



Sen. John M. Sullivan

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1 AMENDMENT TO SENATE BILL 1987

2 AMENDMENT NO. _____. Amend Senate Bill 1987 on page 1,
3 line 1, by replacing "criminal law" with "medical services";
4 and

5 on page 1, by inserting immediately below line 3 the following:

6 "Section 3. The Illinois Public Labor Relations Act is
7 amended by changing Section 3 as follows:

8 (5 ILCS 315/3) (from Ch. 48, par. 1603)

9 Sec. 3. Definitions. As used in this Act, unless the
10 context otherwise requires:

11 (a) "Board" means the Illinois Labor Relations Board or,
12 with respect to a matter over which the jurisdiction of the
13 Board is assigned to the State Panel or the Local Panel under
14 Section 5, the panel having jurisdiction over the matter.

15 (b) "Collective bargaining" means bargaining over terms

1 and conditions of employment, including hours, wages, and other
2 conditions of employment, as detailed in Section 7 and which
3 are not excluded by Section 4.

4 (c) "Confidential employee" means an employee who, in the
5 regular course of his or her duties, assists and acts in a
6 confidential capacity to persons who formulate, determine, and
7 effectuate management policies with regard to labor relations
8 or who, in the regular course of his or her duties, has
9 authorized access to information relating to the effectuation
10 or review of the employer's collective bargaining policies.

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

13 (e) "Essential services employees" means those public
14 employees performing functions so essential that the
15 interruption or termination of the function will constitute a
16 clear and present danger to the health and safety of the
17 persons in the affected community.

18 (f) "Exclusive representative", except 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 Department of State Police,
22 means the labor organization that has been (i) designated by
23 the Board as the representative of a majority of public
24 employees in an appropriate bargaining unit in accordance with
25 the procedures contained in this Act, (ii) historically
26 recognized by the State of Illinois or any political

1 subdivision of the State before July 1, 1984 (the effective
2 date of this Act) as the exclusive representative of the
3 employees in an appropriate bargaining unit, (iii) after July
4 1, 1984 (the effective date of this Act) recognized by an
5 employer upon evidence, acceptable to the Board, that the labor
6 organization has been designated as the exclusive
7 representative by a majority of the employees in an appropriate
8 bargaining unit; (iv) recognized as the exclusive
9 representative of personal care attendants or personal
10 assistants under Executive Order 2003-8 prior to the effective
11 date of this amendatory Act of the 93rd General Assembly, and
12 the organization shall be considered to be the exclusive
13 representative of the personal care attendants or personal
14 assistants as defined in this Section; or (v) recognized as the
15 exclusive representative of child and day care home providers,
16 including licensed and license exempt providers, pursuant to an
17 election held under Executive Order 2005-1 prior to the
18 effective date of this amendatory Act of the 94th General
19 Assembly, and the organization shall be considered to be the
20 exclusive representative of the child and day care home
21 providers as defined in this Section.

22 With respect to non-State fire fighters and paramedics
23 employed by fire departments and fire protection districts,
24 non-State peace officers, and peace officers in the Department
25 of State Police, "exclusive representative" means the labor
26 organization that has been (i) designated by the Board as the

1 representative of a majority of peace officers or fire fighters
2 in an appropriate bargaining unit in accordance with the
3 procedures contained in this Act, (ii) historically recognized
4 by the State of Illinois or any political subdivision of the
5 State before January 1, 1986 (the effective date of this
6 amendatory Act of 1985) as the exclusive representative by a
7 majority of the peace officers or fire fighters in an
8 appropriate bargaining unit, or (iii) after January 1, 1986
9 (the effective date of this amendatory Act of 1985) recognized
10 by an employer upon evidence, acceptable to the Board, that the
11 labor organization has been designated as the exclusive
12 representative by a majority of the peace officers or fire
13 fighters in an appropriate bargaining unit.

14 Where an historical pattern of representation exists for
15 the workers of a private medical vendor prior to becoming
16 certified employees under the Personnel Code, the Board shall
17 find the labor organization that has historically represented
18 the workers to be the exclusive representative under this Act,
19 and shall find the unit represented by the exclusive
20 representative to be the appropriate unit. Nothing shall
21 preclude the exclusive representative of the workers from
22 petitioning the Illinois Labor Relations Board for unit
23 clarification to include any or all of the employees in an
24 existing bargaining unit or units.

25 (g) "Fair share agreement" means an agreement between the
26 employer and an employee organization under which all or any of

1 the employees in a collective bargaining unit are required to
2 pay their proportionate share of the costs of the collective
3 bargaining process, contract administration, and pursuing
4 matters affecting wages, hours, and other conditions of
5 employment, but not to exceed the amount of dues uniformly
6 required of members. The amount certified by the exclusive
7 representative shall not include any fees for contributions
8 related to the election or support of any candidate for
9 political office. Nothing in this subsection (g) shall preclude
10 an employee from making voluntary political contributions in
11 conjunction with his or her fair share payment.

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

23 (g-2) "General Assembly of the State of Illinois" means the
24 legislative branch of the government of the State of Illinois,
25 as provided for under Article IV of the Constitution of the
26 State of Illinois, and includes but is not limited to the House

1 of Representatives, the Senate, the Speaker of the House of
2 Representatives, the Minority Leader of the House of
3 Representatives, the President of the Senate, the Minority
4 Leader of the Senate, the Joint Committee on Legislative
5 Support Services and any legislative support services agency
6 listed in the Legislative Commission Reorganization Act of
7 1984.

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

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

21 (j) "Managerial employee" means an individual who is
22 engaged predominantly in executive and management functions
23 and is charged with the responsibility of directing the
24 effectuation of management policies and practices.

25 (k) "Peace officer" means, for the purposes of this Act
26 only, any persons who have been or are hereafter appointed to a

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

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

25 (m) "Professional employee" means any employee engaged in
26 work predominantly intellectual and varied in character rather

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

17 (n) "Public employee" or "employee", for the purposes of
18 this Act, means any individual employed by a public employer,
19 including (i) interns and residents at public hospitals, (ii)
20 as of the effective date of this amendatory Act of the 93rd
21 General Assembly, but not before, personal care attendants and
22 personal assistants working under the Home Services Program
23 under Section 3 of the Disabled Persons Rehabilitation Act,
24 subject to the limitations set forth in this Act and in the
25 Disabled Persons Rehabilitation Act, and (iii) as of the
26 effective date of this amendatory Act of the 94th General

1 Assembly, but not before, child and day care home providers
2 participating in the child care assistance program under
3 Section 9A-11 of the Illinois Public Aid Code, subject to the
4 limitations set forth in this Act and in Section 9A-11 of the
5 Illinois Public Aid Code, but excluding all of the following:
6 employees of the General Assembly of the State of Illinois;
7 elected officials; executive heads of a department; members of
8 boards or commissions; the Executive Inspectors General; any
9 special Executive Inspectors General; employees of each Office
10 of an Executive Inspector General; commissioners and employees
11 of the Executive Ethics Commission; the Auditor General's
12 Inspector General; employees of the Office of the Auditor
13 General's Inspector General; the Legislative Inspector
14 General; any special Legislative Inspectors General; employees
15 of the Office of the Legislative Inspector General;
16 commissioners and employees of the Legislative Ethics
17 Commission; employees of any agency, board or commission
18 created by this Act; employees appointed to State positions of
19 a temporary or emergency nature; all employees of school
20 districts and higher education institutions except
21 firefighters and peace officers employed by a state university;
22 managerial employees; short-term employees; confidential
23 employees; independent contractors; and supervisors except as
24 provided in this Act.

25 Personal care attendants and personal assistants shall not
26 be considered public employees for any purposes not

1 specifically provided for in the amendatory Act of the 93rd
2 General Assembly, including but not limited to, purposes of
3 vicarious liability in tort and purposes of statutory
4 retirement or health insurance benefits. Personal care
5 attendants and personal assistants shall not be covered by the
6 State Employees Group Insurance Act of 1971 (5 ILCS 375/).

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

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

18 (o) Except as otherwise in subsection (o-5), "public
19 employer" or "employer" means the State of Illinois; any
20 political subdivision of the State, unit of local government or
21 school district; authorities including departments, divisions,
22 bureaus, boards, commissions, or other agencies of the
23 foregoing entities; and any person acting within the scope of
24 his or her authority, express or implied, on behalf of those
25 entities in dealing with its employees. As of the effective
26 date of the amendatory Act of the 93rd General Assembly, but

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

1 Employees Group Insurance Act of 1971.

2 "Public employer" or "employer" as used in this Act,
3 however, does not mean and shall not include the General
4 Assembly of the State of Illinois, the Executive Ethics
5 Commission, the Offices of the Executive Inspectors General,
6 the Legislative Ethics Commission, the Office of the
7 Legislative Inspector General, the Office of the Auditor
8 General's Inspector General, and educational employers or
9 employers as defined in the Illinois Educational Labor
10 Relations Act, except with respect to a state university in its
11 employment of firefighters and peace officers. County boards
12 and county sheriffs shall be designated as joint or
13 co-employers of county peace officers appointed under the
14 authority of a county sheriff. Nothing in this subsection (o)
15 shall be construed to prevent the State Panel or the Local
16 Panel from determining that employers are joint or
17 co-employers.

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

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

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

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

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

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

21 (r) "Supervisor" is an employee whose principal work is
22 substantially different from that of his or her subordinates
23 and who has authority, in the interest of the employer, to
24 hire, 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 actions,

1 if the exercise of that authority is not of a merely routine or
2 clerical nature, but requires the consistent use of independent
3 judgment. Except with respect to police employment, the term
4 "supervisor" includes only those individuals who devote a
5 preponderance of their employment time to exercising that
6 authority, State supervisors notwithstanding. In addition, in
7 determining supervisory status in police employment, rank
8 shall not be determinative. The Board shall consider, as
9 evidence of bargaining unit inclusion or exclusion, the common
10 law enforcement policies and relationships between police
11 officer ranks and certification under applicable civil service
12 law, ordinances, personnel codes, or Division 2.1 of Article 10
13 of the Illinois Municipal Code, but these factors shall not be
14 the sole or predominant factors considered by the Board in
15 determining police supervisory status.

16 Notwithstanding the provisions of the preceding paragraph,
17 in determining supervisory status in fire fighter employment,
18 no fire fighter shall be excluded as a supervisor who has
19 established representation rights under Section 9 of this Act.
20 Further, in new fire fighter units, employees shall consist of
21 fire fighters of the rank of company officer and below. If a
22 company officer otherwise qualifies as a supervisor under the
23 preceding paragraph, however, he or she shall not be included
24 in the fire fighter unit. If there is no rank between that of
25 chief and the highest company officer, the employer may
26 designate a position on each shift as a Shift Commander, and

1 the persons occupying those positions shall be supervisors. All
2 other ranks above that of company officer shall be supervisors.

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

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

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

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

25 (Source: P.A. 94-98, eff. 7-1-05; 94-320, eff. 1-1-06; 95-331,
26 eff. 8-21-07.)"; and

1 by replacing lines 5 through 26 on page 13 and lines 1 through
2 5 on page 14 with the following:

3 "(3.5) Effective July 1, 2009, all contracts between the
4 State and outside contractors to provide workers for medical
5 services and related support services at all facilities of the
6 Illinois Department of Corrections or the Department of
7 Juvenile Justice shall be amended to allow for the conversion
8 of vendor employees performing under the terms of a collective
9 bargaining agreement to become employees of the State of
10 Illinois. Upon amendment of the contracts, each worker or staff
11 member employed under the terms of a collective bargaining
12 agreement shall be offered certified employment status under
13 the Personnel Code with the State of Illinois. The position
14 offered to each person shall be at the same facility and shall
15 consist of the same duties and hours as previously existed
16 under the amended contract or contracts."