



## 103RD GENERAL ASSEMBLY

### State of Illinois

2023 and 2024

HB2489

Introduced 2/15/2023, by Rep. Gregg Johnson

#### SYNOPSIS AS INTRODUCED:

5 ILCS 315/3

from Ch. 48, par. 1603

5 ILCS 315/9

from Ch. 48, par. 1609

Amends the Illinois Public Labor Relations Act. Modifies the definitions of "supervisor" and "unit". In the definition of "supervisor", specifies that the authority to assign is not an indication of supervisory status. In the definition of "unit", prohibits a unit from including (i) employees and managerial employees or (ii) managerial employees only. Provides that no public employee position shall be excluded from a bargaining unit prior to that position being filled. Provides, with respect to bargaining units in existence on the amendatory Act's effective date, that the Illinois Labor Relations Board shall, in describing the unit found appropriate for purposes of collective bargaining, describe the unit in terms of job functions rather than job titles. Provides that, for those units, descriptions may also include the currently existing job titles that perform the job functions. Provides that these existing bargaining units shall also include positions later filled that perform the job functions of a unit and job titles later created that: (i) are successor job titles to the currently existing job titles; (ii) perform the same or substantially similar job functions as the currently existing job titles; or (iii) are logically encompassed within an existing unit.

LRB103 27495 DTM 53869 b

1 AN ACT concerning government.

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

4 Section 5. The Illinois Public Labor Relations Act is  
5 amended by changing Sections 3 and 9 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 solely on written job descriptions. The  
4 definition of "confidential employee" in this subsection (c)  
5 applies to all public 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 Illinois State Police,  
17 means the labor organization that has been (i) designated by  
18 the Board as the representative of a majority of public  
19 employees in an appropriate bargaining unit in accordance with  
20 the procedures contained in this Act; (ii) historically  
21 recognized by the State of Illinois or any political  
22 subdivision of the State before July 1, 1984 (the effective  
23 date of this Act) as the exclusive representative of the  
24 employees in an appropriate bargaining unit; (iii) after July  
25 1, 1984 (the effective date of this Act) recognized by an  
26 employer upon evidence, acceptable to the Board, that the

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 July 16, 2003 (the effective date of Public Act  
6 93-204), and the organization shall be considered to be the  
7 exclusive representative of the personal assistants as defined  
8 in this Section; or (v) recognized as the exclusive  
9 representative of child and day care home providers, including  
10 licensed and license exempt providers, pursuant to an election  
11 held under Executive Order 2005-1 prior to January 1, 2006  
12 (the effective date of Public Act 94-320), and the  
13 organization shall be considered to be the exclusive  
14 representative of the child and day care home providers as  
15 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 Illinois  
19 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.

14 Determination of managerial employee status shall be based on  
15 actual employee job duties and not solely on written job  
16 descriptions. With respect only to State employees in  
17 positions under the jurisdiction of the Attorney General,  
18 Secretary of State, Comptroller, or Treasurer (i) that were  
19 certified in a bargaining unit on or after December 2, 2008,  
20 (ii) for which a petition is filed with the Illinois Public  
21 Labor Relations Board on or after April 5, 2013 (the effective  
22 date of Public Act 97-1172), or (iii) for which a petition is  
23 pending before the Illinois Public Labor Relations Board on  
24 that date, "managerial employee" means an individual who is  
25 engaged in executive and management functions or who is  
26 charged with the effectuation of management policies and



1 practices or who represents management interests by taking or  
2 recommending discretionary actions that effectively control or  
3 implement policy. Nothing in this definition prohibits an  
4 individual from also meeting the definition of "supervisor"  
5 under subsection (r) of this Section. The definition of  
6 "managerial employee" in this subsection applies to all public  
7 employees.

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

26 (l) "Person" includes one or more individuals, labor

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

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

26 (n) "Public employee" or "employee", for the purposes of

1 this Act, means any individual employed by a public employer,  
2 including (i) interns and residents at public hospitals, (ii)  
3 as of July 16, 2003 (the effective date of Public Act 93-204),  
4 but not before, personal assistants working under the Home  
5 Services Program under Section 3 of the Rehabilitation of  
6 Persons with Disabilities Act, subject to the limitations set  
7 forth in this Act and in the Rehabilitation of Persons with  
8 Disabilities Act, (iii) as of January 1, 2006 (the effective  
9 date of Public Act 94-320), but not before, child and day care  
10 home providers participating in the child care assistance  
11 program under Section 9A-11 of the Illinois Public Aid Code,  
12 subject to the limitations set forth in this Act and in Section  
13 9A-11 of the Illinois Public Aid Code, (iv) as of January 29,  
14 2013 (the effective date of Public Act 97-1158), but not  
15 before except as otherwise provided in this subsection (n),  
16 home care and home health workers who function as personal  
17 assistants and individual maintenance home health workers and  
18 who also work under the Home Services Program under Section 3  
19 of the Rehabilitation of Persons with Disabilities Act, no  
20 matter whether the State provides those services through  
21 direct fee-for-service arrangements, with the assistance of a  
22 managed care organization or other intermediary, or otherwise,  
23 (v) beginning on July 19, 2013 (the effective date of Public  
24 Act 98-100) and notwithstanding any other provision of this  
25 Act, any person employed by a public employer and who is  
26 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 July 19, 2013 (the effective date  
13 of Public Act 98-100), and (vi) beginning on July 19, 2013 (the  
14 effective date of Public Act 98-100) and notwithstanding any  
15 other provision of this Act, any mental health administrator  
16 in the Department of Corrections who is classified as or who  
17 holds the position of Public Service Administrator (Option  
18 8K), any employee of the Office of the Inspector General in the  
19 Department of Human Services who is classified as or who holds  
20 the position of Public Service Administrator (Option 7), any  
21 Deputy of Intelligence in the Department of Corrections who is  
22 classified as or who holds the position of Public Service  
23 Administrator (Option 7), and any employee of the Illinois  
24 State Police who handles issues concerning the Illinois State  
25 Police Sex Offender Registry and who is classified as or holds  
26 the position of Public Service Administrator (Option 7), but

1 excluding all of the following: employees of the General  
2 Assembly of the State of Illinois; elected officials;  
3 executive heads of a department; members of boards or  
4 commissions; the Executive Inspectors General; any special  
5 Executive Inspectors General; employees of each Office of an  
6 Executive Inspector General; commissioners and employees of  
7 the Executive Ethics Commission; the Auditor General's  
8 Inspector General; employees of the Office of the Auditor  
9 General's Inspector General; the Legislative Inspector  
10 General; any special Legislative Inspectors General; employees  
11 of the Office of the Legislative Inspector General;  
12 commissioners and employees of the Legislative Ethics  
13 Commission; employees of any agency, board or commission  
14 created by this Act; employees appointed to State positions of  
15 a temporary or emergency nature; all employees of school  
16 districts and higher education institutions except  
17 firefighters and peace officers employed by a state university  
18 and except peace officers employed by a school district in its  
19 own police department in existence on July 23, 2010 (the  
20 effective date of Public Act 96-1257); managerial employees;  
21 short-term employees; legislative liaisons; a person who is a  
22 State employee under the jurisdiction of the Office of the  
23 Attorney General who is licensed to practice law or whose  
24 position authorizes, either directly or indirectly, meaningful  
25 input into government decision-making on issues where there is  
26 room for principled disagreement on goals or their

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

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

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

1 Child and day care home providers shall not be considered  
2 public employees for any purposes not specifically provided  
3 for in Public Act 94-320, including, but not limited to,  
4 purposes of vicarious liability in tort and purposes of  
5 statutory retirement or health insurance benefits. Child and  
6 day care home providers shall not be covered by the State  
7 Employees Group Insurance Act of 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 July 16, 2003  
20 (the effective date of Public Act 93-204), but not before, the  
21 State of Illinois shall be considered the employer of the  
22 personal assistants working under the Home Services Program  
23 under Section 3 of the Rehabilitation of Persons with  
24 Disabilities Act, subject to the limitations set forth in this  
25 Act and in the Rehabilitation of Persons with Disabilities  
26 Act. As of January 29, 2013 (the effective date of Public Act



1 97-1158), but not before except as otherwise provided in this  
2 subsection (o), the State shall be considered the employer of  
3 home care and home health workers who function as personal  
4 assistants and individual maintenance home health workers and  
5 who also work under the Home Services Program under Section 3  
6 of the Rehabilitation of Persons with Disabilities Act, no  
7 matter whether the State provides those services through  
8 direct fee-for-service arrangements, with the assistance of a  
9 managed care organization or other intermediary, or otherwise,  
10 but subject to the limitations set forth in this Act and the  
11 Rehabilitation of Persons with Disabilities Act. The State  
12 shall not be considered to be the employer of home care and  
13 home health workers who function as personal assistants and  
14 individual maintenance home health workers and who also work  
15 under the Home Services Program under Section 3 of the  
16 Rehabilitation of Persons with Disabilities Act, for any  
17 purposes not specifically provided for in Public Act 93-204 or  
18 Public Act 97-1158, including but not limited to, purposes of  
19 vicarious liability in tort and purposes of statutory  
20 retirement or health insurance benefits. Home care and home  
21 health workers who function as personal assistants and  
22 individual maintenance home health workers and who also work  
23 under the Home Services Program under Section 3 of the  
24 Rehabilitation of Persons with Disabilities Act shall not be  
25 covered by the State Employees Group Insurance Act of 1971. As  
26 of January 1, 2006 (the effective date of Public Act 94-320),

1 but not before, the State of Illinois shall be considered the  
2 employer of the day and child care home providers  
3 participating in the child care assistance program under  
4 Section 9A-11 of the Illinois Public Aid Code, subject to the  
5 limitations set forth in this Act and in Section 9A-11 of the  
6 Illinois Public Aid Code. The State shall not be considered to  
7 be the employer of child and day care home providers for any  
8 purposes not specifically provided for in Public Act 94-320,  
9 including, but not limited to, purposes of vicarious liability  
10 in tort and purposes of statutory retirement or health  
11 insurance benefits. Child and day care home providers shall  
12 not be covered by the State Employees Group Insurance Act of  
13 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 July 23,  
3 2010 (the effective date of Public Act 96-1257). County boards  
4 and county sheriffs shall be designated as joint or  
5 co-employers of county peace officers appointed under the  
6 authority of a county sheriff. Nothing in this subsection (o)  
7 shall be construed to prevent the State Panel or the Local  
8 Panel from determining that employers are joint or  
9 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 Illinois State Police Merit  
19 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 solely 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" in this

1 subsection 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 fire fighter units,  
7 employees shall consist of fire fighters of the highest  
8 rank of company officer and below. A company officer may  
9 be responsible for multiple companies or apparatus on a  
10 shift, multiple stations, or an entire shift. There may be  
11 more than one company officer per shift. If a company  
12 officer otherwise qualifies as a supervisor under the  
13 preceding paragraph, however, he or she shall not be  
14 included in the fire fighter unit. If there is no rank  
15 between that of chief and the highest company officer, the  
16 employer may designate a position on each shift as a Shift  
17 Commander, and the persons occupying those positions shall  
18 be supervisors. All other ranks above that of the highest  
19 company officer shall be supervisors.

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

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

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

1 unit determined by the Board to contain peace officers shall  
2 contain no employees other than peace officers unless  
3 otherwise agreed to by the employer and the labor organization  
4 or labor organizations involved. Notwithstanding any other  
5 provision of this Act, a bargaining unit, including a  
6 historical bargaining unit, containing sworn peace officers of  
7 the Department of Natural Resources (formerly designated the  
8 Department of Conservation) shall contain no employees other  
9 than such sworn peace officers upon the effective date of this  
10 amendatory Act of 1990 or upon the expiration date of any  
11 collective bargaining agreement in effect upon the effective  
12 date of this amendatory Act of 1990 covering both such sworn  
13 peace officers and other employees. A bargaining unit  
14 recognized by the Board on or after the effective date of this  
15 amendatory Act of the 103rd General Assembly shall not, except  
16 as authorized in paragraph (4), include (i) both employees and  
17 managerial employees or (ii) only managerial employees.

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

26 (3) Public employees who are court reporters, as defined



1 in the Court Reporters Act, shall be divided into 3 units for  
2 collective bargaining purposes. One unit shall be court  
3 reporters employed by the Cook County Judicial Circuit; one  
4 unit shall be court reporters employed by the 12th, 18th,  
5 19th, and, on and after December 4, 2006, the 22nd judicial  
6 circuits; and one unit shall be court reporters employed by  
7 all other judicial circuits.

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

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

1 S-RC-10-070; S-RC-10-044; S-RC-10-038; S-RC-10-040;  
2 S-RC-10-042; S-RC-10-018; S-RC-10-024; S-RC-10-004;  
3 S-RC-10-006; S-RC-10-008; S-RC-10-010; S-RC-10-012;  
4 S-RC-09-202; S-RC-09-182; S-RC-09-180; S-RC-09-156;  
5 S-UC-09-196; S-UC-09-182; S-RC-08-130; S-RC-07-110; or  
6 S-RC-07-100.

7 (Source: P.A. 102-151, eff. 7-23-21; 102-538, eff. 8-20-21;  
8 102-686, eff. 6-1-22; 102-813, eff. 5-13-22; revised 6-13-22.)

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

10 Sec. 9. Elections; recognition.

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

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

23 (2) by a public employer alleging that one or more  
24 labor organizations have presented to it a claim that they  
25 be recognized as the representative of a majority of the

1 public employees in an appropriate unit, the Board shall  
2 investigate such petition, and if it has reasonable cause  
3 to believe that a question of representation exists, shall  
4 provide for an appropriate hearing upon due notice. Such  
5 hearing shall be held at the offices of the Board or such  
6 other location as the Board deems appropriate. If it finds  
7 upon the record of the hearing that a question of  
8 representation exists, it shall direct an election in  
9 accordance with subsection (d) of this Section, which  
10 election shall be held not later than 120 days after the  
11 date the petition was filed regardless of whether that  
12 petition was filed before or after July 1, 1988 (the  
13 effective date of Public Act 85-924); provided, however,  
14 the Board may extend the time for holding an election by an  
15 additional 60 days if, upon motion by a person who has  
16 filed a petition under this Section or is the subject of a  
17 petition filed under this Section and is a party to such  
18 hearing, or upon the Board's own motion, the Board finds  
19 that good cause has been shown for extending the election  
20 date; provided further, that nothing in this Section shall  
21 prohibit the Board, in its discretion, from extending the  
22 time for holding an election for so long as may be  
23 necessary under the circumstances, where the purpose for  
24 such extension is to permit resolution by the Board of an  
25 unfair labor practice charge filed by one of the parties  
26 to a representational proceeding against the other based

1           upon conduct which may either affect the existence of a  
2           question concerning representation or have a tendency to  
3           interfere with a fair and free election, where the party  
4           filing the charge has not filed a request to proceed with  
5           the election; and provided further that prior to the  
6           expiration of the total time allotted for holding an  
7           election, a person who has filed a petition under this  
8           Section or is the subject of a petition filed under this  
9           Section and is a party to such hearing or the Board, may  
10          move for and obtain the entry of an order in the circuit  
11          court of the county in which the majority of the public  
12          employees sought to be represented by such person reside,  
13          such order extending the date upon which the election  
14          shall be held. Such order shall be issued by the circuit  
15          court only upon a judicial finding that there has been a  
16          sufficient showing that there is good cause to extend the  
17          election date beyond such period and shall require the  
18          Board to hold the election as soon as is feasible given the  
19          totality of the circumstances. Such 120-day period may be  
20          extended one or more times by the agreement of all parties  
21          to the hearing to a date certain without the necessity of  
22          obtaining a court order. The showing of interest in  
23          support of a petition filed under paragraph (1) of this  
24          subsection (a) may be evidenced by electronic  
25          communications, and such writing or communication may be  
26          evidenced by the electronic signature of the employee as

1 provided under Section 5-120 of the Electronic Commerce  
2 Security Act. The showing of interest shall be valid only  
3 if signed within 12 months prior to the filing of the  
4 petition. Nothing in this Section prohibits the waiving of  
5 hearings by stipulation for the purpose of a consent  
6 election in conformity with the rules and regulations of  
7 the Board or an election in a unit agreed upon by the  
8 parties. Other interested employee organizations may  
9 intervene in the proceedings in the manner and within the  
10 time period specified by rules and regulations of the  
11 Board. Interested parties who are necessary to the  
12 proceedings may also intervene in the proceedings in the  
13 manner and within the time period specified by the rules  
14 and regulations of the Board.

15 (a-5) The Board shall designate an exclusive  
16 representative for purposes of collective bargaining when the  
17 representative demonstrates a showing of majority interest by  
18 employees in the unit. If the parties to a dispute are without  
19 agreement on the means to ascertain the choice, if any, of  
20 employee organization as their representative, the Board shall  
21 ascertain the employees' choice of employee organization, on  
22 the basis of dues deduction authorization or other evidence,  
23 or, if necessary, by conducting an election. The showing of  
24 interest in support of a petition filed under this subsection  
25 (a-5) may be evidenced by electronic communications, and such  
26 writing or communication may be evidenced by the electronic

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

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

9 (a-6) A labor organization or an employer may file a unit  
10 clarification petition seeking to clarify an existing  
11 bargaining unit. Unit clarification petitions may be filed if:  
12 (1) substantial changes occur in the duties and functions of  
13 an existing job title, raising an issue as to the title's unit  
14 placement; (2) an existing job title that is logically  
15 encompassed within the existing unit was inadvertently  
16 excluded by the parties at the time the unit was established;  
17 (3) a newly created job title is logically encompassed within  
18 an existing unit; (4) a significant change takes place in  
19 statutory or case law that affects the bargaining rights of  
20 employees; (5) a determination needs to be made as to the unit  
21 placement of positions in dispute following a majority  
22 interest certification of representative issued under  
23 subsection (a-5); (6) a determination needs to be made as to  
24 the unit placement of positions in dispute following a  
25 certification of representative issued following a direction  
26 of election under subsection (d); (7) the parties have agreed

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

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



1 unit determined by the Board may not include both supervisors  
2 and nonsupervisors, except for bargaining units in existence  
3 on the effective date of this Act. 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 Illinois State Police, a single bargaining  
7 unit determined by the Board may not include both supervisors  
8 and nonsupervisors, except for bargaining units in existence  
9 on January 1, 1986 (the effective date of Public Act 84-1104).

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

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

20 Notwithstanding any rule or provision of law to the  
21 contrary, no public employee position shall be excluded from a  
22 bargaining unit prior to that position being filled.

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

1       In describing the unit found appropriate for purposes of  
2 collective bargaining, the Board shall, at a party's request,  
3 describe the unit in terms of job functions rather than by job  
4 titles. Unit descriptions may also include those currently  
5 existing job titles that perform the job functions. A  
6 bargaining unit shall also include positions later filled that  
7 perform the job functions of a unit and job titles later  
8 created that: (i) are successor job titles to the currently  
9 existing job titles; (ii) perform the same or substantially  
10 similar job functions as the currently existing job titles; or  
11 (iii) are logically encompassed within an existing unit. The  
12 provisions of this paragraph shall apply to bargaining units  
13 in existence on the effective date of this amendatory Act of  
14 the 103rd General Assembly.

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

25       (d) In instances where the employer does not voluntarily  
26 recognize a labor organization as the exclusive bargaining

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

24 (e) The Board shall not conduct an election in any  
25 bargaining unit or any subdivision thereof within which a  
26 valid election has been held in the preceding 12-month period.

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

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

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

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

23           (i) An order of the Board dismissing a representation  
24 petition, determining and certifying that a labor organization  
25 has been fairly and freely chosen by a majority of employees in  
26 an appropriate bargaining unit, determining and certifying

1 that a labor organization has not been fairly and freely  
2 chosen by a majority of employees in the bargaining unit or  
3 certifying a labor organization as the exclusive  
4 representative of employees in an appropriate bargaining unit  
5 because of a determination by the Board that the labor  
6 organization is the historical bargaining representative of  
7 employees in the bargaining unit, is a final order. Any person  
8 aggrieved by any such order issued on or after July 1, 1988  
9 (the effective date of Public Act 85-924) may apply for and  
10 obtain judicial review in accordance with provisions of the  
11 Administrative Review Law, as now or hereafter amended, except  
12 that such review shall be afforded directly in the Appellate  
13 Court for the district in which the aggrieved party resides or  
14 transacts business. Any direct appeal to the Appellate Court  
15 shall be filed within 35 days from the date that a copy of the  
16 decision sought to be reviewed was served upon the party  
17 affected by the decision.

18 (Source: P.A. 102-151, eff. 7-23-21; 102-538, eff. 8-20-21;  
19 102-596, eff. 8-27-21; 102-813, eff. 5-13-22.)