat of reprisal or force or promise of benefit.

Section 11. Unfair Labor Practice Procedures

Unfair labor practices may be dealt with by the Board in the following manner:

- (a) Whenever it is charged that any person has engaged in or is engaging in any unfair labor practice, the Board or any agent designated by the Board for such purposes, shall conduct an investigation of the charge. If after such investigation the Board finds that the charge involves a dispositive issue of law or fact the Board shall issue a complaint and cause to be served upon the person a complaint stating the charges, accompanied by a notice of hearing before the Board or a member thereof designated by the Board, or before a qualified hearing officer designated by the Board at the offices of the Board or such other location as the Board deems appropriate, not less than 5 days after serving of such complaint provided that no complaint shall issue based upon any unfair labor practice occurring more than six months prior to the filing of a charge with the Board and the service of a copy thereof upon the person against whom the charge is made, unless the person aggrieved thereby did not reasonably have knowledge of the alleged unfair labor practice or was prevented from filing such a charge by reason of service in the armed forces, in which event the six month period shall be computed from the date of his discharge. Any such complaint may be amended by the member or hearing officer conducting the hearing for the Board in his discretion at any time prior to the issuance of an order based thereon. The person who is the subject of the complaint has the right to file an answer to the original or amended complaint and to appear in person or by a representative and give testimony at the place and time fixed in the complaint. In the discretion of the member or hearing officer conducting the hearing or the Board, any other person may be allowed to intervene in the proceeding and to present testimony. In any hearing conducted by the Board, neither the Board nor the member or agent conducting the hearing shall be bound by the rules of evidence applicable to courts, except as to the rules of privilege recognized by law.
- (b) The Board shall have the power to issue subpoenas and administer oaths. If any party willfully fails or neglects to appear or testify or to produce books, papers and records pursuant to the issuance of a subpoena by the Board, the Board may apply to a court of competent jurisdiction to request that such party be ordered to appear before the Board to testify or produce the requested evidence.
- (c) Any testimony taken by the Board, or a member designated by the Board or a hearing officer thereof, must be reduced to writing and filed with the Board. A full and complete record shall be kept of all proceedings before the Board, and all proceedings shall be transcribed by a reporter appointed by the Board. The party on whom the burden of proof rests shall be required to sustain such burden by a preponderance of the evidence. If, upon a preponderance of the evidence taken, the Board is of the opinion that any person named in the charge has engaged in or is engaging in an unfair labor practice, then it shall state its findings of fact and shall issue and cause to be served upon the person an order requiring him to cease and desist from the unfair labor practice, and to take such affirmative action, including reinstatement of public employees with or without back pay, as will effectuate the policies of this Act. If the Board awards back pay, it shall also award interest at the rate of 7% per annum. The Board's order may further require the person to make reports from time to time, and demonstrate the extent to which he has complied with the order. If there is no preponderance of evidence to indicate to the Board that the person named in the charge has

engaged in or is engaging in the unfair labor practice, then the Board shall state its findings of fact and shall issue an order dismissing the complaint. The Board's order may in its discretion also include an appropriate sanction, based on the Board's rules and regulations, and the sanction may include an order to pay the other party or parties' reasonable expenses including costs and reasonable attorney's fees, if the other party has made allegations or denials without reasonable cause and found to be untrue or has engaged in frivolous litigation for the purpose of delay or needless increase in the cost of litigation; the State of Illinois or any agency thereof shall be subject to the provisions of this sentence in the same manner as any other party.

- (d) Until the record in a case has been filed in court, the Board at any time, upon reasonable notice and in such manner as it deems proper, may modify or set aside, in whole or in part, any finding or order made or issued by it.
- (e) A charging party or any person aggrieved by a final order of the Board granting or denying in whole or in part the relief sought may apply for and obtain judicial review of an order of the Board entered under this Act, in accordance with the provisions of the Administrative Review Law, as now or hereafter amended, except that such judicial review shall be afforded directly in the appellate court for the district in which the aggrieved party resides or transacts business, and provided, that such judicial review shall not be available for the purpose of challenging a final order issued by the Board pursuant to Section 9 of this Act for which judicial review has been petitioned pursuant to subsection (i) of Section 9. Any direct appeal to the Appellate Court shall be filed within 35 days from the date that a copy of the decision sought to be reviewed was served upon the party affected by the decision. The Board in proceedings under this Section may obtain an order of the court for the enforcement of its order.
- (f) Whenever it appears that any person has violated a final order of the Board issued pursuant to this Section, the Board must commence an action in the name of the People of the State of Illinois by petition, alleging the violation, attaching a copy of the order of the Board, and praying for the issuance of an order directing the person, his officers, agents, servants, successors, and assigns to comply with the order of the Board. The Board shall be represented in this action by the Attorney General in accordance with the Attorney General Act. The court may grant or refuse, in whole or in part, the relief sought, provided that the court may stay an order of the Board in accordance with the Administrative Review Law, pending disposition of the proceedings. The court may punish a violation of its order as in civil contempt.
- (g) The proceedings provided in paragraph (f) of this Section shall be commenced in the Appellate Court for the district where the unfair labor practice which is the subject of the Board's order was committed, or where a person required to cease and desist by such order resides or transacts business.
- (h) The Board through the Attorney General, shall have power, upon issuance of an unfair labor practice complaint alleging that a person has engaged in or is engaging in an unfair labor practice, to petition the circuit court where the alleged unfair labor practice which is the subject of the Board's complaint was allegedly committed, or where a person required to cease and desist from such alleged unfair labor practice resides or transacts business, for appropriate temporary relief or restraining order. Upon the filing of any such petition, the court shall cause notice thereof to be served upon such persons, and thereupon shall have

jurisdiction to grant to the Board such temporary relief or restraining order as it deems just and proper.

- (i) If an unfair labor practice charge involves the interpretation or application of a collective bargaining agreement and said agreement contains a grievance procedure with binding arbitration as its terminal step, the Board may defer the resolution of such dispute to the grievance and arbitration procedure contained in said agreement.

Section 12. Mediation

- (a) The State and Local Panels in joint session shall establish a Public Employees Mediation Roster, the services of which shall be available to public employers and to labor organizations upon request of the parties for the purposes of mediation of grievances or contract disputes. Upon the request of either party, services of the Public Employees Mediation Roster shall be available for purposes of arbitrating disputes over interpretation or application of the terms of an agreement pursuant to Section 8. The members of the Roster shall be appointed by majority vote of the members of both panels. Members shall be impartial, competent, and reputable citizens of the United States, residents of the State of Illinois, and shall qualify by taking and subscribing to the constitutional oath or affirmation of office. The function of the mediator shall be to communicate with the employer and exclusive representative or their representatives and to endeavor to bring about an amicable and voluntary settlement. Compensation of Roster members for services performed as mediators shall be paid equally by the parties to a mediated labor dispute. The Board shall have authority to promulgate regulations setting compensation levels for members of the Roster, and establishing procedures for suspension or dismissal of mediators for good cause shown following hearing.
- (b) A mediator in a mediated labor dispute shall be selected by the Board from among the members of the Roster.
- (c) Nothing in this Act or any other law prohibits the use of other mediators selected by the parties for the resolution of disputes over interpretation or application of the terms or conditions of the collective bargaining agreements between a public employer and a labor organization.
- (d) If requested by the parties to a labor dispute, a mediator may perform fact-finding as set forth in Section 13.

Section 13. Fact-finding

- (a) If, after a reasonable period of negotiation over the terms of the agreement, or upon expiration of an existing collective bargaining agreement and the parties have not been able to mutually resolve the dispute, the parties may, by mutual consent initiate a fact-finding.
- (b) Within three days of such request the Board must submit to the parties a panel of 7 qualified, disinterested persons from the Illinois Public Employees Mediation Roster to serve as a fact-finder. The parties to the dispute shall designate one of the 7 persons to serve as fact-finder. The fact-finder must act independently of the Board and may be the same person who participated in the mediation of the labor dispute if both parties consent. The person selected or appointed as fact-

finder shall immediately establish the dates and place of hearings. Upon request, the Board shall issue subpoenas for hearings conducted by the fact-finder. The fact-finder may administer oaths. The fact-finder shall initially determine what issues are in dispute and therefore properly before the fact-finder. Upon completion of the hearings, but no later than 45 days from the date of appointment, the fact-finder must make written findings of facts and recommendations for resolution of the dispute, must serve findings on the public employer and the labor organization involved, and must publicize such findings by mailing them to all newspapers of general circulation in the community. The fact-finder's findings shall be advisory only and shall not be binding upon the parties. If the parties do not accept the recommendations of the fact-finder as the basis for settlement, or if the fact-finder does not make written findings of facts and recommendations for the resolution of the dispute and serve and publicize such findings within 45 days of the date of appointment, the parties may resume negotiations.

- (c) The public employer and the labor organization which is certified as exclusive representative or which is recognized as exclusive representative in any particular bargaining unit by the state or political subdivision are the only proper parties to the fact-finding proceedings.

Section 14. Security Employee, Peace Officer and Fire Fighter Disputes

- (a) In the case of collective bargaining agreements involving units of security employees of a public employer, Peace Officer Units, or units of fire fighters or paramedics, and in the case of disputes under Section 18, unless the parties mutually agree to some other time limit, mediation shall commence 30 days prior to the expiration date of such agreement or at such later time as the mediation services chosen under subsection (b) of Section 12 can be provided to the parties. In the case of negotiations for an initial collective bargaining agreement, mediation shall commence upon 15 days notice from either party or at such later time as the mediation services chosen pursuant to subsection (b) of Section 12 can be provided to the parties. In mediation under this Section, if either party requests the use of mediation services from the Federal Mediation and Conciliation Service, the other party shall either join in such request or bear the additional cost of mediation services from another source. The mediator shall have a duty to keep the Board informed on the progress of the mediation. If any dispute has not been resolved within 15 days after the first meeting of the parties and the mediator, or within such other time limit as may be mutually agreed upon by the parties, either the exclusive representative or employer may request of the other, in writing, arbitration, and shall submit a copy of the request to the Board.
- (b) Within 10 days after such a request for arbitration has been made, the employer shall choose a delegate and the employees' exclusive representative shall choose a delegate to a panel of arbitration as provided in this Section. The employer and employees shall forthwith advise the other and the Board of their selections.
- (c) Within 7 days of the request of either party, the Board shall select from the Public Employees Labor Mediation Roster 7 persons who are on the labor arbitration panels of either the American Arbitration Association or the Federal Mediation and Conciliation Service, or who are members of the National Academy of Arbitrators, as nominees for impartial arbitrator of the arbitration panel. The parties may select an individual on the list provided by the Board or any other

individual mutually agreed upon by the parties. Within 7 days following the receipt of the list, the parties shall notify the Board of the person they have selected. Unless the parties agree on an alternate selection procedure, they shall alternatively strike one name from the list provided by the Board until only one name remains. A coin toss shall determine which party shall strike the first name. If the parties fail to notify the Board in a timely manner of their selection for neutral chairman, the Board shall appoint a neutral chairman from the Illinois Public Employees Mediation/ Arbitration Roster.

- (d) The chairman shall call a hearing to begin within 15 days and give reasonable notice of the time and place of the hearing. The hearing shall be held at the offices of the Board or at such other location as the Board deems appropriate. The chairman shall preside over the hearing and shall take testimony. Any oral or documentary evidence and other data deemed relevant by the arbitration panel may be received in evidence. The proceeding shall be informal. Technical rules of evidence shall not apply and the competency of the evidence shall not thereby be deemed impaired. A verbatim record of the proceedings shall be made and the arbitrator shall arrange for the necessary recording service. Transcripts may be ordered at the expense of the party ordering them, but the transcripts shall not be necessary for a decision by the arbitration panel. The expense of the proceedings, including a fee for the chairman, established in advanced by the Board, shall be borne equally by each of the parties to the dispute. The delegates, if public officers or employees, shall continue on the payroll of the public employer without loss of pay. The hearing conducted by the arbitration panel may be adjourned from time to time, but unless otherwise agreed by the parties, shall be concluded within 30 days of the time of its commencement. Majority actions and rulings shall constitute the actions and rulings of the arbitration panel. Arbitration proceedings under this Section shall not be interrupted or terminated by reason of any unfair labor practice charge filed by either party at any time.
- (e) The arbitration panel may administer oaths, require the attendance of witnesses, and the production of such books, paper, contracts, agreements and documents as may be deemed by it material to a just determination of the issues in dispute, and for such purpose may issue subpoenas. If any person refuses to obey a subpoena, or refuses to be sworn or to testify, or if any witness, party or attorney is guilty of any contempt while in attendance at any hearing, the arbitration panel may, or the attorney general if requested shall, invoke the aid of any circuit court within the jurisdiction in which the hearing is being held, which court shall issue an appropriate order. Any failure to obey the order may be punished by the court as contempt.
- (f) At any time before the rendering of an award, the chairman of the arbitration panel, if he is of the opinion that it would be useful or beneficial to do so, may remand the dispute to the parties for further collective bargaining for a period not to exceed 2 weeks. If the dispute is remanded for further collective bargaining the time provisions of this Act shall be extended for a time period equal to that of the remand. The chairman of the panel of arbitration shall notify the Board of the remand.
- (g) At or before the conclusion of the hearing held pursuant to subsection (d), the arbitration panel shall identify the economic issues in dispute, and direct each of the parties to submit, within such time limit as the panel shall prescribe, to the arbitration panel and to each other its last offer of settlement on each economic

issue. The determination of the arbitration panel as to the issues in dispute and as to which of these issues are economic shall be conclusive. The arbitration panel, within 30 days after the conclusion of the hearing, or such further additional periods to which the parties may agree, shall make written findings of fact and promulgate a written opinion and shall mail or otherwise deliver a true copy thereof to the parties and their representatives and to the Board. As to each economic issue, the arbitration panel shall adopt the last offer of settlement which, in the opinion of the arbitration panel, more nearly complies with the applicable factors prescribed in subsection (h). The findings, opinions and order as to all other issues shall be based upon the applicable factors prescribed in subsection (h).

- (h) Where there is no agreement between the parties, or where there is an agreement but the parties have begun negotiations or discussions looking to a new agreement or amendment of the existing agreement, and the wage rates or other conditions of employment under the proposed new or amended agreement are in dispute, the arbitration panel shall base its findings, opinions and order upon the following factors, as applicable:
 - (1) The lawful authority of the employer.
 - (2) Stipulations of the parties.
 - (3) The interests and welfare of the public and the financial ability of the unit of government to meet those costs.
 - (4) Comparison of the wages, hours and conditions of employment of the employees involved in the arbitration proceeding with the wages, hours and conditions of employment of other employees performing similar services and with other employees generally:
 - (A) In public employment in comparable communities.
 - (B) In private employment in comparable communities.
 - (5) The average consumer prices for goods and services, commonly known as the cost of living.
 - (6) The overall compensation presently received by the employees, including direct wage compensation, vacations, holidays and other excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment and all other benefits received.
 - (7) Changes in any of the foregoing circumstances during the pendency of the arbitration proceedings.
 - (8) Such other factors, not confined to the foregoing, which are normally or traditionally taken into consideration in the determination of wages, hours and conditions of employment through voluntary collective bargaining, mediation, fact-finding, arbitration or otherwise between the parties, in the public service or in private employment.
- (i) In the case of peace officers, the arbitration decision shall be limited to wages, hours, and conditions of employment (which may include residency requirements

in municipalities with a population under 1,000,000, but those residency requirements shall not allow residency outside of Illinois) and shall not include the following: i) residency requirements in municipalities with a population of at least 1,000,000; ii) the type of equipment, other than uniforms, issued or used; iii) manning; iv) the total number of employees employed by the department; v) mutual aid and assistance agreements to other units of government; and vi) the criterion pursuant to which force, including deadly force, can be used; provided, nothing herein shall preclude an arbitration decision regarding equipment or manning levels if such decision is based on a finding that the equipment or manning considerations in a specific work assignment involve a serious risk to the safety of a peace officer beyond that which is inherent in the normal performance of police duties. Limitation of the terms of the arbitration decision pursuant to this subsection shall not be construed to limit the factors upon which the decision may be based, as set forth in subsection (h).

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

The changes to this subsection (i) made by this amendatory Act of 1997 (relating to residency requirements) do not apply to persons who are employed by a combined department that performs both police and fire fighting services; these persons shall be governed by the provisions of this subsection (i) relating to peace officers, as they existed before the amendment by this amendatory Act of 1997.

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

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

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

- (k) Orders of the arbitration panel shall be reviewable, upon appropriate petition by either the public employer or the exclusive bargaining representative, by the circuit court for the county in which the dispute arose or in which a majority of the affected employees reside, but only for reasons that the arbitration panel was without or exceeded its statutory authority; the order is arbitrary, or capricious; or the order was procured by fraud, collusion or other similar and unlawful means. Such petitions for review must be filed with the appropriate circuit court within 90 days following the issuance of the arbitration order. The pendency of such proceeding for review shall not automatically stay the order of the arbitration panel. The party against whom the final decision of any such court shall be adverse, if such court finds such appeal or petition to be frivolous, shall pay reasonable attorneys' fees and costs to the successful party as determined by said court in its discretion. If said court's decision affirms the award of money, such award, if retroactive, shall bear interest at the rate of 12 percent per annum from the effective retroactive date.
- (l) During the pendency of proceedings before the arbitration panel, existing wages, hours and other conditions of employment shall not be changed by action of either party without the consent of the other but a party may so consent without prejudice to his rights or position under this Act. The proceedings are deemed to be pending before the arbitration panel upon the initiation of arbitration procedures under the Act.
- (m) Security officers of public employers, and Peace Officers, Fire Fighters and fire department and fire protection district paramedics, covered by this Section may not withhold services, nor may public employers lock out or prevent such employees from performing services at any time.
- (n) All of the terms decided upon by the arbitration panel shall be included in an agreement to be submitted to the public employer's governing body for ratification and adoption by law, ordinance or the equivalent appropriate means.

The governing body shall review each term decided by the arbitration panel. If the governing body fails to reject one or more terms of the arbitration panel's decision by a 3/5 vote of those duly elected and qualified members of the governing body, within 20 days of issuance, or in the case of firefighters employed by a state university, at the next regularly scheduled meeting of the governing body after issuance, such term or terms shall become a part of the collective bargaining agreement of the parties. If the governing body affirmatively rejects one or more terms of the arbitration panel's decision, it must provide reasons for such rejection with respect to each term so rejected, within 20 days of such rejection and the parties shall return to the arbitration panel for further proceedings and issuance of a supplemental decision with respect to the rejected terms. Any supplemental decision by an arbitration panel or other decision maker agreed to by the parties shall be submitted to the governing body for ratification and adoption in accordance with the procedures and voting

requirements set forth in this Section. The voting requirements of this subsection shall apply to all disputes submitted to arbitration pursuant to this Section notwithstanding any contrary voting requirements contained in any existing collective bargaining agreement between the parties.

- (o) If the governing body of the employer votes to reject the panel's decision, the parties shall return to the panel within 30 days from the issuance of the reasons for rejection for further proceedings and issuance of a supplemental decision. All reasonable costs of such supplemental proceeding including the exclusive representative's reasonable attorney's fees, as established by the Board, shall be paid by the employer.
- (p) Notwithstanding the provisions of this Section the employer and exclusive representative may agree to submit unresolved disputes concerning wages, hours, terms and conditions of employment to an alternative form of impasse resolution.

Section 15. Act Takes Precedence

- (a) In case of any conflict between the provisions of this Act and any other law, executive order or administrative regulation relating to wages, hours and conditions of employment and employment relations, the provisions of this Act or any collective bargaining agreement negotiated thereunder shall prevail and control. Nothing in this Act shall be construed to replace or diminish the rights of employees established by Sections 28 and 28a of the Metropolitan Transit Authority Act, Sections 2.15 through 2.19 of the Regional Transportation Authority Act.
- (b) Except as provided in subsection (a) above, any collective bargaining contract between a public employer and a labor organization executed pursuant to this Act shall supersede any contrary statutes, charters, ordinances, rules or regulations relating to wages, hours and conditions of employment and employment relations adopted by the public employer or its agents. Any collective bargaining agreement entered into prior to the effective date of this Act shall remain in full force during its duration.
- (c) It is the public policy of this State, pursuant to paragraphs (h) and (i) of Section 6 of Article VII of the Illinois Constitution, that the provisions of this Act are the exclusive exercise by the State of powers and functions which might otherwise be exercised by home rule units. Such powers and functions may not be exercised concurrently, either directly or indirectly, by any unit of local government, including any home rule unit, except as otherwise authorized by this Act.

Section 15.1. Precedents established by other labor boards

Unless contradicted by administrative precedent previously established by the State Panel, all final decisions in representation and unfair labor practice cases decided by the Local Panel and the Illinois Educational Labor Relations Board created under the Illinois Educational Labor Relations Act which have not been reversed by subsequent court rulings, shall be considered, but need not be followed by the State Panel.

Unless contradicted by administrative precedent previously established by the Local Panel, all final decisions in representation and unfair labor practice cases decided by the State Panel and the Illinois Educational Labor Relations Board which have not been reversed by subsequent court rulings, shall be considered, but need not be followed by the Local Panel.

Section 16. Exhaustion of nonjudicial remedies

After the exhaustion of any arbitration mandated by this Act or any procedures mandated by a collective bargaining agreement, suits for violation of agreements including agreements entered into pursuant to Section 13(c) of the Urban Mass Transportation Act, between a public employer and a labor organization representing public employees may be brought by the parties to such agreement in the circuit court in the county in which the public employer transacts business or has its principal office.

Section 17. Right to Strike

- (a) Nothing in this Act shall make it unlawful or make it an unfair labor practice for public employees, other than security employees, as defined in Section 3(p), Peace Officers, Fire Fighters, and paramedics employed by fire departments and fire protection districts, to strike except as otherwise provided in this Act. Public employees who are permitted to strike may strike only if:
- (1) the employees are represented by an exclusive bargaining representative;
 - (2) the collective bargaining agreement between the public employer and the public employees, if any, has expired, or such collective bargaining agreement does not prohibit the strike;
 - (3) the public employer and the labor organization have not mutually agreed to submit the disputed issues to final and binding arbitration;
 - (4) the exclusive representative has requested a mediator pursuant to Section 12 for the purpose of mediation or conciliation of a dispute between the public employer and the exclusive representative and mediation has been used; and
 - (5) at least 5 days have elapsed after a notice of intent to strike has been given by the exclusive bargaining representative to the public employer.

In mediation under this Section, if either party requests the use of mediation services from the Federal Mediation and Conciliation Service, the other party shall either join in such request or bear the additional cost of mediation services from another source.

- (b) An employee who participates in a strike, work stoppage or slowdown, in violation of this Act shall be subject to discipline by the employer. No employer may pay or cause such employee to be paid any wages or other compensation for such periods of participation, except for wages or compensation earned before participation in such strike.

Section 18. Strikes presenting clear and present danger to public--Procedure.

- (a) If a strike, which may constitute a clear and present danger to the health and safety of the public is about to occur or is in progress, the public employer concerned may petition the board to make an investigation and conduct a hearing. Unfair labor practices committed by the employer shall be a defense to such petition. If the board finds that within 72 hours there is a clear and present danger to the health and safety of the public the employer shall petition the circuit court where the strike is about to occur or is in progress for appropriate judicial relief to stop the strike or to set conditions and requirements which must be complied with by the exclusive representative, to avoid or remove any such clear and present danger. No injunctive relief shall be granted except upon a showing that the strike constitutes a clear and present danger to the health and safety of the public. The court may allow the strike to occur or continue under conditions which it finds will avoid or remove any such clear and present danger. The court shall designate the essential employees within the affected unit whose services are necessary to avoid or remove any such clear and present danger. Such employees may be ordered to return to work under conditions and requirements which the court finds to be appropriate and such order may be only for a limited duration, and may be extended only upon demonstration that such extension is necessary to protect the public health and safety from a clear and present danger.

If the court orders any of the employees in the affected unit to return to work it shall require the employer and exclusive representative to participate in the impasse arbitration procedures set forth in Section 14 of this Act. The Court shall determine for which employees such procedures in Section 14 shall apply.

- (b) Equitable defenses such as unclean hands and any unfair labor practices committed by the employer shall be considered as defenses by the court. Failure to agree to a proposal or to make a concession is not per se a violation of the unclean hands doctrine.
- (c) If any employee or employee organization fails to comply with any order of the Court issued pursuant to this Section, the employer may institute judicial proceedings to enforce the order of the court.

Section 19. Antecedent agreements

Any collective bargaining agreement entered into prior to the effective date of this Act shall remain in full force during its duration.

Section 20. Prohibitions

- (a) Nothing in this Act shall be construed to require an individual employee to render labor or service without his consent, nor shall anything in this Act be construed to make the quitting of his labor by an individual employee an illegal act; nor shall any court issue any process to compel the performance by an individual employee of such labor or service, without his consent; nor shall the quitting of labor by an employee or employees in good faith because of abnormally dangerous conditions for work at the place of employment of such employee be deemed a strike under this Act.
- (b) This Act shall not be applicable to units of local government employing less than 5 employees, except with respect to bargaining units in existence on the effective

date of this Act, and fire protection districts required by the Fire Protection District Act to appoint a Board of Fire Commissioners.

Section 21. Multi-year collective bargaining agreements

Subject to the appropriation power of the employer, employers and exclusive representatives may negotiate multi-year collective bargaining agreements pursuant to the provisions of this Act.

Section 22. Bi-state development agency

(A) In further effectuation of that certain compact between the States of Missouri and Illinois heretofore made and entered into on September 20, 1949, the bistate development agency, created by and under the aforesaid compact, is authorized and directed to exercise the following duties, functions and powers in relation to its public transportation operation, in addition to those heretofore expressly authorized, which are necessary and appropriate to effectuate the compact:

- (1) To deal with and enter into written contracts with the employees of the bistate agency or any other operator of its public transportation system through accredited representatives or such employees or representatives of any labor organization authorized to act for such employees, concerning wages, salaries, hours, working conditions, pension or retirement provisions, and insurance benefits. The obligation of the bistate agency to deal with such employee representatives shall not be limited or restricted by any other provisions of law, but shall extend to all subjects which are or may be proper subjects of collective bargaining with a private employer under Section 8(d) of the National Labor Relations Act, 29 U.S.C. Section 158(d);
- (2) To provide for the retirement and pension, health, medical, dental, and other welfare benefits of its officers and employees and the widows and children of the deceased officers and employees, and their dependents, and to provide for paying benefits upon disability or death of its officers and employees and to make payments from its funds to provide for such retirement, pension, health, medical, dental and other welfare benefits and death or disability benefits;
- (3) To settle labor disputes by arbitration. Whenever any labor dispute arises in the operation of any public transportation service operated by or for the bistate agency, and collective bargaining does not result in an agreement, the bistate agency shall submit such dispute to arbitration by a board composed of three persons; one appointed by the bistate agency, one appointed by the representative of the employees, and a third member, who shall serve as chairman, to be selected from a current listing of the membership of the National Academy of Arbitrators by agreement of the parties or, in the absence of such agreement, by obtaining a listing of 7 such members of the National Academy from the American Arbitration Association or from the Federal Mediation and Conciliation Service and by alternatively striking one name from the list so supplied until only one name remains. The representative of the employees and of the bistate agency shall determine by lot who shall first strike from the list. The arbitration panel shall base its findings, opinions and order upon the following factors, as applicable:

1. The lawful authority of the employer.
2. Stipulations of the parties.
3. The interest and welfare of the public and the financial ability of the unit of government to meet those costs.
4. Comparison of the wages, hours and conditions of employment of other employees performing similar services and with other employees generally:
 - a. In public employment in comparable communities.
 - b. In private employment in comparable communities.
5. The average consumer prices for goods and services, commonly known as the cost of living.
6. The overall compensation presently received by the employees, including direct wage compensation, vacation, holidays and other excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment and all other benefits received.
7. Changes in any of the foregoing circumstances during the pendency of the arbitration proceedings.
8. Such other factors, not confined to the foregoing, which are normally or traditionally taken into consideration in the determination of wages, hours and conditions of employment through voluntary collective bargaining, mediation, fact-finding, arbitration or otherwise between the parties, in the public service or in private employment. The expenses of arbitration shall be borne equally by the parties, and each party shall bear its own costs. Unless otherwise agreed by the parties or determined by the arbitration board, all contract conditions shall remain undisturbed during the arbitration proceedings until issuance of the final award. All of the terms decided upon by the arbitration panel shall be included in an agreement to be submitted to an arbitration review committee comprised of the Secretary of Transportation for the State of Illinois, one representative jointly selected by the Mayor of the City of St. Louis and the St. Louis County Executive, and the Chairman of the Bi-state Development Agency for ratification and adoption by law, ordinance or the equivalent appropriate means.

The committee shall review each term decided by the arbitration panel. If the committee fails to accept or reject one or more terms of the arbitration panel's decision, within 20 days of issuance, such term or terms shall become a part of the collective bargaining agreement of the parties. If the committee affirmatively rejects one or more terms of the arbitration panel's decision, it must provide reasons for such rejection with respect to each term so rejected, and the parties shall return to the arbitration panel for further proceedings and

issuance of a supplemental decision with respect to the rejected terms. Any supplemental decision by an arbitration panel or other decision maker agreed to by the parties shall be submitted to the committee for ratification and adoption in accordance with the procedures set forth in this Section. The term "labor dispute" shall be broadly construed and shall include any controversy concerning wages, salaries, hours, working conditions or benefits, including health and welfare, sick leave, insurance and pension or retirement provisions, the making or maintaining of collective bargaining agreements, and the terms to be included in such agreement. The adjustment of grievances, questions concerning representation, and any other difference or question that may arise between the parties are subject to the arbitration award which shall be final and binding and not subject to the arbitration review process. In determining any question of representation, including, without limitation, whether a labor organization represents a majority of employees, or whether a proposed unit is an appropriate unit for collective bargaining, or whether an election shall be held to determine the question of representation, and otherwise in establishing rules and regulations governing representation petitions and the conduct of hearings and elections, the arbitration board shall be guided by relevant federal law and administrative practice developed under Section 9 of the National Labor Relations Act, as amended, 29 U.S.C. Section 159;

- (4) To give effect to and comply with 49 U.S.C. Section 1609(c) and any employee protective arrangements entered into pursuant thereto, in the event the bistate agency receives federal assistance under the Urban Mass Transportation Act, as amended, in aid of any public transportation system owned or controlled by it. The bistate agency shall enter into such protective arrangements with the representatives of employees affected by such assistance as may be necessary to protect the rights and interests of such employees, including, without limitation:
 - (a) The preservation of rights, privileges and benefits (including continuation of pension rights and benefits under existing collective bargaining agreements or otherwise);
 - (b) The continuation of collective bargaining rights;
 - (c) The protection of individual employees against a worsening of their positions with respect to their employment;
 - (d) Assurances of employment to such employees and priority of reemployment of such employees terminated or laid off; and
 - (e) Paid training and retraining programs;
- (5) To extend to the employees of any public transportation system owned or controlled by the bistate agency, in accordance with seniority, prior to commencing to operate any new or supplemental transportation service, or entering into any contractual or other arrangement for the operation of such service, the first opportunity for reasonably comparable employment in any new jobs, in respect to such new or supplemental operations, for which they can qualify after a reasonable training period. The wages, hours and

working conditions for employees assigned to such new or supplemental operations shall be a proper subject of negotiation and arbitration under the compact between the bistate agency and the representatives of the employees affected by such new or supplemental services;

- (6) Notwithstanding any other provision of law, to make deductions from wages and salaries of its employee upon receipt of authorization therefor for the payment of union dues, fees or assessments; for the payment of contributions pursuant to any health and welfare plan or pension plan; or for any other purpose for which deductions may be authorized by employees of any private employer, where such deductions are pursuant to a collective bargaining agreement entered into or assumed by the bistate agency.
- (B) Any employee who participates in a strike, work stoppage or slowdown in violation of this Act shall be subject to discipline by the employer. No employer may pay or cause such employee to be paid any wages or other compensation for such periods of participation except for wages or compensation earned before participation in such strike.

Section 23. State Mandates Act

The General Assembly finds that pursuant to the exemption provided for in subsection (a) of Section 6 of The State Mandates Act and the exclusions provided for in subparts (2) and (5) of subsection (a) of Section 8 of that Act, that the State is relieved of all reimbursement liability for the implementation of this Act.

Section 24. Meetings

The provisions of the Open Meetings Act shall not apply to collective bargaining negotiations and grievance arbitration conducted pursuant to this Act.

Section 25. Waiver of sovereign immunity

For purposes of this Act, the State of Illinois waives sovereign immunity.

Section 27. Construction with other law

Except as provided in Section 18 herein, the provisions of "An Act relating to disputes concerning terms and conditions of employment", approved June 19, 1925, as now or hereafter amended, apply.