

**ILRB DECLARATORY RULING REGARDING THE SUBSTITUTES ACT**

On January 30, 2018, the Illinois Labor Relations Board (“ILRB”) General Counsel issued a declaratory ruling in *Streator Professional Firefighters and City of Streator*, Case No. S-DR-18-001, in which the General Counsel concluded that a firefighter’s union is not required to bargain over a contract proposal that would allow for appointed and classified members of a city’s fire department to be replaced by unqualified substitutes.

During negotiations for a new collective bargaining agreement, the City of Streator made proposals to modify a provision of the predecessor contract regarding shift manning for the City’s fire department. The previous contract’s language required that the City must have at least “four (4) bargaining unit members” on duty for each shift. The City proposed changing that language to only require “four (4) qualified firefighters” on duty. The City later amended its proposal to only require “at least four on-duty firefighters on all shifts.”

Section 10-1-14 of the Illinois Municipal Code, known as the Substitutes Act, provides that a municipality cannot substitute or replace firefighters, either temporarily or permanently, with persons who are not qualified for regular appointment as a member of the municipality’s fire department, unless the firefighters’ union agrees to such a substitution. In other words, unless the union agrees, a city cannot give bargaining unit work to persons who do not meet all the requirements for appointment as a firefighter, including passing any testing and performance requirements and being placed on the city’s eligibility list for hiring. The Substitutes Act also provides that any agreement between a municipality and the union to allow for substitutions by unqualified persons are considered a permissive subject of bargaining under the Illinois Public Labor Relations Act.

The Union argued that through its contract proposal, the City sought to use part-time or paid-on-call firefighters – who are not certified and appointed, classified members of the fire department – as substitutes for represented firefighters. The ILRB General Counsel agreed, holding that the City’s proposal to modify the shift manning language was an attempt to use unqualified substitutes for the classified members of the City’s fire department as contemplated by the Substitutes Act. Therefore, the proposal concerned a permissive subject of bargaining, and the union was not required to bargain over the proposal.

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