



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB5364

by Rep. Michael Halpin

SYNOPSIS AS INTRODUCED:

| | |
|-----------------|------------------------|
| 5 ILCS 315/3 | from Ch. 48, par. 1603 |
| 5 ILCS 315/9 | from Ch. 48, par. 1609 |
| 5 ILCS 315/21.5 | |

Amends the Illinois Public Labor Relations Act. Specifies further requirements for labor unit clarification. Provides that no collective bargaining agreement entered into between an executive branch constitutional officer or any agency or department of an executive branch constitutional officer and a labor organization may extend more than 12 months after the date on which the terms of office of executive branch constitutional officers begin (currently, may extend beyond June, 30). Provides an exemption concerning collective bargaining agreements and the increase of salary, wages, or benefits starting on or after the first day of the terms of office of executive branch constitutional officers. Modifies defined terms. Effective immediately.

LRB101 19306 RJF 68773 b

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 Sections 3, 9, and 21.5 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, actual, and more than incidental access to
23 information relating to the effectuation or review of the

1 employer's collective bargaining policies. Determinations of
2 confidential employee status shall be based on actual employee
3 job duties and not on written job descriptions. The definition
4 of "confidential employee" herein applies to all public
5 employees.

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

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

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

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

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

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

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

19 (g) "Fair share agreement" means an agreement between the
20 employer and an employee organization under which all or any of
21 the employees in a collective bargaining unit are required to
22 pay their proportionate share of the costs of the collective
23 bargaining process, contract administration, and pursuing
24 matters affecting wages, hours, and other conditions of
25 employment, but not to exceed the amount of dues uniformly
26 required of members. The amount certified by the exclusive

1 representative shall not include any fees for contributions
2 related to the election or support of any candidate for
3 political office. Nothing in this subsection (g) shall preclude
4 an employee from making voluntary political contributions in
5 conjunction with his or her fair share payment.

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

18 (g-2) "General Assembly of the State of Illinois" means the
19 legislative branch of the government of the State of Illinois,
20 as provided for under Article IV of the Constitution of the
21 State of Illinois, and includes but is not limited to the House
22 of Representatives, the Senate, the Speaker of the House of
23 Representatives, the Minority Leader of the House of
24 Representatives, the President of the Senate, the Minority
25 Leader of the Senate, the Joint Committee on Legislative
26 Support Services and any legislative support services agency

1 listed in the Legislative Commission Reorganization Act of
2 1984.

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

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

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

23 (j) "Managerial employee" means an individual who is
24 engaged ~~predominantly~~ in executive and management functions
25 for a majority of his or her employment time and is charged
26 with the responsibility of, and devotes a majority of his or

1 her employment time to, directing the effectuation of
2 management policies and practices. Exercise of discretion or
3 acting on behalf of an office holder, agency head, or board or
4 commission by professional employees, including attorneys, as
5 part of the performance of their work as professional
6 employees, does not constitute evidence of executive and
7 management functions or of directing the effectuation of
8 management policies and practices. Determination of managerial
9 employee status shall be based on actual employee job duties
10 and not on written job descriptions. No employee shall be
11 determined to be a managerial employee as a matter of law. With
12 respect only to State employees in positions under the
13 jurisdiction of the Attorney General, Secretary of State,
14 Comptroller, or Treasurer (i) that were certified in a
15 bargaining unit on or after December 2, 2008, (ii) for which a
16 petition is filed with the Illinois Public Labor Relations
17 Board on or after April 5, 2013 (the effective date of Public
18 Act 97-1172), or (iii) for which a petition is pending before
19 the Illinois Public Labor Relations Board on that date,
20 "managerial employee" means an individual who is engaged in
21 executive and management functions or who is charged with the
22 effectuation of management policies and practices or who
23 represents management interests by taking or recommending
24 discretionary actions that effectively control or implement
25 policy. Nothing in this definition prohibits an individual from
26 also meeting the definition of "supervisor" under subsection

1 (r) of this Section. The definition of "managerial employee"
2 herein applies to all public employees.

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

21 (l) "Person" includes one or more individuals, labor
22 organizations, public employees, associations, corporations,
23 legal representatives, trustees, trustees in bankruptcy,
24 receivers, or the State of Illinois or any political
25 subdivision of the State or governing body, but does not
26 include the General Assembly of the State of Illinois or any

1 individual employed by the General Assembly of the State of
2 Illinois.

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

21 (n) "Public employee" or "employee", for the purposes of
22 this Act, means any individual employed by a public employer,
23 including (i) interns and residents at public hospitals, (ii)
24 as of the effective date of this amendatory Act of the 93rd
25 General Assembly, but not before, personal assistants working
26 under the Home Services Program under Section 3 of the

1 Rehabilitation of Persons with Disabilities Act, subject to the
2 limitations set forth in this Act and in the Rehabilitation of
3 Persons with Disabilities Act, (iii) as of the effective date
4 of this amendatory Act of the 94th General Assembly, but not
5 before, child and day care home providers participating in the
6 child care assistance program under Section 9A-11 of the
7 Illinois Public Aid Code, subject to the limitations set forth
8 in this Act and in Section 9A-11 of the Illinois Public Aid
9 Code, (iv) as of January 29, 2013 (the effective date of Public
10 Act 97-1158), but not before except as otherwise provided in
11 this subsection (n), home care and home health workers who
12 function as personal assistants and individual maintenance
13 home health workers and who also work under the Home Services
14 Program under Section 3 of the Rehabilitation of Persons with
15 Disabilities Act, no matter whether the State provides those
16 services through direct fee-for-service arrangements, with the
17 assistance of a managed care organization or other
18 intermediary, or otherwise, (v) beginning on the effective date
19 of this amendatory Act of the 98th General Assembly and
20 notwithstanding any other provision of this Act, any person
21 employed by a public employer and who is classified as or who
22 holds the employment title of Chief Stationary Engineer,
23 Assistant Chief Stationary Engineer, Sewage Plant Operator,
24 Water Plant Operator, Stationary Engineer, Plant Operating
25 Engineer, and any other employee who holds the position of:
26 Civil Engineer V, Civil Engineer VI, Civil Engineer VII,

1 Technical Manager I, Technical Manager II, Technical Manager
2 III, Technical Manager IV, Technical Manager V, Technical
3 Manager VI, Realty Specialist III, Realty Specialist IV, Realty
4 Specialist V, Technical Advisor I, Technical Advisor II,
5 Technical Advisor III, Technical Advisor IV, or Technical
6 Advisor V employed by the Department of Transportation who is
7 in a position which is certified in a bargaining unit on or
8 before the effective date of this amendatory Act of the 98th
9 General Assembly, and (vi) beginning on the effective date of
10 this amendatory Act of the 98th General Assembly and
11 notwithstanding any other provision of this Act, any mental
12 health administrator in the Department of Corrections who is
13 classified as or who holds the position of Public Service
14 Administrator (Option 8K), any employee of the Office of the
15 Inspector General in the Department of Human Services who is
16 classified as or who holds the position of Public Service
17 Administrator (Option 7), any Deputy of Intelligence in the
18 Department of Corrections who is classified as or who holds the
19 position of Public Service Administrator (Option 7), and any
20 employee of the Department of State Police who handles issues
21 concerning the Illinois State Police Sex Offender Registry and
22 who is classified as or holds the position of Public Service
23 Administrator (Option 7), but excluding all of the following:
24 employees of the General Assembly of the State of Illinois;
25 elected officials; executive heads of a department; members of
26 boards or commissions; the Executive Inspectors General; any

1 special Executive Inspectors General; employees of each Office
2 of an Executive Inspector General; commissioners and employees
3 of the Executive Ethics Commission; the Auditor General's
4 Inspector General; employees of the Office of the Auditor
5 General's Inspector General; the Legislative Inspector
6 General; any special Legislative Inspectors General; employees
7 of the Office of the Legislative Inspector General;
8 commissioners and employees of the Legislative Ethics
9 Commission; employees of any agency, board or commission
10 created by this Act; employees appointed to State positions of
11 a temporary or emergency nature; all employees of school
12 districts and higher education institutions except
13 firefighters and peace officers employed by a state university
14 and except peace officers employed by a school district in its
15 own police department in existence on the effective date of
16 this amendatory Act of the 96th General Assembly; managerial
17 employees; short-term employees; legislative liaisons; a
18 person who is a State employee under the jurisdiction of the
19 Office of the Attorney General who is licensed to practice law
20 or whose position authorizes, either directly or indirectly,
21 meaningful input into government decision-making on issues
22 where there is room for principled disagreement on goals or
23 their implementation; a person who is a State employee under
24 the jurisdiction of the Office of the Comptroller who holds the
25 position of Public Service Administrator or whose position is
26 otherwise exempt under the Comptroller Merit Employment Code; a

1 person who is a State employee under the jurisdiction of the
2 Secretary of State who holds the position classification of
3 Executive I or higher, whose position authorizes, either
4 directly or indirectly, meaningful input into government
5 decision-making on issues where there is room for principled
6 disagreement on goals or their implementation, or who is
7 otherwise exempt under the Secretary of State Merit Employment
8 Code; employees in the Office of the Secretary of State who are
9 completely exempt from jurisdiction B of the Secretary of State
10 Merit Employment Code and who are in Rutan-exempt positions on
11 or after April 5, 2013 (the effective date of Public Act
12 97-1172); a person who is a State employee under the
13 jurisdiction of the Treasurer who holds a position that is
14 exempt from the State Treasurer Employment Code; any employee
15 of a State agency who (i) holds the title or position of, or
16 exercises substantially similar duties as a legislative
17 liaison, Agency General Counsel, Agency Chief of Staff, Agency
18 Executive Director, Agency Deputy Director, Agency Chief
19 Fiscal Officer, Agency Human Resources Director, Public
20 Information Officer, or Chief Information Officer and (ii) was
21 neither included in a bargaining unit nor subject to an active
22 petition for certification in a bargaining unit; any employee
23 of a State agency who (i) is in a position that is
24 Rutan-exempt, as designated by the employer, and completely
25 exempt from jurisdiction B of the Personnel Code and (ii) was
26 neither included in a bargaining unit nor subject to an active

1 petition for certification in a bargaining unit; any term
2 appointed employee of a State agency pursuant to Section 8b.18
3 or 8b.19 of the Personnel Code who was neither included in a
4 bargaining unit nor subject to an active petition for
5 certification in a bargaining unit; any employment position
6 properly designated pursuant to Section 6.1 of this Act;
7 confidential employees; independent contractors; and
8 supervisors except as provided in this Act.

9 Home care and home health workers who function as personal
10 assistants and individual maintenance home health workers and
11 who also work under the Home Services Program under Section 3
12 of the Rehabilitation of Persons with Disabilities Act shall
13 not be considered public employees for any purposes not
14 specifically provided for in Public Act 93-204 or Public Act
15 97-1158, including but not limited to, purposes of vicarious
16 liability in tort and purposes of statutory retirement or
17 health insurance benefits. Home care and home health workers
18 who function as personal assistants and individual maintenance
19 home health workers and who also work under the Home Services
20 Program under Section 3 of the Rehabilitation of Persons with
21 Disabilities Act shall not be covered by the State Employees
22 Group Insurance Act of 1971 (5 ILCS 375/).

23 Child and day care home providers shall not be considered
24 public employees for any purposes not specifically provided for
25 in this amendatory Act of the 94th General Assembly, including
26 but not limited to, purposes of vicarious liability in tort and

1 purposes of statutory retirement or health insurance benefits.
2 Child and day care home providers shall not be covered by the
3 State Employees Group Insurance Act of 1971.

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

8 (o) Except as otherwise in subsection (o-5), "public
9 employer" or "employer" means the State of Illinois; any
10 political subdivision of the State, unit of local government or
11 school district; authorities including departments, divisions,
12 bureaus, boards, commissions, or other agencies of the
13 foregoing entities; and any person acting within the scope of
14 his or her authority, express or implied, on behalf of those
15 entities in dealing with its employees. As of the effective
16 date of the amendatory Act of the 93rd General Assembly, but
17 not before, the State of Illinois shall be considered the
18 employer of the personal assistants working under the Home
19 Services Program under Section 3 of the Rehabilitation of
20 Persons with Disabilities Act, subject to the limitations set
21 forth in this Act and in the Rehabilitation of Persons with
22 Disabilities Act. As of January 29, 2013 (the effective date of
23 Public Act 97-1158), but not before except as otherwise
24 provided in this subsection (o), the State shall be considered
25 the employer of home care and home health workers who function
26 as personal assistants and individual maintenance home health

1 workers and who also work under the Home Services Program under
2 Section 3 of the Rehabilitation of Persons with Disabilities
3 Act, no matter whether the State provides those services
4 through direct fee-for-service arrangements, with the
5 assistance of a managed care organization or other
6 intermediary, or otherwise, but subject to the limitations set
7 forth in this Act and the Rehabilitation of Persons with
8 Disabilities Act. The State shall not be considered to be the
9 employer of home care and home health workers who function as
10 personal assistants and individual maintenance home health
11 workers and who also work under the Home Services Program under
12 Section 3 of the Rehabilitation of Persons with Disabilities
13 Act, for any purposes not specifically provided for in Public
14 Act 93-204 or Public Act 97-1158, including but not limited to,
15 purposes of vicarious liability in tort and purposes of
16 statutory retirement or health insurance benefits. Home care
17 and home health workers who function as personal assistants and
18 individual maintenance home health workers and who also work
19 under the Home Services Program under Section 3 of the
20 Rehabilitation of Persons with Disabilities Act shall not be
21 covered by the State Employees Group Insurance Act of 1971 (5
22 ILCS 375/). As of the effective date of this amendatory Act of
23 the 94th General Assembly but not before, the State of Illinois
24 shall be considered the employer of the day and child care home
25 providers participating in the child care assistance program
26 under Section 9A-11 of the Illinois Public Aid Code, subject to

1 the limitations set forth in this Act and in Section 9A-11 of
2 the Illinois Public Aid Code. The State shall not be considered
3 to be the employer of child and day care home providers for any
4 purposes not specifically provided for in this amendatory Act
5 of the 94th General Assembly, including but not limited to,
6 purposes of vicarious liability in tort and purposes of
7 statutory retirement or health insurance benefits. Child and
8 day care home providers shall not be covered by the State
9 Employees Group Insurance Act of 1971.

10 "Public employer" or "employer" as used in this Act,
11 however, does not mean and shall not include the General
12 Assembly of the State of Illinois, the Executive Ethics
13 Commission, the Offices of the Executive Inspectors General,
14 the Legislative Ethics Commission, the Office of the
15 Legislative Inspector General, the Office of the Auditor
16 General's Inspector General, the Office of the Governor, the
17 Governor's Office of Management and Budget, the Illinois
18 Finance Authority, the Office of the Lieutenant Governor, the
19 State Board of Elections, and educational employers or
20 employers as defined in the Illinois Educational Labor
21 Relations Act, except with respect to a state university in its
22 employment of firefighters and peace officers and except with
23 respect to a school district in the employment of peace
24 officers in its own police department in existence on the
25 effective date of this amendatory Act of the 96th General
26 Assembly. County boards and county sheriffs shall be designated

1 as joint or co-employers of county peace officers appointed
2 under the authority of a county sheriff. Nothing in this
3 subsection (o) shall be construed to prevent the State Panel or
4 the Local Panel from determining that employers are joint or
5 co-employers.

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

11 (1) For court reporters employed by the Cook County
12 Judicial Circuit, the chief judge of the Cook County
13 Circuit Court is the public employer and employer
14 representative.

15 (2) For court reporters employed by the 12th, 18th,
16 19th, and, on and after December 4, 2006, the 22nd judicial
17 circuits, a group consisting of the chief judges of those
18 circuits, acting jointly by majority vote, is the public
19 employer and employer representative.

20 (3) For court reporters employed by all other judicial
21 circuits, a group consisting of the chief judges of those
22 circuits, acting jointly by majority vote, is the public
23 employer and employer representative.

24 (p) "Security employee" means an employee who is
25 responsible for the supervision and control of inmates at
26 correctional facilities. The term also includes other

1 non-security employees in bargaining units having the majority
2 of employees being responsible for the supervision and control
3 of inmates at correctional facilities.

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

9 (q-5) "State agency" means an agency directly responsible
10 to the Governor, as defined in Section 3.1 of the Executive
11 Reorganization Implementation Act, and the Illinois Commerce
12 Commission, the Illinois Workers' Compensation Commission, the
13 Civil Service Commission, the Pollution Control Board, the
14 Illinois Racing Board, and the Department of State Police Merit
15 Board.

16 (r) "Supervisor" is:

17 (1) An employee whose principal work is substantially
18 different from that of his or her subordinates and who has
19 authority, in the interest of the employer, to hire,
20 transfer, suspend, lay off, recall, promote, discharge,
21 direct, reward, or discipline employees, to adjust their
22 grievances, or to effectively recommend any of those
23 actions without independent review by others, if the
24 exercise of that authority is not of a merely routine or
25 clerical nature, but requires the consistent use of
26 independent judgment on behalf of the employer. The

1 authority to assign is not an indication of supervisory
2 status. Except with respect to police employment, the term
3 "supervisor" includes only those individuals who devote a
4 majority preponderance of their employment time to the
5 actual exercise of ~~exercising~~ that authority, ~~State~~
6 ~~supervisors notwithstanding.~~ Determinations of supervisor
7 status shall be based on actual employee job duties and not
8 on written job descriptions. Nothing in this definition
9 prohibits an individual from also meeting the definition of
10 "managerial employee" under subsection (j) of this
11 Section. In addition, in determining supervisory status in
12 police employment, rank shall not be determinative. The
13 Board shall consider, as evidence of bargaining unit
14 inclusion or exclusion, the common law enforcement
15 policies and relationships between police officer ranks
16 and certification under applicable civil service law,
17 ordinances, personnel codes, or Division 2.1 of Article 10
18 of the Illinois Municipal Code, but these factors shall not
19 be the sole or predominant factors considered by the Board
20 in determining police supervisory status. Subject to the
21 following provisions of this subsection (r), the
22 definition of "supervisor" herein applies to all public
23 employees.

24 Notwithstanding the provisions of the preceding
25 paragraph, in determining supervisory status in fire
26 fighter employment, no fire fighter shall be excluded as a

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

13 (2) With respect only to State employees in positions
14 under the jurisdiction of the Attorney General, Secretary
15 of State, Comptroller, or Treasurer (i) that were certified
16 in a bargaining unit on or after December 2, 2008, (ii) for
17 which a petition is filed with the Illinois Public Labor
18 Relations Board on or after April 5, 2013 (the effective
19 date of Public Act 97-1172), or (iii) for which a petition
20 is pending before the Illinois Public Labor Relations Board
21 on that date, an employee who qualifies as a supervisor
22 under (A) Section 152 of the National Labor Relations Act
23 and (B) orders of the National Labor Relations Board
24 interpreting that provision or decisions of courts
25 reviewing decisions of the National Labor Relations Board.

26 (s)(1) "Unit" means a class of jobs or positions that are

1 held by employees whose collective interests may suitably be
2 represented by a labor organization for collective bargaining.
3 Except with respect to non-State fire fighters and paramedics
4 employed by fire departments and fire protection districts,
5 non-State peace officers, and peace officers in the Department
6 of State Police, a bargaining unit determined by the Board
7 shall not include both employees and supervisors, or
8 supervisors only, except as provided in paragraph (2) of this
9 subsection (s) and except for bargaining units in existence on
10 July 1, 1984 (the effective date of this Act). With respect to
11 non-State fire fighters and paramedics employed by fire
12 departments and fire protection districts, non-State peace
13 officers, and peace officers in the Department of State Police,
14 a bargaining unit determined by the Board shall not include
15 both supervisors and nonsupervisors, or supervisors only,
16 except as provided in paragraph (2) of this subsection (s) and
17 except for bargaining units in existence on January 1, 1986
18 (the effective date of this amendatory Act of 1985). A
19 bargaining unit determined by the Board to contain peace
20 officers shall contain no employees other than peace officers
21 unless otherwise agreed to by the employer and the labor
22 organization or labor organizations involved. Notwithstanding
23 any other provision of this Act, a bargaining unit, including a
24 historical bargaining unit, containing sworn peace officers of
25 the Department of Natural Resources (formerly designated the
26 Department of Conservation) shall contain no employees other

1 than such sworn peace officers upon the effective date of this
2 amendatory Act of 1990 or upon the expiration date of any
3 collective bargaining agreement in effect upon the effective
4 date of this amendatory Act of 1990 covering both such sworn
5 peace officers and other employees. In bargaining units created
6 after the effective date of this amendatory Act of the 101st
7 General Assembly, a bargaining unit determined by the Board
8 shall not include both employees and managerial employees, or
9 managerial employees only, except as provided in paragraph (4)
10 of this subsection (s).

11 (2) Notwithstanding the exclusion of supervisors from
12 bargaining units as provided in paragraph (1) of this
13 subsection (s), a public employer may agree to permit its
14 supervisory employees to form bargaining units and may bargain
15 with those units. This Act shall apply if the public employer
16 chooses to bargain under this subsection. Changes to bargaining
17 units formed under this paragraph (2) shall be made only in
18 accordance with Section 9.

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 (4) Notwithstanding the exclusion of managerial employees
 2 from bargaining units as provided in paragraph (1) of this
 3 subsection (s), a public employer may agree to permit its
 4 managerial employees to form bargaining units and may bargain
 5 with those units. This Act shall apply if the public employer
 6 chooses to bargain under this subsection (s). Changes to
 7 bargaining units formed under this paragraph (4) shall be made
 8 only in accordance with Section 9.

9 (t) "Active petition for certification in a bargaining
 10 unit" means a petition for certification filed with the Board
 11 under one of the following case numbers: S-RC-11-110;
 12 S-RC-11-098; S-UC-11-080; S-RC-11-086; S-RC-11-074;
 13 S-RC-11-076; S-RC-11-078; S-UC-11-052; S-UC-11-054;
 14 S-RC-11-062; S-RC-11-060; S-RC-11-042; S-RC-11-014;
 15 S-RC-11-016; S-RC-11-020; S-RC-11-030; S-RC-11-004;
 16 S-RC-10-244; S-RC-10-228; S-RC-10-222; S-RC-10-220;
 17 S-RC-10-214; S-RC-10-196; S-RC-10-194; S-RC-10-178;
 18 S-RC-10-176; S-RC-10-162; S-RC-10-156; S-RC-10-088;
 19 S-RC-10-074; S-RC-10-076; S-RC-10-078; S-RC-10-060;
 20 S-RC-10-070; S-RC-10-044; S-RC-10-038; S-RC-10-040;
 21 S-RC-10-042; S-RC-10-018; S-RC-10-024; S-RC-10-004;
 22 S-RC-10-006; S-RC-10-008; S-RC-10-010; S-RC-10-012;
 23 S-RC-09-202; S-RC-09-182; S-RC-09-180; S-RC-09-156;
 24 S-UC-09-196; S-UC-09-182; S-RC-08-130; S-RC-07-110; or
 25 S-RC-07-100.

26 (Source: P.A. 99-143, eff. 7-27-15; 100-1131, eff. 11-28-18.)

1 (5 ILCS 315/9) (from Ch. 48, par. 1609)

2 Sec. 9. Elections; recognition.

3 (a) Whenever in accordance with such regulations as may be
4 prescribed by the Board a petition has been filed:

5 (1) by a public employee or group of public employees
6 or any labor organization acting in their behalf
7 demonstrating that 30% of the public employees in an
8 appropriate unit (A) wish to be represented for the
9 purposes of collective bargaining by a labor organization
10 as exclusive representative, or (B) asserting that the
11 labor organization which has been certified or is currently
12 recognized by the public employer as bargaining
13 representative is no longer the representative of the
14 majority of public employees in the unit; or

15 (2) by a public employer alleging that one or more
16 labor organizations have presented to it a claim that they
17 be recognized as the representative of a majority of the
18 public employees in an appropriate unit,

19 the Board shall investigate such petition, and if it has
20 reasonable cause to believe that a question of representation
21 exists, shall provide for an appropriate hearing upon due
22 notice. Such hearing shall be held at the offices of the Board
23 or such other location as the Board deems appropriate. If it
24 finds upon the record of the hearing that a question of
25 representation exists, it shall direct an election in

1 accordance with subsection (d) of this Section, which election
2 shall be held not later than 120 days after the date the
3 petition was filed regardless of whether that petition was
4 filed before or after the effective date of this amendatory Act
5 of 1987; provided, however, the Board may extend the time for
6 holding an election by an additional 60 days if, upon motion by
7 a person who has filed a petition under this Section or is the
8 subject of a petition filed under this Section and is a party
9 to such hearing, or upon the Board's own motion, the Board
10 finds that good cause has been shown for extending the election
11 date; provided further, that nothing in this Section shall
12 prohibit the Board, in its discretion, from extending the time
13 for holding an election for so long as may be necessary under
14 the circumstances, where the purpose for such extension is to
15 permit resolution by the Board of an unfair labor practice
16 charge filed by one of the parties to a representational
17 proceeding against the other based upon conduct which may
18 either affect the existence of a question concerning
19 representation or have a tendency to interfere with a fair and
20 free election, where the party filing the charge has not filed
21 a request to proceed with the election; and provided further
22 that prior to the expiration of the total time allotted for
23 holding an election, a person who has filed a petition under
24 this Section or is the subject of a petition filed under this
25 Section and is a party to such hearing or the Board, may move
26 for and obtain the entry of an order in the circuit court of

1 the county in which the majority of the public employees sought
2 to be represented by such person reside, such order extending
3 the date upon which the election shall be held. Such order
4 shall be issued by the circuit court only upon a judicial
5 finding that there has been a sufficient showing that there is
6 good cause to extend the election date beyond such period and
7 shall require the Board to hold the election as soon as is
8 feasible given the totality of the circumstances. Such 120 day
9 period may be extended one or more times by the agreement of
10 all parties to the hearing to a date certain without the
11 necessity of obtaining a court order. Nothing in this Section
12 prohibits the waiving of hearings by stipulation for the
13 purpose of a consent election in conformity with the rules and
14 regulations of the Board or an election in a unit agreed upon
15 by the parties. Other interested employee organizations may
16 intervene in the proceedings in the manner and within the time
17 period specified by rules and regulations of the Board.
18 Interested parties who are necessary to the proceedings may
19 also intervene in the proceedings in the manner and within the
20 time period specified by the rules and regulations of the
21 Board.

22 (a-5) The Board shall designate an exclusive
23 representative for purposes of collective bargaining when the
24 representative demonstrates a showing of majority interest by
25 employees in the unit. If the parties to a dispute are without
26 agreement on the means to ascertain the choice, if any, of

1 employee organization as their representative, the Board shall
2 ascertain the employees' choice of employee organization, on
3 the basis of dues deduction authorization or other evidence,
4 or, if necessary, by conducting an election. All evidence
5 submitted by an employee organization to the Board to ascertain
6 an employee's choice of an employee organization is
7 confidential and shall not be submitted to the employer for
8 review. The Board shall ascertain the employee's choice of
9 employee organization within 120 days after the filing of the
10 majority interest petition; however, the Board may extend time
11 by an additional 60 days, upon its own motion or upon the
12 motion of a party to the proceeding. If either party provides
13 to the Board, before the designation of a representative, clear
14 and convincing evidence that the dues deduction
15 authorizations, and other evidence upon which the Board would
16 otherwise rely to ascertain the employees' choice of
17 representative, are fraudulent or were obtained through
18 coercion, the Board shall promptly thereafter conduct an
19 election. The Board shall also investigate and consider a
20 party's allegations that the dues deduction authorizations and
21 other evidence submitted in support of a designation of
22 representative without an election were subsequently changed,
23 altered, withdrawn, or withheld as a result of employer fraud,
24 coercion, or any other unfair labor practice by the employer.
25 If the Board determines that a labor organization would have
26 had a majority interest but for an employer's fraud, coercion,

1 or unfair labor practice, it shall designate the labor
2 organization as an exclusive representative without conducting
3 an election. If a hearing is necessary to resolve any issues of
4 representation under this Section, the Board shall conclude its
5 hearing process and issue a certification of the entire
6 appropriate unit not later than 120 days after the date the
7 petition was filed. The 120-day period may be extended one or
8 more times by the agreement of all parties to a hearing to a
9 date certain.

10 (a-6) A labor organization or an employer may file a unit
11 clarification petition seeking to clarify an existing
12 bargaining unit. Unit clarification petitions may be filed only
13 if: (1) substantial changes occur in the duties and functions
14 of an existing job title, raising an issue as to the title's
15 unit placement; (2) an existing job title that is logically
16 encompassed within the existing unit was inadvertently
17 excluded by the parties at the time the unit was established;
18 (3) a newly created job title is logically encompassed within
19 an existing unit; (4) a significant change takes place in
20 statutory law that affects the bargaining rights of employees;
21 (5) a determination needs to be made as to the unit placement
22 of positions in dispute following a majority interest
23 certification of representative issued under subsection (a-5);
24 (6) a determination needs to be made as to the unit placement
25 of positions in dispute following a certification of
26 representative issued following a direction of election under

1 subsection (d); (7) the parties have agreed to eliminate a
2 position or title because the employer no longer uses it; or
3 (8) the parties have agreed to exclude some of the positions in
4 a title or classification from a bargaining unit and include
5 others. The Board shall conclude its investigation, including
6 any hearing process deemed necessary, and issue a certification
7 of clarified unit or dismiss the petition not later than 120
8 days after the date the petition was filed. The 120-day period
9 may be extended one or more times by the agreement of all
10 parties to a hearing to a date certain.

11 (b) The Board shall decide in each case, in order to assure
12 public employees the fullest freedom in exercising the rights
13 guaranteed by this Act, a unit appropriate for the purpose of
14 collective bargaining, based upon but not limited to such
15 factors as: historical pattern of recognition; community of
16 interest including employee skills and functions; degree of
17 functional integration; interchangeability and contact among
18 employees; fragmentation of employee groups; common
19 supervision, wages, hours and other working conditions of the
20 employees involved; and the desires of the employees. For
21 purposes of this subsection, fragmentation shall not be the
22 sole or predominant factor used by the Board in determining an
23 appropriate bargaining unit. Except with respect to non-State
24 fire fighters and paramedics employed by fire departments and
25 fire protection districts, non-State peace officers and peace
26 officers in the State Department of State Police, a single

1 bargaining unit determined by the Board may not include both
2 supervisors and nonsupervisors, except for bargaining units in
3 existence on the effective date of this Act. With respect to
4 non-State fire fighters and paramedics employed by fire
5 departments and fire protection districts, non-State peace
6 officers and peace officers in the State Department of State
7 Police, a single bargaining unit determined by the Board may
8 not include both supervisors and nonsupervisors, except for
9 bargaining units in existence on the effective date of this
10 amendatory Act of 1985.

11 In cases involving an historical pattern of recognition,
12 and in cases where the employer has recognized the union as the
13 sole and exclusive bargaining agent for a specified existing
14 unit, the Board shall find the employees in the unit then
15 represented by the union pursuant to the recognition to be the
16 appropriate unit.

17 Notwithstanding the above factors, where the majority of
18 public employees of a craft so decide, the Board shall
19 designate such craft as a unit appropriate for the purposes of
20 collective bargaining.

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

25 In describing the unit found appropriate for purposes of
26 collective bargaining, the Board shall, at a party's request,

1 describe the unit in job function terms rather than by job
2 titles. Unit descriptions may also include those currently
3 existing job titles that perform the job functions. A
4 bargaining unit shall also include positions later filled that
5 perform the job functions of a unit and job titles later
6 created that: (i) are successor job titles to the currently
7 existing job titles; (ii) perform the same or substantially
8 similar job functions as the currently existing job titles; or
9 (iii) are logically encompassed within an existing unit. The
10 provisions of this paragraph shall apply to bargaining units in
11 existence on the effective date of this amendatory Act of the
12 101st General Assembly.

13 (c) Nothing in this Act shall interfere with or negate the
14 current representation rights or patterns and practices of
15 labor organizations which have historically represented public
16 employees for the purpose of collective bargaining, including
17 but not limited to the negotiations of wages, hours and working
18 conditions, discussions of employees' grievances, resolution
19 of jurisdictional disputes, or the establishment and
20 maintenance of prevailing wage rates, unless a majority of
21 employees so represented express a contrary desire pursuant to
22 the procedures set forth in this Act.

23 (d) In instances where the employer does not voluntarily
24 recognize a labor organization as the exclusive bargaining
25 representative for a unit of employees, the Board shall
26 determine the majority representative of the public employees

1 in an appropriate collective bargaining unit by conducting a
2 secret ballot election, except as otherwise provided in
3 subsection (a-5). Within 7 days after the Board issues its
4 bargaining unit determination and direction of election or the
5 execution of a stipulation for the purpose of a consent
6 election, the public employer shall submit to the labor
7 organization the complete names and addresses of those
8 employees who are determined by the Board to be eligible to
9 participate in the election. When the Board has determined that
10 a labor organization has been fairly and freely chosen by a
11 majority of employees in an appropriate unit, it shall certify
12 such organization as the exclusive representative. If the Board
13 determines that a majority of employees in an appropriate unit
14 has fairly and freely chosen not to be represented by a labor
15 organization, it shall so certify. The Board may also revoke
16 the certification of the public employee organizations as
17 exclusive bargaining representatives which have been found by a
18 secret ballot election to be no longer the majority
19 representative.

20 (e) The Board shall not conduct an election in any
21 bargaining unit or any subdivision thereof within which a valid
22 election has been held in the preceding 12-month period. The
23 Board shall determine who is eligible to vote in an election
24 and shall establish rules governing the conduct of the election
25 or conduct affecting the results of the election. The Board
26 shall include on a ballot in a representation election a choice

1 of "no representation". A labor organization currently
2 representing the bargaining unit of employees shall be placed
3 on the ballot in any representation election. In any election
4 where none of the choices on the ballot receives a majority, a
5 runoff election shall be conducted between the 2 choices
6 receiving the largest number of valid votes cast in the
7 election. A labor organization which receives a majority of the
8 votes cast in an election shall be certified by the Board as
9 exclusive representative of all public employees in the unit.

10 (f) A labor organization shall be designated as the
11 exclusive representative by a public employer, provided that
12 the labor organization represents a majority of the public
13 employees in an appropriate unit. Any employee organization
14 which is designated or selected by the majority of public
15 employees, in a unit of the public employer having no other
16 recognized or certified representative, as their
17 representative for purposes of collective bargaining may
18 request recognition by the public employer in writing. The
19 public employer shall post such request for a period of at
20 least 20 days following its receipt thereof on bulletin boards
21 or other places used or reserved for employee notices.

22 (g) Within the 20-day period any other interested employee
23 organization may petition the Board in the manner specified by
24 rules and regulations of the Board, provided that such
25 interested employee organization has been designated by at
26 least 10% of the employees in an appropriate bargaining unit

1 which includes all or some of the employees in the unit
2 recognized by the employer. In such event, the Board shall
3 proceed with the petition in the same manner as provided by
4 paragraph (1) of subsection (a) of this Section.

5 (h) No election shall be directed by the Board in any
6 bargaining unit where there is in force a valid collective
7 bargaining agreement. The Board, however, may process an
8 election petition filed between 90 and 60 days prior to the
9 expiration of the date of an agreement, and may further refine,
10 by rule or decision, the implementation of this provision.
11 Where more than 4 years have elapsed since the effective date
12 of the agreement, the agreement shall continue to bar an
13 election, except that the Board may process an election
14 petition filed between 90 and 60 days prior to the end of the
15 fifth year of such an agreement, and between 90 and 60 days
16 prior to the end of each successive year of such agreement.

17 (i) An order of the Board dismissing a representation
18 petition, determining and certifying that a labor organization
19 has been fairly and freely chosen by a majority of employees in
20 an appropriate bargaining unit, determining and certifying
21 that a labor organization has not been fairly and freely chosen
22 by a majority of employees in the bargaining unit or certifying
23 a labor organization as the exclusive representative of
24 employees in an appropriate bargaining unit because of a
25 determination by the Board that the labor organization is the
26 historical bargaining representative of employees in the

1 bargaining unit, is a final order. Any person aggrieved by any
2 such order issued on or after the effective date of this
3 amendatory Act of 1987 may apply for and obtain judicial review
4 in accordance with provisions of the Administrative Review Law,
5 as now or hereafter amended, except that such review shall be
6 afforded directly in the Appellate Court for the district in
7 which the aggrieved party resides or transacts business. Any
8 direct appeal to the Appellate Court shall be filed within 35
9 days from the date that a copy of the decision sought to be
10 reviewed was served upon the party affected by the decision.

11 (Source: P.A. 95-331, eff. 8-21-07; 96-813, eff. 10-30-09.)

12 (5 ILCS 315/21.5)

13 Sec. 21.5. Termination of certain agreements after
14 constitutional officers take office.

15 (a) No collective bargaining agreement entered into, on or
16 after the effective date of this amendatory Act of the 96th
17 General Assembly between an executive branch constitutional
18 officer or any agency or department of an executive branch
19 constitutional officer and a labor organization may extend more
20 than 12 months after the date on ~~beyond June 30th of the year~~
21 ~~in~~ which the terms of office of executive branch constitutional
22 officers begin.

23 (b) No collective bargaining agreement entered into, on or
24 after the effective date of this amendatory Act of the 96th
25 General Assembly between an executive branch constitutional

1 officer or any agency or department of an executive branch
2 constitutional officer and a labor organization may provide for
3 an increase in salary, wages, or benefits starting on or after
4 the first day of the terms of office of executive branch
5 constitutional officers and ending June 30th of that same year.
6 The provisions of this subsection (b) shall not apply to
7 salary, pay schedules, or benefits that would continue because
8 of the duty to maintain the status quo and to bargain in good
9 faith.

10 (c) Any collective bargaining agreement in violation of
11 this Section is terminated and rendered null and void by
12 operation of law.

13 (d) For purposes of this Section, "executive branch
14 constitutional officer" has the same meaning as that term is
15 defined in the State Officials and Employees Ethics Act.

16 (Source: P.A. 96-1529, eff. 2-16-11.)

17 Section 99. Effective date. This Act takes effect upon
18 becoming law.