

# SB3534



## 100TH GENERAL ASSEMBLY

### State of Illinois

2017 and 2018

SB3534

Introduced 2/16/2018, by Sen. Jason A. Barickman

#### SYNOPSIS AS INTRODUCED:

5 ILCS 315/3

from Ch. 48, par. 1603

Amends the Illinois Public Labor Relations Act. Modifies the definition of "public employee" or "employee" to exclude from bargaining unit status any employee of the Department of Human Services who is classified as or who holds the position of Public Service Administrator, but not including persons holding the position of Public Service Administrator on and before the effective date of this amendatory Act.

LRB100 16431 RJF 31559 b

A BILL FOR

1 AN ACT concerning government.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Illinois Public Labor Relations Act is  
5 amended by changing Section 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.

17 (c) "Confidential employee" means an employee who, in the  
18 regular course of his or her duties, assists and acts in a  
19 confidential capacity to persons who formulate, determine, and  
20 effectuate management policies with regard to labor relations  
21 or who, in the regular course of his or her duties, has  
22 authorized access to information relating to the effectuation  
23 or review of the employer's collective bargaining policies.

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

3           (e) "Essential services employees" means those public  
4 employees performing functions so essential that the  
5 interruption or termination of the function will constitute a  
6 clear and present danger to the health and safety of the  
7 persons in the affected community.

8           (f) "Exclusive representative", except with respect to  
9 non-State fire fighters and paramedics employed by fire  
10 departments and fire protection districts, non-State peace  
11 officers, and peace officers in the Department of State Police,  
12 means the labor organization that has been (i) designated by  
13 the Board as the representative of a majority of public  
14 employees in an appropriate bargaining unit in accordance with  
15 the procedures contained in this Act, (ii) historically  
16 recognized by the State of Illinois or any political  
17 subdivision of the State before July 1, 1984 (the effective  
18 date of this Act) as the exclusive representative of the  
19 employees in an appropriate bargaining unit, (iii) after July  
20 1, 1984 (the effective date of this Act) recognized by an  
21 employer upon evidence, acceptable to the Board, that the labor  
22 organization has been designated as the exclusive  
23 representative by a majority of the employees in an appropriate  
24 bargaining unit; (iv) recognized as the exclusive  
25 representative of personal assistants under Executive Order  
26 2003-8 prior to the effective date of this amendatory Act of

1 the 93rd General Assembly, and the organization shall be  
2 considered to be the exclusive representative of the personal  
3 assistants as defined in this Section; or (v) recognized as the  
4 exclusive representative of child and day care home providers,  
5 including licensed and license exempt providers, pursuant to an  
6 election held under Executive Order 2005-1 prior to the  
7 effective date of this amendatory Act of the 94th General  
8 Assembly, and the organization shall be considered to be the  
9 exclusive representative of the child and day care home  
10 providers as defined in this Section.

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

1 representative by a majority of the peace officers or fire  
2 fighters in an appropriate bargaining unit.

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

14 (g) "Fair share agreement" means an agreement between the  
15 employer and an employee organization under which all or any of  
16 the employees in a collective bargaining unit are required to  
17 pay their proportionate share of the costs of the collective  
18 bargaining process, contract administration, and pursuing  
19 matters affecting wages, hours, and other conditions of  
20 employment, but not to exceed the amount of dues uniformly  
21 required of members. The amount certified by the exclusive  
22 representative shall not include any fees for contributions  
23 related to the election or support of any candidate for  
24 political office. Nothing in this subsection (g) shall preclude  
25 an employee from making voluntary political contributions in  
26 conjunction with his or her fair share payment.

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

12           (g-2) "General Assembly of the State of Illinois" means the  
13 legislative branch of the government of the State of Illinois,  
14 as provided for under Article IV of the Constitution of the  
15 State of Illinois, and includes but is not limited to the House  
16 of Representatives, the Senate, the Speaker of the House of  
17 Representatives, the Minority Leader of the House of  
18 Representatives, the President of the Senate, the Minority  
19 Leader of the Senate, the Joint Committee on Legislative  
20 Support Services and any legislative support services agency  
21 listed in the Legislative Commission Reorganization Act of  
22 1984.

23           (h) "Governing body" means, in the case of the State, the  
24 State Panel of the Illinois Labor Relations Board, the Director  
25 of the Department of Central Management Services, and the  
26 Director of the Department of Labor; the county board in the

1 case of a county; the corporate authorities in the case of a  
2 municipality; and the appropriate body authorized to provide  
3 for expenditures of its funds in the case of any other unit of  
4 government.

5 (i) "Labor organization" means any organization in which  
6 public employees participate and that exists for the purpose,  
7 in whole or in part, of dealing with a public employer  
8 concerning wages, hours, and other terms and conditions of  
9 employment, including the settlement of grievances.

10 (i-5) "Legislative liaison" means a person who is an  
11 employee of a State agency, the Attorney General, the Secretary  
12 of State, the Comptroller, or the Treasurer, as the case may  
13 be, and whose job duties require the person to regularly  
14 communicate in the course of his or her employment with any  
15 official or staff of the General Assembly of the State of  
16 Illinois for the purpose of influencing any legislative action.

17 (j) "Managerial employee" means an individual who is  
18 engaged predominantly in executive and management functions  
19 and is charged with the responsibility of directing the  
20 effectuation of management policies and practices. With  
21 respect only to State employees in positions under the  
22 jurisdiction of the Attorney General, Secretary of State,  
23 Comptroller, or Treasurer (i) that were certified in a  
24 bargaining unit on or after December 2, 2008, (ii) for which a  
25 petition is filed with the Illinois Public Labor Relations  
26 Board on or after April 5, 2013 (the effective date of Public

1 Act 97-1172), or (iii) for which a petition is pending before  
2 the Illinois Public Labor Relations Board on that date,  
3 "managerial employee" means an individual who is engaged in  
4 executive and management functions or who is charged with the  
5 effectuation of management policies and practices or who  
6 represents management interests by taking or recommending  
7 discretionary actions that effectively control or implement  
8 policy. Nothing in this definition prohibits an individual from  
9 also meeting the definition of "supervisor" under subsection  
10 (r) of this Section.

11 (k) "Peace officer" means, for the purposes of this Act  
12 only, any persons who have been or are hereafter appointed to a  
13 police force, department, or agency and sworn or commissioned  
14 to perform police duties, except that the following persons are  
15 not included: part-time police officers, special police  
16 officers, auxiliary police as defined by Section 3.1-30-20 of  
17 the Illinois Municipal Code, night watchmen, "merchant  
18 police", court security officers as defined by Section 3-6012.1  
19 of the Counties Code, temporary employees, traffic guards or  
20 wardens, civilian parking meter and parking facilities  
21 personnel or other individuals specially appointed to aid or  
22 direct traffic at or near schools or public functions or to aid  
23 in civil defense or disaster, parking enforcement employees who  
24 are not commissioned as peace officers and who are not armed  
25 and who are not routinely expected to effect arrests, parking  
26 lot attendants, clerks and dispatchers or other civilian



1 employees of a police department who are not routinely expected  
2 to effect arrests, or elected officials.

3 (1) "Person" includes one or more individuals, labor  
4 organizations, public employees, associations, corporations,  
5 legal representatives, trustees, trustees in bankruptcy,  
6 receivers, or the State of Illinois or any political  
7 subdivision of the State or governing body, but does not  
8 include the General Assembly of the State of Illinois or any  
9 individual employed by the General Assembly of the State of  
10 Illinois.

11 (m) "Professional employee" means any employee engaged in  
12 work predominantly intellectual and varied in character rather  
13 than routine mental, manual, mechanical or physical work;  
14 involving the consistent exercise of discretion and adjustment  
15 in its performance; of such a character that the output  
16 produced or the result accomplished cannot be standardized in  
17 relation to a given period of time; and requiring advanced  
18 knowledge in a field of science or learning customarily  
19 acquired by a prolonged course of specialized intellectual  
20 instruction and study in an institution of higher learning or a  
21 hospital, as distinguished from a general academic education or  
22 from apprenticeship or from training in the performance of  
23 routine mental, manual, or physical processes; or any employee  
24 who has completed the courses of specialized intellectual  
25 instruction and study prescribed in this subsection (m) and is  
26 performing related work under the supervision of a professional

1 person to qualify to become a professional employee as defined  
2 in this subsection (m).

3 (n) "Public employee" or "employee", for the purposes of  
4 this Act, means any individual employed by a public employer,  
5 including (i) interns and residents at public hospitals, (ii)  
6 as of the effective date of this amendatory Act of the 93rd  
7 General Assembly, but not before, personal assistants working  
8 under the Home Services Program under Section 3 of the  
9 Rehabilitation of Persons with Disabilities Act, subject to the  
10 limitations set forth in this Act and in the Rehabilitation of  
11 Persons with Disabilities Act, (iii) as of the effective date  
12 of this amendatory Act of the 94th General Assembly, but not  
13 before, child and day care home providers participating in the  
14 child care assistance program under Section 9A-11 of the  
15 Illinois Public Aid Code, subject to the limitations set forth  
16 in this Act and in Section 9A-11 of the Illinois Public Aid  
17 Code, (iv) as of January 29, 2013 (the effective date of Public  
18 Act 97-1158), but not before except as otherwise provided in  
19 this subsection (n), home care and home health workers who  
20 function as personal assistants and individual maintenance  
21 home health workers and who also work under the Home Services  
22 Program under Section 3 of the Rehabilitation of Persons with  
23 Disabilities Act, no matter whether the State provides those  
24 services through direct fee-for-service arrangements, with the  
25 assistance of a managed care organization or other  
26 intermediary, or otherwise, (v) beginning on the effective date

1 of this amendatory Act of the 98th General Assembly and  
2 notwithstanding any other provision of this Act, any person  
3 employed by a public employer and who is classified as or who  
4 holds the employment title of Chief Stationary Engineer,  
5 Assistant Chief Stationary Engineer, Sewage Plant Operator,  
6 Water Plant Operator, Stationary Engineer, Plant Operating  
7 Engineer, and any other employee who holds the position of:  
8 Civil Engineer V, Civil Engineer VI, Civil Engineer VII,  
9 Technical Manager I, Technical Manager II, Technical Manager  
10 III, Technical Manager IV, Technical Manager V, Technical  
11 Manager VI, Realty Specialist III, Realty Specialist IV, Realty  
12 Specialist V, Technical Advisor I, Technical Advisor II,  
13 Technical Advisor III, Technical Advisor IV, or Technical  
14 Advisor V employed by the Department of Transportation who is  
15 in a position which is certified in a bargaining unit on or  
16 before the effective date of this amendatory Act of the 98th  
17 General Assembly, and (vi) beginning on the effective date of  
18 this amendatory Act of the 98th General Assembly and  
19 notwithstanding any other provision of this Act, any mental  
20 health administrator in the Department of Corrections who is  
21 classified as or who holds the position of Public Service  
22 Administrator (Option 8K), ~~any employee of the Office of the~~  
23 ~~Inspector General in the Department of Human Services who is~~  
24 ~~classified as or who holds the position of Public Service~~  
25 ~~Administrator (Option 7),~~ any Deputy of Intelligence in the  
26 Department of Corrections who is classified as or who holds the

1 position of Public Service Administrator (Option 7), and any  
2 employee of the Department of State Police who handles issues  
3 concerning the Illinois State Police Sex Offender Registry and  
4 who is classified as or holds the position of Public Service  
5 Administrator (Option 7), but excluding all of the following:  
6 employees of the General Assembly of the State of Illinois;  
7 elected officials; executive heads of a department; members of  
8 boards or commissions; the Executive Inspectors General; any  
9 special Executive Inspectors General; employees of each Office  
10 of an Executive Inspector General; commissioners and employees  
11 of the Executive Ethics Commission; the Auditor General's  
12 Inspector General; employees of the Office of the Auditor  
13 General's Inspector General; the Legislative Inspector  
14 General; any special Legislative Inspectors General; employees  
15 of the Office of the Legislative Inspector General;  
16 commissioners and employees of the Legislative Ethics  
17 Commission; employees of any agency, board or commission  
18 created by this Act; employees appointed to State positions of  
19 a temporary or emergency nature; all employees of school  
20 districts and higher education institutions except  
21 firefighters and peace officers employed by a state university  
22 and except peace officers employed by a school district in its  
23 own police department in existence on the effective date of  
24 this amendatory Act of the 96th General Assembly; managerial  
25 employees; short-term employees; legislative liaisons; a  
26 person who is a State employee under the jurisdiction of the

1 Office of the Attorney General who is licensed to practice law  
2 or whose position authorizes, either directly or indirectly,  
3 meaningful input into government decision-making on issues  
4 where there is room for principled disagreement on goals or  
5 their implementation; a person who is a State employee under  
6 the jurisdiction of the Office of the Comptroller who holds the  
7 position of Public Service Administrator or whose position is  
8 otherwise exempt under the Comptroller Merit Employment Code; a  
9 person who is a State employee under the jurisdiction of the  
10 Secretary of State who holds the position classification of  
11 Executive I or higher, whose position authorizes, either  
12 directly or indirectly, meaningful input into government  
13 decision-making on issues where there is room for principled  
14 disagreement on goals or their implementation, or who is  
15 otherwise exempt under the Secretary of State Merit Employment  
16 Code; employees in the Office of the Secretary of State who are  
17 completely exempt from jurisdiction B of the Secretary of State  
18 Merit Employment Code and who are in Rutan-exempt positions on  
19 or after April 5, 2013 (the effective date of Public Act  
20 97-1172); a person who is a State employee under the  
21 jurisdiction of the Treasurer who holds a position that is  
22 exempt from the State Treasurer Employment Code; any employee  
23 of a State agency who (i) holds the title or position of, or  
24 exercises substantially similar duties as a legislative  
25 liaison, Agency General Counsel, Agency Chief of Staff, Agency  
26 Executive Director, Agency Deputy Director, Agency Chief

1 Fiscal Officer, Agency Human Resources Director, Public  
2 Information Officer, or Chief Information Officer and (ii) was  
3 neither included in a bargaining unit nor subject to an active  
4 petition for certification in a bargaining unit; any employee  
5 of a State agency who (i) is in a position that is  
6 Rutan-exempt, as designated by the employer, and completely  
7 exempt from jurisdiction B of the Personnel Code and (ii) was  
8 neither included in a bargaining unit nor subject to an active  
9 petition for certification in a bargaining unit; any term  
10 appointed employee of a State agency pursuant to Section 8b.18  
11 or 8b.19 of the Personnel Code who was neither included in a  
12 bargaining unit nor subject to an active petition for  
13 certification in a bargaining unit; any employment position  
14 properly designated pursuant to Section 6.1 of this Act; any  
15 employee of the Department of Human Services who is classified  
16 as or who holds the position of Public Service Administrator,  
17 but not including persons holding the position of Public  
18 Service Administrator on and before the effective date of this  
19 amendatory Act of the 100th General Assembly; confidential  
20 employees; independent contractors; and supervisors except as  
21 provided in this Act.

22 Home care and home health workers who function as personal  
23 assistants and individual maintenance home health workers and  
24 who also work under the Home Services Program under Section 3  
25 of the Rehabilitation of Persons with Disabilities Act shall  
26 not be considered public employees for any purposes not

1 specifically provided for in Public Act 93-204 or Public Act  
2 97-1158, including but not limited to, purposes of vicarious  
3 liability in tort and purposes of statutory retirement or  
4 health insurance benefits. Home care and home health workers  
5 who function as personal assistants and individual maintenance  
6 home health workers and who also work under the Home Services  
7 Program under Section 3 of the Rehabilitation of Persons with  
8 Disabilities Act shall not be covered by the State Employees  
9 Group Insurance Act of 1971 (5 ILCS 375/).

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

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

21 (o) Except as otherwise in subsection (o-5), "public  
22 employer" or "employer" means the State of Illinois; any  
23 political subdivision of the State, unit of local government or  
24 school district; authorities including departments, divisions,  
25 bureaus, boards, commissions, or other agencies of the  
26 foregoing entities; and any person acting within the scope of

1 his or her authority, express or implied, on behalf of those  
2 entities in dealing with its employees. As of the effective  
3 date of the amendatory Act of the 93rd General Assembly, but  
4 not before, the State of Illinois shall be considered the  
5 employer of the personal assistants working under the Home  
6 Services Program under Section 3 of the Rehabilitation of  
7 Persons with Disabilities Act, subject to the limitations set  
8 forth in this Act and in the Rehabilitation of Persons with  
9 Disabilities Act. As of January 29, 2013 (the effective date of  
10 Public Act 97-1158), but not before except as otherwise  
11 provided in this subsection (o), the State shall be considered  
12 the employer of home care and home health workers who function  
13 as personal assistants and individual maintenance home health  
14 workers and who also work under the Home Services Program under  
15 Section 3 of the Rehabilitation of Persons with Disabilities  
16 Act, no matter whether the State provides those services  
17 through direct fee-for-service arrangements, with the  
18 assistance of a managed care organization or other  
19 intermediary, or otherwise, but subject to the limitations set  
20 forth in this Act and the Rehabilitation of Persons with  
21 Disabilities Act. The State shall not be considered to be the  
22 employer of home care and home health workers who function as  
23 personal assistants and individual maintenance home health  
24 workers and who also work under the Home Services Program under  
25 Section 3 of the Rehabilitation of Persons with Disabilities  
26 Act, for any purposes not specifically provided for in Public



1 Act 93-204 or Public Act 97-1158, including but not limited to,  
2 purposes of vicarious liability in tort and purposes of  
3 statutory retirement or health insurance benefits. Home care  
4 and home health workers who function as personal assistants and  
5 individual maintenance home health workers and who also work  
6 under the Home Services Program under Section 3 of the  
7 Rehabilitation of Persons with Disabilities Act shall not be  
8 covered by the State Employees Group Insurance Act of 1971 (5  
9 ILCS 375/). As of the effective date of this amendatory Act of  
10 the 94th General Assembly but not before, the State of Illinois  
11 shall be considered the employer of the day and child care home  
12 providers participating in the child care assistance program  
13 under Section 9A-11 of the Illinois Public Aid Code, subject to  
14 the limitations set forth in this Act and in Section 9A-11 of  
15 the Illinois Public Aid Code. The State shall not be considered  
16 to be the employer of child and day care home providers for any  
17 purposes not specifically provided for in this amendatory Act  
18 of the 94th General Assembly, including but not limited to,  
19 purposes of vicarious liability in tort and purposes of  
20 statutory retirement or health insurance benefits. Child and  
21 day care home providers shall not be covered by the State  
22 Employees Group Insurance Act of 1971.

23 "Public employer" or "employer" as used in this Act,  
24 however, does not mean and shall not include the General  
25 Assembly of the State of Illinois, the Executive Ethics  
26 Commission, the Offices of the Executive Inspectors General,

1 the Legislative Ethics Commission, the Office of the  
2 Legislative Inspector General, the Office of the Auditor  
3 General's Inspector General, the Office of the Governor, the  
4 Governor's Office of Management and Budget, the Illinois  
5 Finance Authority, the Office of the Lieutenant Governor, the  
6 State Board of Elections, and educational employers or  
7 employers as defined in the Illinois Educational Labor  
8 Relations Act, except with respect to a state university in its  
9 employment of firefighters and peace officers and except with  
10 respect to a school district in the employment of peace  
11 officers in its own police department in existence on the  
12 effective date of this amendatory Act of the 96th General  
13 Assembly. County boards and county sheriffs shall be designated  
14 as joint or co-employers of county peace officers appointed  
15 under the authority of a county sheriff. Nothing in this  
16 subsection (o) shall be construed to prevent the State Panel or  
17 the Local Panel from determining that employers are joint or  
18 co-employers.

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

24 (1) For court reporters employed by the Cook County  
25 Judicial Circuit, the chief judge of the Cook County  
26 Circuit Court is the public employer and employer

1 representative.

2 (2) For court reporters employed by the 12th, 18th,  
3 19th, and, on and after December 4, 2006, the 22nd judicial  
4 circuits, a group consisting of the chief judges of those  
5 circuits, acting jointly by majority vote, is the public  
6 employer and employer representative.

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

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

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

22 (q-5) "State agency" means an agency directly responsible  
23 to the Governor, as defined in Section 3.1 of the Executive  
24 Reorganization Implementation Act, and the Illinois Commerce  
25 Commission, the Illinois Workers' Compensation Commission, the  
26 Civil Service Commission, the Pollution Control Board, the

1 Illinois Racing Board, and the Department of State Police Merit  
2 Board.

3 (r) "Supervisor" is:

4 (1) An employee whose principal work is substantially  
5 different from that of his or her subordinates and who has  
6 authority, in the interest of the employer, to hire,  
7 transfer, suspend, lay off, recall, promote, discharge,  
8 direct, reward, or discipline employees, to adjust their  
9 grievances, or to effectively recommend any of those  
10 actions, if the exercise of that authority is not of a  
11 merely routine or clerical nature, but requires the  
12 consistent use of independent judgment. Except with  
13 respect to police employment, the term "supervisor"  
14 includes only those individuals who devote a preponderance  
15 of their employment time to exercising that authority,  
16 State supervisors notwithstanding. Nothing in this  
17 definition prohibits an individual from also meeting the  
18 definition of "managerial employee" under subsection (j)  
19 of this Section. In addition, in determining supervisory  
20 status in police employment, rank shall not be  
21 determinative. The Board shall consider, as evidence of  
22 bargaining unit inclusion or exclusion, the common law  
23 enforcement policies and relationships between police  
24 officer ranks and certification under applicable civil  
25 service law, ordinances, personnel codes, or Division 2.1  
26 of Article 10 of the Illinois Municipal Code, but these

1 factors shall not be the sole or predominant factors  
2 considered by the Board in determining police supervisory  
3 status.

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

19 (2) With respect only to State employees in positions  
20 under the jurisdiction of the Attorney General, Secretary  
21 of State, Comptroller, or Treasurer (i) that were certified  
22 in a bargaining unit on or after December 2, 2008, (ii) for  
23 which a petition is filed with the Illinois Public Labor  
24 Relations Board on or after April 5, 2013 (the effective  
25 date of Public Act 97-1172), or (iii) for which a petition  
26 is pending before the Illinois Public Labor Relations Board

1 on that date, an employee who qualifies as a supervisor  
2 under (A) Section 152 of the National Labor Relations Act  
3 and (B) orders of the National Labor Relations Board  
4 interpreting that provision or decisions of courts  
5 reviewing decisions of the National Labor Relations Board.

6 (s) (1) "Unit" means a class of jobs or positions that are  
7 held by employees whose collective interests may suitably be  
8 represented by a labor organization for collective bargaining.  
9 Except with respect to non-State fire fighters and paramedics  
10 employed by fire departments and fire protection districts,  
11 non-State peace officers, and peace officers in the Department  
12 of State Police, a bargaining unit determined by the Board  
13 shall not include both employees and supervisors, or  
14 supervisors only, except as provided in paragraph (2) of this  
15 subsection (s) and except for bargaining units in existence on  
16 July 1, 1984 (the effective date of this Act). With respect to  
17 non-State fire fighters and paramedics employed by fire  
18 departments and fire protection districts, non-State peace  
19 officers, and peace officers in the Department of State Police,  
20 a bargaining unit determined by the Board shall not include  
21 both supervisors and nonsupervisors, or supervisors only,  
22 except as provided in paragraph (2) of this subsection (s) and  
23 except for bargaining units in existence on January 1, 1986  
24 (the effective date of this amendatory Act of 1985). A  
25 bargaining unit determined by the Board to contain peace  
26 officers shall contain no employees other than peace officers

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

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

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

26 (t) "Active petition for certification in a bargaining

1 unit" means a petition for certification filed with the Board  
2 under one of the following case numbers: S-RC-11-110;  
3 S-RC-11-098; S-UC-11-080; S-RC-11-086; S-RC-11-074;  
4 S-RC-11-076; S-RC-11-078; S-UC-11-052; S-UC-11-054;  
5 S-RC-11-062; S-RC-11-060; S-RC-11-042; S-RC-11-014;  
6 S-RC-11-016; S-RC-11-020; S-RC-11-030; S-RC-11-004;  
7 S-RC-10-244; S-RC-10-228; S-RC-10-222; S-RC-10-220;  
8 S-RC-10-214; S-RC-10-196; S-RC-10-194; S-RC-10-178;  
9 S-RC-10-176; S-RC-10-162; S-RC-10-156; S-RC-10-088;  
10 S-RC-10-074; S-RC-10-076; S-RC-10-078; S-RC-10-060;  
11 S-RC-10-070; S-RC-10-044; S-RC-10-038; S-RC-10-040;  
12 S-RC-10-042; S-RC-10-018; S-RC-10-024; S-RC-10-004;  
13 S-RC-10-006; S-RC-10-008; S-RC-10-010; S-RC-10-012;  
14 S-RC-09-202; S-RC-09-182; S-RC-09-180; S-RC-09-156;  
15 S-UC-09-196; S-UC-09-182; S-RC-08-130; S-RC-07-110; or  
16 S-RC-07-100.

17 (Source: P.A. 98-100, eff. 7-19-13; 98-1004, eff. 8-18-14;  
18 99-143, eff. 7-27-15.)