

SB1888



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB1888

Introduced 2/26/2021, by Sen. John F. Curran

SYNOPSIS AS INTRODUCED:

| | |
|---------------|------------------------|
| 5 ILCS 315/3 | from Ch. 48, par. 1603 |
| 5 ILCS 315/14 | from Ch. 48, par. 1614 |

Amends the Illinois Public Labor Relations Act. Expands the definition of "essential services employees" to include additional employees employed by a public employer who engage in specified duties. Includes essential services employees in provisions concerning mediation services and requirements. Makes conforming changes.

LRB102 16296 RJF 21678 b

A BILL FOR

1 AN ACT concerning government.

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

4 Section 5. The Illinois Public Labor Relations Act is
5 amended by changing Sections 3 and 14 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 access to information relating to the effectuation
23 or review of the employer's collective bargaining policies.

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

3 (e) "Essential services employees" means those public
4 employees performing functions so essential that the
5 interruption or termination of the function will constitute a
6 clear and present danger to the health and safety of the
7 persons in the affected community, including employees
8 employed by a public employer who engage in one or more of the
9 following:

10 (1) the construction, repair, or maintenance of
11 highways, streets, roads, bridges, parkways, and other
12 public spaces, buildings, and infrastructure;

13 (2) the construction, repair, or maintenance of
14 pumping stations, wastewater collection systems, and water
15 treatment systems;

16 (3) the construction, repair, or maintenance of the
17 public utility infrastructure;

18 (4) the repair and maintenance of automobiles, trucks,
19 and other equipment used by public employers in providing
20 public services; and

21 (5) any person employed by a public employer and who
22 is classified as or who holds the employment title of
23 Chief Stationary Engineer, Assistant Chief Stationary
24 Engineer, Sewage Plant Operator, Water Plant Operator,
25 Water Plant Mechanic, Stationary Engineer, or Plant
26 Operating Engineer.

1 (f) "Exclusive representative", except with respect to
2 non-State fire fighters and paramedics employed by fire
3 departments and fire protection districts, non-State peace
4 officers, and peace officers in the Department of State
5 Police, means the labor organization that has been (i)
6 designated by the Board as the representative of a majority of
7 public employees in an appropriate bargaining unit in
8 accordance with the procedures contained in this Act, (ii)
9 historically recognized by the State of Illinois or any
10 political subdivision of the State before July 1, 1984 (the
11 effective date of this Act) as the exclusive representative of
12 the employees in an appropriate bargaining unit, (iii) after
13 July 1, 1984 (the effective date of this Act) recognized by an
14 employer upon evidence, acceptable to the Board, that the
15 labor organization has been designated as the exclusive
16 representative by a majority of the employees in an
17 appropriate bargaining unit; (iv) recognized as the exclusive
18 representative of personal assistants under Executive Order
19 2003-8 prior to the effective date of this amendatory Act of
20 the 93rd General Assembly, and the organization shall be
21 considered to be the exclusive representative of the personal
22 assistants as defined in this Section; or (v) recognized as
23 the exclusive representative of child and day care home
24 providers, including licensed and license exempt providers,
25 pursuant to an election held under Executive Order 2005-1
26 prior to the effective date of this amendatory Act of the 94th

1 General Assembly, and the organization shall be considered to
2 be the exclusive representative of the child and day care home
3 providers as defined in this Section.

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

22 Where a historical pattern of representation exists for
23 the workers of a water system that was owned by a public
24 utility, as defined in Section 3-105 of the Public Utilities
25 Act, prior to becoming certified employees of a municipality
26 or municipalities once the municipality or municipalities have

1 acquired the water system as authorized in Section 11-124-5 of
2 the Illinois Municipal Code, the Board shall find the labor
3 organization that has historically represented the workers to
4 be the exclusive representative under this Act, and shall find
5 the unit represented by the exclusive representative to be the
6 appropriate unit.

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

21 (g-1) "Fire fighter" means, for the purposes of this Act
22 only, any person who has been or is hereafter appointed to a
23 fire department or fire protection district or employed by a
24 state university and sworn or commissioned to perform fire
25 fighter duties or paramedic duties, including paramedics
26 employed by a unit of local government, except that the

1 following persons are not included: part-time fire fighters,
2 auxiliary, reserve or voluntary fire fighters, including paid
3 on-call fire fighters, clerks and dispatchers or other
4 civilian employees of a fire department or fire protection
5 district who are not routinely expected to perform fire
6 fighter duties, or elected officials.

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

18 (h) "Governing body" means, in the case of the State, the
19 State Panel of the Illinois Labor Relations Board, the
20 Director of the Department of Central Management Services, and
21 the Director of the Department of Labor; the county board in
22 the case of a county; the corporate authorities in the case of
23 a municipality; and the appropriate body authorized to provide
24 for expenditures of its funds in the case of any other unit of
25 government.

26 (i) "Labor organization" means any organization in which

1 public employees participate and that exists for the purpose,
2 in whole or in part, of dealing with a public employer
3 concerning wages, hours, and other terms and conditions of
4 employment, including the settlement of grievances.

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

13 (j) "Managerial employee" means an individual who is
14 engaged predominantly in executive and management functions
15 and is charged with the responsibility of directing the
16 effectuation of management policies and practices. With
17 respect only to State employees in positions under the
18 jurisdiction of the Attorney General, Secretary of State,
19 Comptroller, or Treasurer (i) that were certified in a
20 bargaining unit on or after December 2, 2008, (ii) for which a
21 petition is filed with the Illinois Public Labor Relations
22 Board on or after April 5, 2013 (the effective date of Public
23 Act 97-1172), or (iii) for which a petition is pending before
24 the Illinois Public Labor Relations Board on that date,
25 "managerial employee" means an individual who is engaged in
26 executive and management functions or who is charged with the

1 effectuation of management policies and practices or who
2 represents management interests by taking or recommending
3 discretionary actions that effectively control or implement
4 policy. Nothing in this definition prohibits an individual
5 from also meeting the definition of "supervisor" under
6 subsection (r) of this Section.

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

25 (l) "Person" includes one or more individuals, labor
26 organizations, public employees, associations, corporations,

1 legal representatives, trustees, trustees in bankruptcy,
2 receivers, or the State of Illinois or any political
3 subdivision of the State or governing body, but does not
4 include the General Assembly of the State of Illinois or any
5 individual employed by the General Assembly of the State of
6 Illinois.

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

25 (n) "Public employee" or "employee", for the purposes of
26 this Act, means any individual employed by a public employer,

1 including (i) interns and residents at public hospitals, (ii)
2 as of the effective date of this amendatory Act of the 93rd
3 General Assembly, but not before, personal assistants working
4 under the Home Services Program under Section 3 of the
5 Rehabilitation of Persons with Disabilities Act, subject to
6 the limitations set forth in this Act and in the
7 Rehabilitation of Persons with Disabilities Act, (iii) as of
8 the effective date of this amendatory Act of the 94th General
9 Assembly, but not before, child and day care home providers
10 participating in the child care assistance program under
11 Section 9A-11 of the Illinois Public Aid Code, subject to the
12 limitations set forth in this Act and in Section 9A-11 of the
13 Illinois Public Aid Code, (iv) as of January 29, 2013 (the
14 effective date of Public Act 97-1158), but not before except
15 as otherwise provided in this subsection (n), home care and
16 home health workers who function as personal assistants and
17 individual maintenance home health workers and who also work
18 under the Home Services Program under Section 3 of the
19 Rehabilitation of Persons with Disabilities Act, no matter
20 whether the State provides those services through direct
21 fee-for-service arrangements, with the assistance of a managed
22 care organization or other intermediary, or otherwise, (v)
23 beginning on the effective date of this amendatory Act of the
24 98th General Assembly and notwithstanding any other provision
25 of this Act, any person employed by a public employer and who
26 is classified as or who holds the employment title of Chief

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

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

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

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

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

1 Group Insurance Act of 1971 (5 ILCS 375/).

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

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

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

1 forth in this Act and in the Rehabilitation of Persons with
2 Disabilities Act. As of January 29, 2013 (the effective date
3 of Public Act 97-1158), but not before except as otherwise
4 provided in this subsection (o), the State shall be considered
5 the employer of home care and home health workers who function
6 as personal assistants and individual maintenance home health
7 workers and who also work under the Home Services Program
8 under Section 3 of the Rehabilitation of Persons with
9 Disabilities Act, no matter whether the State provides those
10 services through direct fee-for-service arrangements, with the
11 assistance of a managed care organization or other
12 intermediary, or otherwise, but subject to the limitations set
13 forth in this Act and the Rehabilitation of Persons with
14 Disabilities Act. The State shall not be considered to be the
15 employer of home care and home health workers who function as
16 personal assistants and individual maintenance home health
17 workers and who also work under the Home Services Program
18 under Section 3 of the Rehabilitation of Persons with
19 Disabilities Act, for any purposes not specifically provided
20 for in Public Act 93-204 or Public Act 97-1158, including but
21 not limited to, purposes of vicarious liability in tort and
22 purposes of statutory retirement or health insurance benefits.
23 Home care and home health workers who function as personal
24 assistants and individual maintenance home health workers and
25 who also work under the Home Services Program under Section 3
26 of the Rehabilitation of Persons with Disabilities Act shall

1 not be covered by the State Employees Group Insurance Act of
2 1971 (5 ILCS 375/). As of the effective date of this amendatory
3 Act of the 94th General Assembly but not before, the State of
4 Illinois shall be considered the employer of the day and child
5 care home providers participating in the child care assistance
6 program under Section 9A-11 of the Illinois Public Aid Code,
7 subject to the limitations set forth in this Act and in Section
8 9A-11 of the Illinois Public Aid Code. The State shall not be
9 considered to be the employer of child and day care home
10 providers for any purposes not specifically provided for in
11 this amendatory Act of the 94th General Assembly, including
12 but not limited to, purposes of vicarious liability in tort
13 and purposes of statutory retirement or health insurance
14 benefits. Child and day care home providers shall not be
15 covered by the State Employees Group Insurance Act of 1971.

16 "Public employer" or "employer" as used in this Act,
17 however, does not mean and shall not include the General
18 Assembly of the State of Illinois, the Executive Ethics
19 Commission, the Offices of the Executive Inspectors General,
20 the Legislative Ethics Commission, the Office of the
21 Legislative Inspector General, the Office of the Auditor
22 General's Inspector General, the Office of the Governor, the
23 Governor's Office of Management and Budget, the Illinois
24 Finance Authority, the Office of the Lieutenant Governor, the
25 State Board of Elections, and educational employers or
26 employers as defined in the Illinois Educational Labor

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

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

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

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

26 (3) For court reporters employed by all other judicial

1 circuits, a group consisting of the chief judges of those
2 circuits, acting jointly by majority vote, is the public
3 employer and employer representative.

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

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

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

22 (r) "Supervisor" is:

23 (1) An employee whose principal work is substantially
24 different from that of his or her subordinates and who has
25 authority, in the interest of the employer, to hire,
26 transfer, suspend, lay off, recall, promote, discharge,

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

23 Notwithstanding the provisions of the preceding
24 paragraph, in determining supervisory status in fire
25 fighter employment, no fire fighter shall be excluded as a
26 supervisor who has established representation rights under

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

12 (2) With respect only to State employees in positions
13 under the jurisdiction of the Attorney General, Secretary
14 of State, Comptroller, or Treasurer (i) that were
15 certified in a bargaining unit on or after December 2,
16 2008, (ii) for which a petition is filed with the Illinois
17 Public Labor Relations Board on or after April 5, 2013
18 (the effective date of Public Act 97-1172), or (iii) for
19 which a petition is pending before the Illinois Public
20 Labor Relations Board on that date, an employee who
21 qualifies as a supervisor under (A) Section 152 of the
22 National Labor Relations Act and (B) orders of the
23 National Labor Relations Board interpreting that provision
24 or decisions of courts reviewing decisions of the National
25 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
14 Police, a bargaining unit determined by the Board shall not
15 include both supervisors and nonsupervisors, or supervisors
16 only, except as provided in paragraph (2) of this subsection
17 (s) and except for bargaining units in existence on January 1,
18 1986 (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
24 a historical bargaining unit, containing sworn peace officers
25 of the Department of Natural Resources (formerly designated
26 the Department of Conservation) shall contain no employees

1 other than such sworn peace officers upon the effective date
2 of this amendatory Act of 1990 or upon the expiration date of
3 any collective bargaining agreement in effect upon the
4 effective date of this amendatory Act of 1990 covering both
5 such sworn peace officers and other employees.

6 (2) Notwithstanding the exclusion of supervisors from
7 bargaining units as provided in paragraph (1) of this
8 subsection (s), a public employer may agree to permit its
9 supervisory 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.

12 (3) Public employees who are court reporters, as defined
13 in the Court Reporters Act, shall be divided into 3 units for
14 collective bargaining purposes. One unit shall be court
15 reporters employed by the Cook County Judicial Circuit; one
16 unit shall be court reporters employed by the 12th, 18th,
17 19th, and, on and after December 4, 2006, the 22nd judicial
18 circuits; and one unit shall be court reporters employed by
19 all other judicial circuits.

20 (t) "Active petition for certification in a bargaining
21 unit" means a petition for certification filed with the Board
22 under one of the following case numbers: S-RC-11-110;
23 S-RC-11-098; S-UC-11-080; S-RC-11-086; S-RC-11-074;
24 S-RC-11-076; S-RC-11-078; S-UC-11-052; S-UC-11-054;
25 S-RC-11-062; S-RC-11-060; S-RC-11-042; S-RC-11-014;
26 S-RC-11-016; S-RC-11-020; S-RC-11-030; S-RC-11-004;

1 S-RC-10-244; S-RC-10-228; S-RC-10-222; S-RC-10-220;
2 S-RC-10-214; S-RC-10-196; S-RC-10-194; S-RC-10-178;
3 S-RC-10-176; S-RC-10-162; S-RC-10-156; S-RC-10-088;
4 S-RC-10-074; S-RC-10-076; S-RC-10-078; S-RC-10-060;
5 S-RC-10-070; S-RC-10-044; S-RC-10-038; S-RC-10-040;
6 S-RC-10-042; S-RC-10-018; S-RC-10-024; S-RC-10-004;
7 S-RC-10-006; S-RC-10-008; S-RC-10-010; S-RC-10-012;
8 S-RC-09-202; S-RC-09-182; S-RC-09-180; S-RC-09-156;
9 S-UC-09-196; S-UC-09-182; S-RC-08-130; S-RC-07-110; or
10 S-RC-07-100.

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

12 (5 ILCS 315/14) (from Ch. 48, par. 1614)

13 Sec. 14. Security employee, peace officer, ~~and~~ fire
14 fighter, and other essential services employee disputes.

15 (a) In the case of collective bargaining agreements
16 involving units of security employees of a public employer,
17 Peace Officer Units, ~~or~~ units of fire fighters or paramedics,
18 or other units of essential services employees as defined
19 under subsection (e) of Section 3, except for those employed
20 by the County of Cook, City of Chicago, Chicago Park District,
21 or Metropolitan Water Reclamation District of Greater Chicago,
22 and in the case of disputes under Section 18, unless the
23 parties mutually agree to some other time limit, mediation
24 shall commence 30 days prior to the expiration date of such
25 agreement or at such later time as the mediation services

1 chosen under subsection (b) of Section 12 can be provided to
2 the parties. In the case of negotiations for an initial
3 collective bargaining agreement, mediation shall commence upon
4 15 days notice from either party or at such later time as the
5 mediation services chosen pursuant to subsection (b) of
6 Section 12 can be provided to the parties. In mediation under
7 this Section, if either party requests the use of mediation
8 services from the Federal Mediation and Conciliation Service,
9 the other party shall either join in such request or bear the
10 additional cost of mediation services from another source. The
11 mediator shall have a duty to keep the Board informed on the
12 progress of the mediation. If any dispute has not been
13 resolved within 15 days after the first meeting of the parties
14 and the mediator, or within such other time limit as may be
15 mutually agreed upon by the parties, either the exclusive
16 representative or employer may request of the other, in
17 writing, arbitration, and shall submit a copy of the request
18 to the Board.

19 (b) Within 10 days after such a request for arbitration
20 has been made, the employer shall choose a delegate and the
21 employees' exclusive representative shall choose a delegate to
22 a panel of arbitration as provided in this Section. The
23 employer and employees shall forthwith advise the other and
24 the Board of their selections.

25 (c) Within 7 days after the request of either party, the
26 parties shall request a panel of impartial arbitrators from

1 which they shall select the neutral chairman according to the
2 procedures provided in this Section. If the parties have
3 agreed to a contract that contains a grievance resolution
4 procedure as provided in Section 8, the chairman shall be
5 selected using their agreed contract procedure unless they
6 mutually agree to another procedure. If the parties fail to
7 notify the Board of their selection of neutral chairman within
8 7 days after receipt of the list of impartial arbitrators, the
9 Board shall appoint, at random, a neutral chairman from the
10 list. In the absence of an agreed contract procedure for
11 selecting an impartial arbitrator, either party may request a
12 panel from the Board. Within 7 days of the request of either
13 party, the Board shall select from the Public Employees Labor
14 Mediation Roster 7 persons who are on the labor arbitration
15 panels of either the American Arbitration Association or the
16 Federal Mediation and Conciliation Service, or who are members
17 of the National Academy of Arbitrators, as nominees for
18 impartial arbitrator of the arbitration panel. The parties may
19 select an individual on the list provided by the Board or any
20 other individual mutually agreed upon by the parties. Within 7
21 days following the receipt of the list, the parties shall
22 notify the Board of the person they have selected. Unless the
23 parties agree on an alternate selection procedure, they shall
24 alternatively strike one name from the list provided by the
25 Board until only one name remains. A coin toss shall determine
26 which party shall strike the first name. If the parties fail to

1 notify the Board in a timely manner of their selection for
2 neutral chairman, the Board shall appoint a neutral chairman
3 from the Illinois Public Employees Mediation/Arbitration
4 Roster.

5 (d) The chairman shall call a hearing to begin within 15
6 days and give reasonable notice of the time and place of the
7 hearing. The hearing shall be held at the offices of the Board
8 or at such other location as the Board deems appropriate. The
9 chairman shall preside over the hearing and shall take
10 testimony. Any oral or documentary evidence and other data
11 deemed relevant by the arbitration panel may be received in
12 evidence. The proceedings shall be informal. Technical rules
13 of evidence shall not apply and the competency of the evidence
14 shall not thereby be deemed impaired. A verbatim record of the
15 proceedings shall be made and the arbitrator shall arrange for
16 the necessary recording service. Transcripts may be ordered at
17 the expense of the party ordering them, but the transcripts
18 shall not be necessary for a decision by the arbitration
19 panel. The expense of the proceedings, including a fee for the
20 chairman, shall be borne equally by each of the parties to the
21 dispute. The delegates, if public officers or employees, shall
22 continue on the payroll of the public employer without loss of
23 pay. The hearing conducted by the arbitration panel may be
24 adjourned from time to time, but unless otherwise agreed by
25 the parties, shall be concluded within 30 days of the time of
26 its commencement. Majority actions and rulings shall

1 constitute the actions and rulings of the arbitration panel.
2 Arbitration proceedings under this Section shall not be
3 interrupted or terminated by reason of any unfair labor
4 practice charge filed by either party at any time.

5 (e) The arbitration panel may administer oaths, require
6 the attendance of witnesses, and the production of such books,
7 papers, contracts, agreements and documents as may be deemed
8 by it material to a just determination of the issues in
9 dispute, and for such purpose may issue subpoenas. If any
10 person refuses to obey a subpoena, or refuses to be sworn or to
11 testify, or if any witness, party or attorney is guilty of any
12 contempt while in attendance at any hearing, the arbitration
13 panel may, or the attorney general if requested shall, invoke
14 the aid of any circuit court within the jurisdiction in which
15 the hearing is being held, which court shall issue an
16 appropriate order. Any failure to obey the order may be
17 punished by the court as contempt.

18 (f) At any time before the rendering of an award, the
19 chairman of the arbitration panel, if he is of the opinion that
20 it would be useful or beneficial to do so, may remand the
21 dispute to the parties for further collective bargaining for a
22 period not to exceed 2 weeks. If the dispute is remanded for
23 further collective bargaining the time provisions of this Act
24 shall be extended for a time period equal to that of the
25 remand. The chairman of the panel of arbitration shall notify
26 the Board of the remand.

1 (g) At or before the conclusion of the hearing held
2 pursuant to subsection (d), the arbitration panel shall
3 identify the economic issues in dispute, and direct each of
4 the parties to submit, within such time limit as the panel
5 shall prescribe, to the arbitration panel and to each other
6 its last offer of settlement on each economic issue. The
7 determination of the arbitration panel as to the issues in
8 dispute and as to which of these issues are economic shall be
9 conclusive. The arbitration panel, within 30 days after the
10 conclusion of the hearing, or such further additional periods
11 to which the parties may agree, shall make written findings of
12 fact and promulgate a written opinion and shall mail or
13 otherwise deliver a true copy thereof to the parties and their
14 representatives and to the Board. As to each economic issue,
15 the arbitration panel shall adopt the last offer of settlement
16 which, in the opinion of the arbitration panel, more nearly
17 complies with the applicable factors prescribed in subsection
18 (h). The findings, opinions and order as to all other issues
19 shall be based upon the applicable factors prescribed in
20 subsection (h).

21 (h) Where there is no agreement between the parties, or
22 where there is an agreement but the parties have begun
23 negotiations or discussions looking to a new agreement or
24 amendment of the existing agreement, and wage rates or other
25 conditions of employment under the proposed new or amended
26 agreement are in dispute, the arbitration panel shall base its

1 findings, opinions and order upon the following factors, as
2 applicable:

3 (1) The lawful authority of the employer.

4 (2) Stipulations of the parties.

5 (3) The interests and welfare of the public and the
6 financial ability of the unit of government to meet those
7 costs.

8 (4) Comparison of the wages, hours and conditions of
9 employment of the employees involved in the arbitration
10 proceeding with the wages, hours and conditions of
11 employment of other employees performing similar services
12 and with other employees generally:

13 (A) In public employment in comparable
14 communities.

15 (B) In private employment in comparable
16 communities.

17 (5) The average consumer prices for goods and
18 services, commonly known as the cost of living.

19 (6) The overall compensation presently received by the
20 employees, including direct wage compensation, vacations,
21 holidays and other excused time, insurance and pensions,
22 medical and hospitalization benefits, the continuity and
23 stability of employment and all other benefits received.

24 (7) Changes in any of the foregoing circumstances
25 during the pendency of the arbitration proceedings.

26 (8) Such other factors, not confined to the foregoing,

1 which are normally or traditionally taken into
2 consideration in the determination of wages, hours and
3 conditions of employment through voluntary collective
4 bargaining, mediation, fact-finding, arbitration or
5 otherwise between the parties, in the public service or in
6 private employment.

7 (i) In the case of peace officers, the arbitration
8 decision shall be limited to wages, hours, and conditions of
9 employment (which may include residency requirements in
10 municipalities with a population under 1,000,000, but those
11 residency requirements shall not allow residency outside of
12 Illinois) and shall not include the following: i) residency
13 requirements in municipalities with a population of at least
14 1,000,000; ii) the type of equipment, other than uniforms,
15 issued or used; iii) manning; iv) the total number of
16 employees employed by the department; v) mutual aid and
17 assistance agreements to other units of government; and vi)
18 the criterion pursuant to which force, including deadly force,
19 can be used; provided, nothing herein shall preclude an
20 arbitration decision regarding equipment or manning levels if
21 such decision is based on a finding that the equipment or
22 manning considerations in a specific work assignment involve a
23 serious risk to the safety of a peace officer beyond that which
24 is inherent in the normal performance of police duties.
25 Limitation of the terms of the arbitration decision pursuant
26 to this subsection shall not be construed to limit the factors

1 upon which the decision may be based, as set forth in
2 subsection (h).

3 In the case of fire fighter, and fire department or fire
4 district paramedic matters, the arbitration decision shall be
5 limited to wages, hours, and conditions of employment
6 (including manning and also including residency requirements
7 in municipalities with a population under 1,000,000, but those
8 residency requirements shall not allow residency outside of
9 Illinois) and shall not include the following matters: i)
10 residency requirements in municipalities with a population of
11 at least 1,000,000; ii) the type of equipment (other than
12 uniforms and fire fighter turnout gear) issued or used; iii)
13 the total number of employees employed by the department; iv)
14 mutual aid and assistance agreements to other units of
15 government; and v) the criterion pursuant to which force,
16 including deadly force, can be used; provided, however,
17 nothing herein shall preclude an arbitration decision
18 regarding equipment levels if such decision is based on a
19 finding that the equipment considerations in a specific work
20 assignment involve a serious risk to the safety of a fire
21 fighter beyond that which is inherent in the normal
22 performance of fire fighter duties. Limitation of the terms of
23 the arbitration decision pursuant to this subsection shall not
24 be construed to limit the facts upon which the decision may be
25 based, as set forth in subsection (h).

26 The changes to this subsection (i) made by Public Act

1 90-385 (relating to residency requirements) do not apply to
2 persons who are employed by a combined department that
3 performs both police and firefighting services; these persons
4 shall be governed by the provisions of this subsection (i)
5 relating to peace officers, as they existed before the
6 amendment by Public Act 90-385.

7 To preserve historical bargaining rights, this subsection
8 shall not apply to any provision of a fire fighter collective
9 bargaining agreement in effect and applicable on the effective
10 date of this Act; provided, however, nothing herein shall
11 preclude arbitration with respect to any such provision.

12 (j) Arbitration procedures shall be deemed to be initiated
13 by the filing of a letter requesting mediation as required
14 under subsection (a) of this Section. The commencement of a
15 new municipal fiscal year after the initiation of arbitration
16 procedures under this Act, but before the arbitration
17 decision, or its enforcement, shall not be deemed to render a
18 dispute moot, or to otherwise impair the jurisdiction or
19 authority of the arbitration panel or its decision. Increases
20 in rates of compensation awarded by the arbitration panel may
21 be effective only at the start of the fiscal year next
22 commencing after the date of the arbitration award. If a new
23 fiscal year has commenced either since the initiation of
24 arbitration procedures under this Act or since any mutually
25 agreed extension of the statutorily required period of
26 mediation under this Act by the parties to the labor dispute

1 causing a delay in the initiation of arbitration, the
2 foregoing limitations shall be inapplicable, and such awarded
3 increases may be retroactive to the commencement of the fiscal
4 year, any other statute or charter provisions to the contrary,
5 notwithstanding. At any time the parties, by stipulation, may
6 amend or modify an award of arbitration.

7 (k) Orders of the arbitration panel shall be reviewable,
8 upon appropriate petition by either the public employer or the
9 exclusive bargaining representative, by the circuit court for
10 the county in which the dispute arose or in which a majority of
11 the affected employees reside, but only for reasons that the
12 arbitration panel was without or exceeded its statutory
13 authority; the order is arbitrary, or capricious; or the order
14 was procured by fraud, collusion or other similar and unlawful
15 means. Such petitions for review must be filed with the
16 appropriate circuit court within 90 days following the
17 issuance of the arbitration order. The pendency of such
18 proceeding for review shall not automatically stay the order
19 of the arbitration panel. The party against whom the final
20 decision of any such court shall be adverse, if such court
21 finds such appeal or petition to be frivolous, shall pay
22 reasonable attorneys' fees and costs to the successful party
23 as determined by said court in its discretion. If said court's
24 decision affirms the award of money, such award, if
25 retroactive, shall bear interest at the rate of 12 percent per
26 annum from the effective retroactive date.

1 (1) During the pendency of proceedings before the
2 arbitration panel, existing wages, hours, and other conditions
3 of employment shall not be changed by action of either party
4 without the consent of the other but a party may so consent
5 without prejudice to his rights or position under this Act.
6 The proceedings are deemed to be pending before the
7 arbitration panel upon the initiation of arbitration
8 procedures under this Act.

9 (m) Security officers of public employers, and Peace
10 Officers, Fire Fighters and fire department and fire
11 protection district paramedics, covered by this Section may
12 not withhold services, nor may public employers lock out or
13 prevent such employees from performing services at any time.

14 (n) All of the terms decided upon by the arbitration panel
15 shall be included in an agreement to be submitted to the public
16 employer's governing body for ratification and adoption by
17 law, ordinance or the equivalent appropriate means.

18 The governing body shall review each term decided by the
19 arbitration panel. If the governing body fails to reject one
20 or more terms of the arbitration panel's decision by a 3/5 vote
21 of those duly elected and qualified members of the governing
22 body, within 20 days of issuance, or in the case of
23 firefighters employed by a state university, at the next
24 regularly scheduled meeting of the governing body after
25 issuance, such term or terms shall become a part of the
26 collective bargaining agreement of the parties. If the

1 governing body affirmatively rejects one or more terms of the
2 arbitration panel's decision, it must provide reasons for such
3 rejection with respect to each term so rejected, within 20
4 days of such rejection and the parties shall return to the
5 arbitration panel for further proceedings and issuance of a
6 supplemental decision with respect to the rejected terms. Any
7 supplemental decision by an arbitration panel or other
8 decision maker agreed to by the parties shall be submitted to
9 the governing body for ratification and adoption in accordance
10 with the procedures and voting requirements set forth in this
11 Section. The voting requirements of this subsection shall
12 apply to all disputes submitted to arbitration pursuant to
13 this Section notwithstanding any contrary voting requirements
14 contained in any existing collective bargaining agreement
15 between the parties.

16 (o) If the governing body of the employer votes to reject
17 the panel's decision, the parties shall return to the panel
18 within 30 days from the issuance of the reasons for rejection
19 for further proceedings and issuance of a supplemental
20 decision. All reasonable costs of such supplemental proceeding
21 including the exclusive representative's reasonable attorney's
22 fees, as established by the Board, shall be paid by the
23 employer.

24 (p) Notwithstanding the provisions of this Section the
25 employer and exclusive representative may agree to submit
26 unresolved disputes concerning wages, hours, terms and

1 conditions of employment to an alternative form of impasse
2 resolution.

3 (Source: P.A. 98-535, eff. 1-1-14; 98-1151, eff. 1-7-15.)