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## LEGISLATION RELATED TO PUBLIC EMPLOYERS - 2007

### **Labor and Employment**

P.A. 95-0136 (55 ILCS 5/3-8013, 5/3-8014)  
Amendment of the Counties Code

Summary: The Counties Code is amended to provide that disciplinary measures taken by a county sheriff against a deputy and the method of reviewing those measures are subject to mandatory bargaining in any sheriff's department that is covered by a collective bargaining agreement. The mandatory bargaining may include impartial arbitration or an alternative due process procedure.

Effective Date: January 1, 2008

P.A. 95-0026  
Employee Classification Act

Summary: The newly created Employee Classification Act defines an individual performing services for a contractor as an employee of the contractor unless: (1) the individual has been and will continue to be free from control or direction over the performance of the service for the contractor, both under the individual's contract of service and in fact; (2) the service performed by the individual is outside the usual course of services performed by the contractor; and (3) the individual is engaged in an independently established trade, occupation, profession or business; or (4) the individual is deemed a legitimate sole proprietor or partnership. The Act further provides that subcontractors or lower tiered contractors are subject to all provisions of the Act. The Act applies to both public and private employers.

Effective Date: January 1, 2008

P.A. 95-0490 (65 ILCS 5/10-1-14, 5/10-2.1-4)

Use of Part-Time Firefighters as Substitute for Classified Members

Summary: The Illinois Municipal Code and the Fire Protection District Act are amended to prohibit fire departments that (1) employ full-time firefighters and (2) are subject to collective bargaining agreements from using part-time firefighters as a temporary or permanent substitute for classified members, unless mutually agreed upon by the full-time firefighters' certified bargaining representative. Bargaining over the use of part-time firefighters is a permissive subject of bargaining. Home rule municipalities may not regulate the hiring of temporary or substitute members of the municipality's fire department in a manner that is inconsistent with this amendment.

Effective Date: June 1, 2008

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P.A. 95-0356 (65 ILCS 5/10-2.1-17)

Arbitrating the Discipline and Discharge of Police Officers and Fire Fighters

Summary: The Board of Fire and Police Commissioners provisions of the Municipal Code are amended to provide that impartial arbitration is a mandatory subject of bargaining with respect to the discipline and discharge of police officers and fire fighters, unless the parties agree otherwise.

Effective Date: August 23, 2007

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P.A. 95-0025 (775 ILCS 5/2-102)

Pregnant Female Peace Officer or Firefighter

Summary: The Illinois Human Rights Act is amended to provide that it is a civil rights violation for a public employer to refuse to temporarily transfer a pregnant female peace officer or firefighter to a less strenuous or hazardous position for the duration of her pregnancy if the transfer can be reasonably accommodated.

Effective Date: January 1, 2008

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P.A. 95-0243 (775 ILCS 5/7A-102, 7A-103, 7B-102, 7B-103, 8-103, 8-110, and 8-111)

Right to File a Civil Action Under the Human Rights Act

Summary: The Human Rights Act is amended to provide claimants with the right to file a civil action for alleged violations of civil rights as follows:

- If the Director determines that there is no substantial evidence of the alleged civil rights violation, the Director must notify the complainant of his or her right to either seek review before the Human Rights Commission or commence a civil action in circuit court within 90 days.

- If the Director fails to issue a report within 365 days, the complainant can either file his or her own complaint with the Human Rights Commission or commence a civil action in circuit court.
- If the Director concludes that there is substantial evidence of a human rights violation, the Department must notify the complainant of his or her right to either request the issuance of a complaint by the Human Rights Commission or commence a civil action in circuit court within 90 days. The complainant must file his or her request for a complaint within 14 days after receiving the notice.

This amendment applies to both public and private employers.

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Effective Date: January 1, 2008

P.A. 95-0138 (820 ILCS 55/12 new)  
Amendment of the Right to Privacy in the Workplace Act

Summary: The Right to Privacy in the Workplace Act is amended to prohibit employers from enrolling in any Employment Eligibility Verification System, including the Basic Pilot program, until the Social Security Administration and Department of Homeland Security databases are able to make a determination on 99% of the tentative non-confirmation notices issued to employers within 3 days. The Act is further amended to provide that no unit of local government, including a home rule unit, may require any employer to use an Employment Eligibility Verification System. This amendment is a limitation on the power and functions of home rule municipalities. This amendment applies to both public and private employers.

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Effective Date: January 1, 2008

### **Hiring, Promotion And Discipline**

P.A. 95-0113 (110 ILCS 70/36o)  
Amendment of the State Universities Civil Service Act

Summary: The State Universities Civil Service Act is amended to authorize a University Civil Service Merit Board appointed hearing officer and/or hearing board to preside over employee demotion, removal, and discharge hearings.

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Effective Date: August 13, 2007

P.A. 95-0293 (50 ILCS 725/2)  
Amendment of the Uniform Peace Officers' Disciplinary Act

Summary: The Uniform Peace Officers' Disciplinary Act is amended to include Secretary of State sergeants, lieutenants, commanders, and investigator trainees in the definition of "officer."

Effective Date: January 1, 2008

## **Wages, Hours And Terms And Conditions Of Employment**

P.A. 95-0142 (50 ILCS 135/12)  
Firefighter Elected to the Illinois General Assembly

Summary: The Local Governmental Employees Political Rights Act is amended to provide that an employer, upon written application, must grant a firefighter who is elected to the Illinois General Assembly a leave of absence without pay during his or her term of office.

Effective Date: August 13, 2007

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P.A. 95-0165 (65 ILCS 5/10-2.1-6)  
Restriction on Age Limitations for Municipal Police and Fire Applicants

Summary: The Illinois Municipal Code is amended to provide that an age limitation will not apply an applicant for a municipal police or fire department who has previously been employed as a policeman or fireman in a regularly constituted police or fire department of any municipality, regardless of whether the municipality is located in Illinois or in another state.

Effective Date: January 1, 2008

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P.A. 95-0209 (735 ILCS 5/13-206; 820 ILCS 115/11, 115/14)  
Amendment of the Illinois Wage Payment and Collection Act

Summary: The Illinois Wage Payment and Collection Act is amended to provide that an employee may file a complaint with the Department of Labor alleging violations of the Act by submitting a wage claim application and supporting documentation. Complaints must be filed within one year after the wages, final compensation, or wage supplements were due. An employer who fails to pay wages within 15 days of being demanded by the Director of Labor or ordered by the court to do so shall also be liable to the Department of Labor for 20% of such unpaid wages. Provides that the Director of Labor, represented by the Attorney General, may recover specified penalties in a civil action brought in any circuit court.

Additionally, the Code of Civil Procedure is amended to provide that an action brought under the Illinois Wage Payment and Collection Act must be filed within ten years after the cause of action accrued. (P.A. 95-0209).

The above amendments apply to both public and private employers.

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Effective Date: August 16, 2007

P.A. 95-0316 (820 ILCS 305/6, 310/1)  
Amendment of the Workers' Compensation Act with regards to Firefighters, EMTs and Paramedics

Summary: The Workers' Compensation Act is amended to provide a rebuttable presumption for firefighters, EMTs, and paramedics that several ailments arise out of and in the course of employment. The ailments include: heart or vascular diseases or conditions, hypertension, blood borne pathogen-related diseases, lung or respiratory diseases or conditions, tuberculosis, and cancer. The presumption does not apply to individuals



who have been firefighters, EMTs, and paramedics for less than five years. This bill makes clear that a workers compensation finding under this rebuttable presumption cannot be used as a definitely settled issue in any future disability claim under the Illinois Pension Code arising out of the same medical condition.

Effective Date: January 1, 2008

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## **Pension And Benefits**

P.A. 95-0184(50 ILCS 140/3)

Payment of Benefits to Reserve U.S. Military who are Mobilized to Active Duty

Summary: The Local Government Employees Benefits Continuation Act provides that an employee of a unit of local government who is a member of any reserve component of the U.S. military, and who is mobilized to active duty, must continue to receive the same pay and benefits, minus the amount of his or her base pay for military service, for the duration of his or her active military service. The Act is amended to provide that all home rule units - rather than only home rule units with populations of less than 1,000,000 - may not limit or restrict the right of an employee to receive and accrue regular compensation, health insurance and other benefits as required by the Act. (P.A. 95-0184).

Effective Date: August 16, 2007