



Rep. Mike Fortner

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LRB097 14488 HLH 68042 a

1 AMENDMENT TO HOUSE BILL 5201

2 AMENDMENT NO. _____. Amend House Bill 5201 immediately
3 below the enacting clause, by inserting the following:

4 "Section 3. The Illinois Public Labor Relations Act is
5 amended by changing Section 3 as follows:

6 (5 ILCS 315/3) (from Ch. 48, par. 1603)

7 Sec. 3. Definitions. As used in this Act, unless the
8 context otherwise requires:

9 (a) "Board" means the Illinois Labor Relations Board or,
10 with respect to a matter over which the jurisdiction of the
11 Board is assigned to the State Panel or the Local Panel under
12 Section 5, the panel having jurisdiction over the matter.

13 (b) "Collective bargaining" means bargaining over terms
14 and conditions of employment, including hours, wages, and other
15 conditions of employment, as detailed in Section 7 and which
16 are not excluded by Section 4.

1 (c) "Confidential employee" means an employee who, in the
2 regular course of his or her duties, assists and acts in a
3 confidential capacity to persons who formulate, determine, and
4 effectuate management policies with regard to labor relations
5 or who, in the regular course of his or her duties, has
6 authorized access to information relating to the effectuation
7 or review of the employer's collective bargaining policies.

8 (d) "Craft employees" means skilled journeymen, crafts
9 persons, and their apprentices and helpers.

10 (e) "Essential services employees" means those public
11 employees performing functions so essential that the
12 interruption or termination of the function will constitute a
13 clear and present danger to the health and safety of the
14 persons in the affected community.

15 (f) "Exclusive representative", except with respect to
16 non-State fire fighters and paramedics employed by fire
17 departments and fire protection districts, non-State peace
18 officers, and peace officers in the Department of State Police,
19 means the labor organization that has been (i) designated by
20 the Board as the representative of a majority of public
21 employees in an appropriate bargaining unit in accordance with
22 the procedures contained in this Act, (ii) historically
23 recognized by the State of Illinois or any political
24 subdivision of the State before July 1, 1984 (the effective
25 date of this Act) as the exclusive representative of the
26 employees in an appropriate bargaining unit, (iii) after July

1 1, 1984 (the effective date of this Act) recognized by an
2 employer upon evidence, acceptable to the Board, that the labor
3 organization has been designated as the exclusive
4 representative by a majority of the employees in an appropriate
5 bargaining unit; (iv) recognized as the exclusive
6 representative of personal care attendants or personal
7 assistants under Executive Order 2003-8 prior to the effective
8 date of this amendatory Act of the 93rd General Assembly, and
9 the organization shall be considered to be the exclusive
10 representative of the personal care attendants or personal
11 assistants as defined in this Section; or (v) recognized as the
12 exclusive representative of child and day care home providers,
13 including licensed and license exempt providers, pursuant to an
14 election held under Executive Order 2005-1 prior to the
15 effective date of this amendatory Act of the 94th General
16 Assembly, and the organization shall be considered to be the
17 exclusive representative of the child and day care home
18 providers as defined in this Section.

19 With respect to non-State fire fighters and paramedics
20 employed by fire departments and fire protection districts,
21 non-State peace officers, and peace officers in the Department
22 of State Police, "exclusive representative" means the labor
23 organization that has been (i) designated by the Board as the
24 representative of a majority of peace officers or fire fighters
25 in an appropriate bargaining unit in accordance with the
26 procedures contained in this Act, (ii) historically recognized

1 by the State of Illinois or any political subdivision of the
2 State before January 1, 1986 (the effective date of this
3 amendatory Act of 1985) as the exclusive representative by a
4 majority of the peace officers or fire fighters in an
5 appropriate bargaining unit, or (iii) after January 1, 1986
6 (the effective date of this amendatory Act of 1985) recognized
7 by an employer upon evidence, acceptable to the Board, that the
8 labor organization has been designated as the exclusive
9 representative by a majority of the peace officers or fire
10 fighters in an appropriate bargaining unit.

11 Where a historical pattern of representation exists for the
12 workers of a water system that was owned by a public utility,
13 as defined in Section 3-105 of the Public Utilities Act, prior
14 to becoming certified employees of a municipality or
15 municipalities once the municipality or municipalities have
16 acquired the water system as authorized in Section 11-124-5 of
17 the Illinois Municipal Code, the Board shall find the labor
18 organization that has historically represented the workers to
19 be the exclusive representative under this Act, and shall find
20 the unit represented by the exclusive representative to be the
21 appropriate unit.

22 (g) "Fair share agreement" means an agreement between the
23 employer and an employee organization under which all or any of
24 the employees in a collective bargaining unit are required to
25 pay their proportionate share of the costs of the collective
26 bargaining process, contract administration, and pursuing

1 matters affecting wages, hours, and other conditions of
2 employment, but not to exceed the amount of dues uniformly
3 required of members. The amount certified by the exclusive
4 representative shall not include any fees for contributions
5 related to the election or support of any candidate for
6 political office. Nothing in this subsection (g) shall preclude
7 an employee from making voluntary political contributions in
8 conjunction with his or her fair share payment.

9 (g-1) "Fire fighter" means, for the purposes of this Act
10 only, any person who has been or is hereafter appointed to a
11 fire department or fire protection district or employed by a
12 state university and sworn or commissioned to perform fire
13 fighter duties or paramedic duties, except that the following
14 persons are not included: part-time fire fighters, auxiliary,
15 reserve or voluntary fire fighters, including paid on-call fire
16 fighters, clerks and dispatchers or other civilian employees of
17 a fire department or fire protection district who are not
18 routinely expected to perform fire fighter duties, or elected
19 officials.

20 (g-2) "General Assembly of the State of Illinois" means the
21 legislative branch of the government of the State of Illinois,
22 as provided for under Article IV of the Constitution of the
23 State of Illinois, and includes but is not limited to the House
24 of Representatives, the Senate, the Speaker of the House of
25 Representatives, the Minority Leader of the House of
26 Representatives, the President of the Senate, the Minority

1 Leader of the Senate, the Joint Committee on Legislative
2 Support Services and any legislative support services agency
3 listed in the Legislative Commission Reorganization Act of
4 1984.

5 (h) "Governing body" means, in the case of the State, the
6 State Panel of the Illinois Labor Relations Board, the Director
7 of the Department of Central Management Services, and the
8 Director of the Department of Labor; the county board in the
9 case of a county; the corporate authorities in the case of a
10 municipality; and the appropriate body authorized to provide
11 for expenditures of its funds in the case of any other unit of
12 government.

13 (i) "Labor organization" means any organization in which
14 public employees participate and that exists for the purpose,
15 in whole or in part, of dealing with a public employer
16 concerning wages, hours, and other terms and conditions of
17 employment, including the settlement of grievances.

18 (j) "Managerial employee" means an individual who is
19 engaged predominantly in executive and management functions
20 and is charged with the responsibility of directing the
21 effectuation of management policies and practices.

22 (k) "Peace officer" means, for the purposes of this Act
23 only, any persons who have been or are hereafter appointed to a
24 police force, department, or agency and sworn or commissioned
25 to perform police duties, except that the following persons are
26 not included: part-time police officers, special police

1 officers, auxiliary police as defined by Section 3.1-30-20 of
2 the Illinois Municipal Code, night watchmen, "merchant
3 police", court security officers as defined by Section 3-6012.1
4 of the Counties Code, temporary employees, traffic guards or
5 wardens, civilian parking meter and parking facilities
6 personnel or other individuals specially appointed to aid or
7 direct traffic at or near schools or public functions or to aid
8 in civil defense or disaster, parking enforcement employees who
9 are not commissioned as peace officers and who are not armed
10 and who are not routinely expected to effect arrests, parking
11 lot attendants, clerks and dispatchers or other civilian
12 employees of a police department who are not routinely expected
13 to effect arrests, or elected officials.

14 (l) "Person" includes one or more individuals, labor
15 organizations, public employees, associations, corporations,
16 legal representatives, trustees, trustees in bankruptcy,
17 receivers, or the State of Illinois or any political
18 subdivision of the State or governing body, but does not
19 include the General Assembly of the State of Illinois or any
20 individual employed by the General Assembly of the State of
21 Illinois.

22 (m) "Professional employee" means any employee engaged in
23 work predominantly intellectual and varied in character rather
24 than routine mental, manual, mechanical or physical work;
25 involving the consistent exercise of discretion and adjustment
26 in its performance; of such a character that the output

1 produced or the result accomplished cannot be standardized in
2 relation to a given period of time; and requiring advanced
3 knowledge in a field of science or learning customarily
4 acquired by a prolonged course of specialized intellectual
5 instruction and study in an institution of higher learning or a
6 hospital, as distinguished from a general academic education or
7 from apprenticeship or from training in the performance of
8 routine mental, manual, or physical processes; or any employee
9 who has completed the courses of specialized intellectual
10 instruction and study prescribed in this subsection (m) and is
11 performing related work under the supervision of a professional
12 person to qualify to become a professional employee as defined
13 in this subsection (m).

14 (n) "Public employee" or "employee", for the purposes of
15 this Act, means any individual employed by a public employer,
16 including (i) interns and residents at public hospitals, (ii)
17 as of the effective date of this amendatory Act of the 93rd
18 General Assembly, but not before, personal care attendants and
19 personal assistants working under the Home Services Program
20 under Section 3 of the Disabled Persons Rehabilitation Act,
21 subject to the limitations set forth in this Act and in the
22 Disabled Persons Rehabilitation Act, and (iii) as of the
23 effective date of this amendatory Act of the 94th General
24 Assembly, but not before, child and day care home providers
25 participating in the child care assistance program under
26 Section 9A-11 of the Illinois Public Aid Code, subject to the

1 limitations set forth in this Act and in Section 9A-11 of the
2 Illinois Public Aid Code, but excluding all of the following:
3 employees of the General Assembly of the State of Illinois;
4 employees of the State Board of Elections; elected officials;
5 executive heads of a department; members of boards or
6 commissions; the Executive Inspectors General; any special
7 Executive Inspectors General; employees of each Office of an
8 Executive Inspector General; commissioners and employees of
9 the Executive Ethics Commission; the Auditor General's
10 Inspector General; employees of the Office of the Auditor
11 General's Inspector General; the Legislative Inspector
12 General; any special Legislative Inspectors General; employees
13 of the Office of the Legislative Inspector General;
14 commissioners and employees of the Legislative Ethics
15 Commission; employees of any agency, board or commission
16 created by this Act; employees appointed to State positions of
17 a temporary or emergency nature; all employees of school
18 districts and higher education institutions except
19 firefighters and peace officers employed by a state university
20 and except peace officers employed by a school district in its
21 own police department in existence on the effective date of
22 this amendatory Act of the 96th General Assembly; managerial
23 employees; short-term employees; confidential employees;
24 independent contractors; and supervisors except as provided in
25 this Act.

26 Personal care attendants and personal assistants shall not

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

8 Child and day care home providers shall not be considered
9 public employees for any purposes not specifically provided for
10 in this amendatory Act of the 94th General Assembly, including
11 but not limited to, purposes of vicarious liability in tort and
12 purposes of statutory retirement or health insurance benefits.
13 Child and day care home providers shall not be covered by the
14 State Employees Group Insurance Act of 1971.

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

19 (o) Except as otherwise in subsection (o-5), "public
20 employer" or "employer" means the State of Illinois; any
21 political subdivision of the State, unit of local government or
22 school district; authorities including departments, divisions,
23 bureaus, boards, commissions, or other agencies of the
24 foregoing entities; and any person acting within the scope of
25 his or her authority, express or implied, on behalf of those
26 entities in dealing with its employees. As of the effective

1 date of the amendatory Act of the 93rd General Assembly, but
2 not before, the State of Illinois shall be considered the
3 employer of the personal care attendants and personal
4 assistants working under the Home Services Program under
5 Section 3 of the Disabled Persons Rehabilitation Act, subject
6 to the limitations set forth in this Act and in the Disabled
7 Persons Rehabilitation Act. The State shall not be considered
8 to be the employer of personal care attendants and personal
9 assistants for any purposes not specifically provided for in
10 this amendatory Act of the 93rd General Assembly, including but
11 not limited to, purposes of vicarious liability in tort and
12 purposes of statutory retirement or health insurance benefits.
13 Personal care attendants and personal assistants shall not be
14 covered by the State Employees Group Insurance Act of 1971 (5
15 ILCS 375/). As of the effective date of this amendatory Act of
16 the 94th General Assembly but not before, the State of Illinois
17 shall be considered the employer of the day and child care home
18 providers participating in the child care assistance program
19 under Section 9A-11 of the Illinois Public Aid Code, subject to
20 the limitations set forth in this Act and in Section 9A-11 of
21 the Illinois Public Aid Code. The State shall not be considered
22 to be the employer of child and day care home providers for any
23 purposes not specifically provided for in this amendatory Act
24 of the 94th General Assembly, including but not limited to,
25 purposes of vicarious liability in tort and purposes of
26 statutory retirement or health insurance benefits. Child and

1 day care home providers shall not be covered by the State
2 Employees Group Insurance Act of 1971.

3 "Public employer" or "employer" as used in this Act,
4 however, does not mean and shall not include the General
5 Assembly of the State of Illinois, the Executive Ethics
6 Commission, the Offices of the Executive Inspectors General,
7 the Legislative Ethics Commission, the Office of the
8 Legislative Inspector General, the Office of the Auditor
9 General's Inspector General, the State Board of Elections, and
10 educational employers or employers as defined in the Illinois
11 Educational Labor Relations Act, except with respect to a state
12 university in its employment of firefighters and peace officers
13 and except with respect to a school district in the employment
14 of peace officers in its own police department in existence on
15 the effective date of this amendatory Act of the 96th General
16 Assembly. County boards and county sheriffs shall be designated
17 as joint or co-employers of county peace officers appointed
18 under the authority of a county sheriff. Nothing in this
19 subsection (o) shall be construed to prevent the State Panel or
20 the Local Panel from determining that employers are joint or
21 co-employers.

22 (o-5) With respect to wages, fringe benefits, hours,
23 holidays, vacations, proficiency examinations, sick leave, and
24 other conditions of employment, the public employer of public
25 employees who are court reporters, as defined in the Court
26 Reporters Act, shall be determined as follows:

1 (1) For court reporters employed by the Cook County
2 Judicial Circuit, the chief judge of the Cook County
3 Circuit Court is the public employer and employer
4 representative.

5 (2) For court reporters employed by the 12th, 18th,
6 19th, and, on and after December 4, 2006, the 22nd judicial
7 circuits, a group consisting of the chief judges of those
8 circuits, acting jointly by majority vote, is the public
9 employer and employer representative.

10 (3) For court reporters employed by all other judicial
11 circuits, a group consisting of the chief judges of those
12 circuits, acting jointly by majority vote, is the public
13 employer and employer representative.

14 (p) "Security employee" means an employee who is
15 responsible for the supervision and control of inmates at
16 correctional facilities. The term also includes other
17 non-security employees in bargaining units having the majority
18 of employees being responsible for the supervision and control
19 of inmates at correctional facilities.

20 (q) "Short-term employee" means an employee who is employed
21 for less than 2 consecutive calendar quarters during a calendar
22 year and who does not have a reasonable assurance that he or
23 she will be rehired by the same employer for the same service
24 in a subsequent calendar year.

25 (r) "Supervisor" is an employee whose principal work is
26 substantially different from that of his or her subordinates

1 and who has authority, in the interest of the employer, to
2 hire, transfer, suspend, lay off, recall, promote, discharge,
3 direct, reward, or discipline employees, to adjust their
4 grievances, or to effectively recommend any of those actions,
5 if the exercise of that authority is not of a merely routine or
6 clerical nature, but requires the consistent use of independent
7 judgment. Except with respect to police employment, the term
8 "supervisor" includes only those individuals who devote a
9 preponderance of their employment time to exercising that
10 authority, State supervisors notwithstanding. In addition, in
11 determining supervisory status in police employment, rank
12 shall not be determinative. The Board shall consider, as
13 evidence of bargaining unit inclusion or exclusion, the common
14 law enforcement policies and relationships between police
15 officer ranks and certification under applicable civil service
16 law, ordinances, personnel codes, or Division 2.1 of Article 10
17 of the Illinois Municipal Code, but these factors shall not be
18 the sole or predominant factors considered by the Board in
19 determining police supervisory status.

20 Notwithstanding the provisions of the preceding paragraph,
21 in determining supervisory status in fire fighter employment,
22 no fire fighter shall be excluded as a supervisor who has
23 established representation rights under Section 9 of this Act.
24 Further, in new fire fighter units, employees shall consist of
25 fire fighters of the rank of company officer and below. If a
26 company officer otherwise qualifies as a supervisor under the

1 preceding paragraph, however, he or she shall not be included
2 in the fire fighter unit. If there is no rank between that of
3 chief and the highest company officer, the employer may
4 designate a position on each shift as a Shift Commander, and
5 the persons occupying those positions shall be supervisors. All
6 other ranks above that of company officer shall be supervisors.

7 (s) (1) "Unit" means a class of jobs or positions that are
8 held by employees whose collective interests may suitably be
9 represented by a labor organization for collective bargaining.
10 Except with respect to non-State fire fighters and paramedics
11 employed by fire departments and fire protection districts,
12 non-State peace officers, and peace officers in the Department
13 of State Police, a bargaining unit determined by the Board
14 shall not include both employees and supervisors, or
15 supervisors only, except as provided in paragraph (2) of this
16 subsection (s) and except for bargaining units in existence on
17 July 1, 1984 (the effective date of this Act). With respect to
18 non-State fire fighters and paramedics employed by fire
19 departments and fire protection districts, non-State peace
20 officers, and peace officers in the Department of State Police,
21 a bargaining unit determined by the Board shall not include
22 both supervisors and nonsupervisors, or supervisors only,
23 except as provided in paragraph (2) of this subsection (s) and
24 except for bargaining units in existence on January 1, 1986
25 (the effective date of this amendatory Act of 1985). A
26 bargaining unit determined by the Board to contain peace

1 officers shall contain no employees other than peace officers
2 unless otherwise agreed to by the employer and the labor
3 organization or labor organizations involved. Notwithstanding
4 any other provision of this Act, a bargaining unit, including a
5 historical bargaining unit, containing sworn peace officers of
6 the Department of Natural Resources (formerly designated the
7 Department of Conservation) shall contain no employees other
8 than such sworn peace officers upon the effective date of this
9 amendatory Act of 1990 or upon the expiration date of any
10 collective bargaining agreement in effect upon the effective
11 date of this amendatory Act of 1990 covering both such sworn
12 peace officers and other employees.

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

19 (3) Public employees who are court reporters, as defined in
20 the Court Reporters Act, shall be divided into 3 units for
21 collective bargaining purposes. One unit shall be court
22 reporters employed by the Cook County Judicial Circuit; one
23 unit shall be court reporters employed by the 12th, 18th, 19th,
24 and, on and after December 4, 2006, the 22nd judicial circuits;
25 and one unit shall be court reporters employed by all other
26 judicial circuits.

1 (Source: P.A. 96-1257, eff. 7-23-10; 97-586, eff. 8-26-11.)".