



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB3473

Introduced 2/22/2021, 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.

LRB102 14716 RJF 20069 b

1 AN ACT concerning labor relations.

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
15 other conditions of employment, as detailed in Section 7 and
16 which 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
17 Police, means the labor organization that has been (i)
18 designated by the Board as the representative of a majority of
19 public employees in an appropriate bargaining unit in
20 accordance with the procedures contained in this Act, (ii)
21 historically recognized by the State of Illinois or any
22 political subdivision of the State before July 1, 1984 (the
23 effective date of this Act) as the exclusive representative of
24 the employees in an appropriate bargaining unit, (iii) after
25 July 1, 1984 (the effective date of this Act) recognized by an
26 employer upon evidence, acceptable to the Board, that the

1 labor organization has been designated as the exclusive
2 representative by a majority of the employees in an
3 appropriate 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
9 the exclusive representative of child and day care home
10 providers, including licensed and license exempt providers,
11 pursuant to an election held under Executive Order 2005-1
12 prior to the effective date of this amendatory Act of the 94th
13 General Assembly, and the organization shall be considered to
14 be the 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
22 fighters in an appropriate bargaining unit in accordance with
23 the procedures contained in this Act, (ii) historically
24 recognized by the State of Illinois or any political
25 subdivision of the State before January 1, 1986 (the effective
26 date of this amendatory Act of 1985) as the exclusive

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

8 Where a historical pattern of representation exists for
9 the workers of a water system that was owned by a public
10 utility, as defined in Section 3-105 of the Public Utilities
11 Act, prior to becoming certified employees of a municipality
12 or 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
21 of the employees in a collective bargaining unit are required
22 to pay their proportionate share of the costs of the
23 collective bargaining process, contract administration, and
24 pursuing matters affecting wages, hours, and other conditions
25 of 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
4 preclude an employee from making voluntary political
5 contributions in conjunction with his or her fair share
6 payment.

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

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

1 Support Services and any legislative support services agency
2 listed in the Legislative Commission Reorganization Act of
3 1984.

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

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

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

25 (j) "Managerial employee" means an individual who is
26 engaged ~~predominantly~~ in executive and management functions

1 for a majority of his or her employment time and is charged
2 with the responsibility of, and devotes a majority of his or
3 her employment time to, directing the effectuation of
4 management policies and practices. Exercise of discretion or
5 acting on behalf of an office holder, agency head, or board or
6 commission by professional employees, including attorneys, as
7 part of the performance of their work as professional
8 employees, does not constitute evidence of executive and
9 management functions or of directing the effectuation of
10 management policies and practices. Determination of managerial
11 employee status shall be based on actual employee job duties
12 and not on written job descriptions. No employee shall be
13 determined to be a managerial employee as a matter of law. With
14 respect only to State employees in positions under the
15 jurisdiction of the Attorney General, Secretary of State,
16 Comptroller, or Treasurer (i) that were certified in a
17 bargaining unit on or after December 2, 2008, (ii) for which a
18 petition is filed with the Illinois Public Labor Relations
19 Board on or after April 5, 2013 (the effective date of Public
20 Act 97-1172), or (iii) for which a petition is pending before
21 the Illinois Public Labor Relations Board on that date,
22 "managerial employee" means an individual who is engaged in
23 executive and management functions or who is charged with the
24 effectuation of management policies and practices or who
25 represents management interests by taking or recommending
26 discretionary actions that effectively control or implement

1 policy. Nothing in this definition prohibits an individual
2 from also meeting the definition of "supervisor" under
3 subsection (r) of this Section. The definition of "managerial
4 employee" herein applies to all public employees.

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

23 (l) "Person" includes one or more individuals, labor
24 organizations, public employees, associations, corporations,
25 legal representatives, trustees, trustees in bankruptcy,
26 receivers, or the State of Illinois or any political

1 subdivision of the State or governing body, but does not
2 include the General Assembly of the State of Illinois or any
3 individual employed by the General Assembly of the State of
4 Illinois.

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

23 (n) "Public employee" or "employee", for the purposes of
24 this Act, means any individual employed by a public employer,
25 including (i) interns and residents at public hospitals, (ii)
26 as of the effective date of this amendatory Act of the 93rd

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

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

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

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

1 Rutan-exempt, as designated by the employer, and completely
2 exempt from jurisdiction B of the Personnel Code and (ii) was
3 neither included in a bargaining unit nor subject to an active
4 petition for certification in a bargaining unit; any term
5 appointed employee of a State agency pursuant to Section 8b.18
6 or 8b.19 of the Personnel Code who was neither included in a
7 bargaining unit nor subject to an active petition for
8 certification in a bargaining unit; any employment position
9 properly designated pursuant to Section 6.1 of this Act;
10 confidential employees; independent contractors; and
11 supervisors except as provided in this Act.

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

26 Child and day care home providers shall not be considered

1 public employees for any purposes not specifically provided
2 for in this amendatory Act of the 94th General Assembly,
3 including but not limited to, purposes of vicarious liability
4 in tort and purposes of statutory retirement or health
5 insurance benefits. Child and day care home providers shall
6 not be covered by the State Employees Group Insurance Act of
7 1971.

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

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

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

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

14 "Public employer" or "employer" as used in this Act,
15 however, does not mean and shall not include the General
16 Assembly of the State of Illinois, the Executive Ethics
17 Commission, the Offices of the Executive Inspectors General,
18 the Legislative Ethics Commission, the Office of the
19 Legislative Inspector General, the Office of the Auditor
20 General's Inspector General, the Office of the Governor, the
21 Governor's Office of Management and Budget, the Illinois
22 Finance Authority, the Office of the Lieutenant Governor, the
23 State Board of Elections, and educational employers or
24 employers as defined in the Illinois Educational Labor
25 Relations Act, except with respect to a state university in
26 its employment of firefighters and peace officers and except

1 with respect to a school district in the employment of peace
2 officers in its own police department in existence on the
3 effective date of this amendatory Act of the 96th General
4 Assembly. County boards and county sheriffs shall be
5 designated as joint or co-employers of county peace officers
6 appointed under the authority of a county sheriff. Nothing in
7 this subsection (o) shall be construed to prevent the State
8 Panel or the Local Panel from determining that employers are
9 joint or co-employers.

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

15 (1) For court reporters employed by the Cook County
16 Judicial Circuit, the chief judge of the Cook County
17 Circuit Court is the public employer and employer
18 representative.

19 (2) For court reporters employed by the 12th, 18th,
20 19th, and, on and after December 4, 2006, the 22nd
21 judicial circuits, a group consisting of the chief judges
22 of those circuits, acting jointly by majority vote, is the
23 public employer and employer representative.

24 (3) For court reporters employed by all other judicial
25 circuits, a group consisting of the chief judges of those
26 circuits, acting jointly by majority vote, is the public

1 employer and employer representative.

2 (p) "Security employee" means an employee who is
3 responsible for the supervision and control of inmates at
4 correctional facilities. The term also includes other
5 non-security employees in bargaining units having the majority
6 of employees being responsible for the supervision and control
7 of inmates at correctional facilities.

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

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

20 (r) "Supervisor" is:

21 (1) An employee whose principal work is substantially
22 different from that of his or her subordinates and who has
23 authority, in the interest of the employer, to hire,
24 transfer, suspend, lay off, recall, promote, discharge,
25 direct, reward, or discipline employees, to adjust their
26 grievances, or to effectively recommend any of those

1 actions without independent review by others, if the
2 exercise of that authority is not of a merely routine or
3 clerical nature, but requires the consistent use of
4 independent judgment on behalf of the employer. The
5 authority to assign is not an indication of supervisory
6 status. Except with respect to police employment, the term
7 "supervisor" includes only those individuals who devote a
8 majority preponderance of their employment time to the
9 actual exercise of ~~exercising~~ that authority, ~~State~~
10 ~~supervisors notwithstanding~~. Determinations of supervisor
11 status shall be based on actual employee job duties and
12 not on written job descriptions. Nothing in this
13 definition prohibits an individual from also meeting the
14 definition of "managerial employee" under subsection (j)
15 of this Section. In addition, in determining supervisory
16 status in police employment, rank shall not be
17 determinative. The Board shall consider, as evidence of
18 bargaining unit inclusion or exclusion, the common law
19 enforcement policies and relationships between police
20 officer ranks and certification under applicable civil
21 service law, ordinances, personnel codes, or Division 2.1
22 of Article 10 of the Illinois Municipal Code, but these
23 factors shall not be the sole or predominant factors
24 considered by the Board in determining police supervisory
25 status. Subject to the following provisions of this
26 subsection (r), the definition of "supervisor" herein

1 applies to all public employees.

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

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

1 National Labor Relations Act and (B) orders of the
2 National Labor Relations Board interpreting that provision
3 or decisions of courts reviewing decisions of the National
4 Labor Relations Board.

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

1 organization or labor organizations involved. Notwithstanding
2 any other provision of this Act, a bargaining unit, including
3 a historical bargaining unit, containing sworn peace officers
4 of the Department of Natural Resources (formerly designated
5 the Department of Conservation) shall contain no employees
6 other than such sworn peace officers upon the effective date
7 of this amendatory Act of 1990 or upon the expiration date of
8 any collective bargaining agreement in effect upon the
9 effective date of this amendatory Act of 1990 covering both
10 such sworn peace officers and other employees. In bargaining
11 units created after the effective date of this amendatory Act
12 of the 102nd General Assembly, a bargaining unit determined by
13 the Board shall not include both employees and managerial
14 employees, or managerial employees only, except as provided in
15 paragraph (4) of this subsection (s).

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

24 (3) Public employees who are court reporters, as defined
25 in the Court Reporters Act, shall be divided into 3 units for
26 collective bargaining purposes. One unit shall be court

1 reporters employed by the Cook County Judicial Circuit; one
 2 unit shall be court reporters employed by the 12th, 18th,
 3 19th, and, on and after December 4, 2006, the 22nd judicial
 4 circuits; and one unit shall be court reporters employed by
 5 all other judicial circuits.

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

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

1 S-RC-10-006; S-RC-10-008; S-RC-10-010; S-RC-10-012;
2 S-RC-09-202; S-RC-09-182; S-RC-09-180; S-RC-09-156;
3 S-UC-09-196; S-UC-09-182; S-RC-08-130; S-RC-07-110; or
4 S-RC-07-100.

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

6 (5 ILCS 315/9) (from Ch. 48, par. 1609)

7 Sec. 9. Elections; recognition.

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

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

20 (2) by a public employer alleging that one or more
21 labor organizations have presented to it a claim that they
22 be recognized as the representative of a majority of the
23 public employees in an appropriate unit,
24 the Board shall investigate such petition, and if it has
25 reasonable cause to believe that a question of representation

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

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

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

1 representative without an election were subsequently changed,
2 altered, withdrawn, or withheld as a result of employer fraud,
3 coercion, or any other unfair labor practice by the employer.
4 If the Board determines that a labor organization would have
5 had a majority interest but for an employer's fraud, coercion,
6 or unfair labor practice, it shall designate the labor
7 organization as an exclusive representative without conducting
8 an election. If a hearing is necessary to resolve any issues of
9 representation under this Section, the Board shall conclude
10 its hearing process and issue a certification of the entire
11 appropriate unit not later than 120 days after the date the
12 petition was filed. The 120-day period may be extended one or
13 more times by the agreement of all parties to a hearing to a
14 date certain.

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

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

17 (b) The Board shall decide in each case, in order to assure
18 public employees the fullest freedom in exercising the rights
19 guaranteed by this Act, a unit appropriate for the purpose of
20 collective bargaining, based upon but not limited to such
21 factors as: historical pattern of recognition; community of
22 interest including employee skills and functions; degree of
23 functional integration; interchangeability and contact among
24 employees; fragmentation of employee groups; common
25 supervision, wages, hours and other working conditions of the
26 employees involved; and the desires of the employees. For

1 purposes of this subsection, fragmentation shall not be the
2 sole or predominant factor used by the Board in determining an
3 appropriate bargaining unit. Except with respect to non-State
4 fire fighters and paramedics employed by fire departments and
5 fire protection districts, non-State peace officers and peace
6 officers in the State Department of State Police, a single
7 bargaining unit determined by the Board may not include both
8 supervisors and nonsupervisors, except for bargaining units in
9 existence on the effective date of this Act. With respect to
10 non-State fire fighters and paramedics employed by fire
11 departments and fire protection districts, non-State peace
12 officers and peace officers in the State Department of State
13 Police, a single bargaining unit determined by the Board may
14 not include both supervisors and nonsupervisors, except for
15 bargaining units in existence on the effective date of this
16 amendatory Act of 1985.

17 In cases involving an historical pattern of recognition,
18 and in cases where the employer has recognized the union as the
19 sole and exclusive bargaining agent for a specified existing
20 unit, the Board shall find the employees in the unit then
21 represented by the union pursuant to the recognition to be the
22 appropriate unit.

23 Notwithstanding the above factors, where the majority of
24 public employees of a craft so decide, the Board shall
25 designate such craft as a unit appropriate for the purposes of
26 collective bargaining.

1 The Board shall not decide that any unit is appropriate if
2 such unit includes both professional and nonprofessional
3 employees, unless a majority of each group votes for inclusion
4 in such unit.

5 In describing the unit found appropriate for purposes of
6 collective bargaining, the Board shall, at a party's request,
7 describe the unit in job function terms rather than by job
8 titles. Unit descriptions may also include those currently
9 existing job titles that perform the job functions. A
10 bargaining unit shall also include positions later filled that
11 perform the job functions of a unit and job titles later
12 created that: (i) are successor job titles to the currently
13 existing job titles; (ii) perform the same or substantially
14 similar job functions as the currently existing job titles; or
15 (iii) are logically encompassed within an existing unit. The
16 provisions of this paragraph shall apply to bargaining units
17 in existence on the effective date of this amendatory Act of
18 the 102nd General Assembly.

19 (c) Nothing in this Act shall interfere with or negate the
20 current representation rights or patterns and practices of
21 labor organizations which have historically represented public
22 employees for the purpose of collective bargaining, including
23 but not limited to the negotiations of wages, hours and
24 working conditions, discussions of employees' grievances,
25 resolution of jurisdictional disputes, or the establishment
26 and maintenance of prevailing wage rates, unless a majority of

1 employees so represented express a contrary desire pursuant to
2 the procedures set forth in this Act.

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

26 (e) The Board shall not conduct an election in any

1 bargaining unit or any subdivision thereof within which a
2 valid election has been held in the preceding 12-month period.
3 The Board shall determine who is eligible to vote in an
4 election and shall establish rules governing the conduct of
5 the election or conduct affecting the results of the election.
6 The Board shall include on a ballot in a representation
7 election a choice of "no representation". A labor organization
8 currently representing the bargaining unit of employees shall
9 be placed on the ballot in any representation election. In any
10 election where none of the choices on the ballot receives a
11 majority, a runoff election shall be conducted between the 2
12 choices receiving the largest number of valid votes cast in
13 the election. A labor organization which receives a majority
14 of the votes cast in an election shall be certified by the
15 Board as exclusive representative of all public employees in
16 the unit.

17 (f) A labor organization shall be designated as the
18 exclusive representative by a public employer, provided that
19 the labor organization represents a majority of the public
20 employees in an appropriate unit. Any employee organization
21 which is designated or selected by the majority of public
22 employees, in a unit of the public employer having no other
23 recognized or certified representative, as their
24 representative for purposes of collective bargaining may
25 request recognition by the public employer in writing. The
26 public employer shall post such request for a period of at

1 least 20 days following its receipt thereof on bulletin boards
2 or other places used or reserved for employee notices.

3 (g) Within the 20-day period any other interested employee
4 organization may petition the Board in the manner specified by
5 rules and regulations of the Board, provided that such
6 interested employee organization has been designated by at
7 least 10% of the employees in an appropriate bargaining unit
8 which includes all or some of the employees in the unit
9 recognized by the employer. In such event, the Board shall
10 proceed with the petition in the same manner as provided by
11 paragraph (1) of subsection (a) of this Section.

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

25 (i) An order of the Board dismissing a representation
26 petition, determining and certifying that a labor organization

1 has been fairly and freely chosen by a majority of employees in
2 an appropriate bargaining unit, determining and certifying
3 that a labor organization has not been fairly and freely
4 chosen by a majority of employees in the bargaining unit or
5 certifying a labor organization as the exclusive
6 representative of employees in an appropriate bargaining unit
7 because of a determination by the Board that the labor
8 organization is the historical bargaining representative of
9 employees in the bargaining unit, is a final order. Any person
10 aggrieved by any such order issued on or after the effective
11 date of this amendatory Act of 1987 may apply for and obtain
12 judicial review in accordance with provisions of the
13 Administrative Review Law, as now or hereafter amended, except
14 that such review shall be afforded directly in the Appellate
15 Court for the district in which the aggrieved party resides or
16 transacts business. Any direct appeal to the Appellate Court
17 shall be filed within 35 days from the date that a copy of the
18 decision sought to be reviewed was served upon the party
19 affected by the decision.

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

21 (5 ILCS 315/21.5)

22 Sec. 21.5. Termination of certain agreements after
23 constitutional officers take office.

24 (a) No collective bargaining agreement entered into, on or
25 after the effective date of this amendatory Act of the 96th

1 General Assembly between an executive branch constitutional
2 officer or any agency or department of an executive branch
3 constitutional officer and a labor organization may extend
4 more than 12 months after the date on ~~beyond June 30th of the~~
5 ~~year in~~ which the terms of office of executive branch
6 constitutional officers begin.

7 (b) No collective bargaining agreement entered into, on or
8 after the effective date of this amendatory Act of the 96th
9 General Assembly between an executive branch constitutional
10 officer or any agency or department of an executive branch
11 constitutional officer and a labor organization may provide
12 for an increase in salary, wages, or benefits starting on or
13 after the first day of the terms of office of executive branch
14 constitutional officers and ending June 30th of that same
15 year. The provisions of this subsection (b) shall not apply to
16 salary, pay schedules, or benefits that would continue because
17 of the duty to maintain the status quo and to bargain in good
18 faith.

19 (c) Any collective bargaining agreement in violation of
20 this Section is terminated and rendered null and void by
21 operation of law.

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

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

26 Section 99. Effective date. This Act takes effect upon

1 becoming law.