



Rep. Elizabeth Hernandez

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1 AMENDMENT TO HOUSE BILL 259

2 AMENDMENT NO. _____. Amend House Bill 259 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Public Labor Relations Act is
5 amended by changing Section 3 as follows:

6 (5 ILCS 315/3) (from Ch. 48, par. 1603)

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

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

13 (b) "Collective bargaining" means bargaining over terms
14 and conditions of employment, including hours, wages, and other
15 conditions of employment, as detailed in Section 7 and which
16 are not excluded by Section 4.

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

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

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

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

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

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

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

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

22 (g) "Fair share agreement" means an agreement between the
23 employer and an employee organization under which all or any of
24 the employees in a collective bargaining unit are required to
25 pay their proportionate share of the costs of the collective
26 bargaining process, contract administration, and pursuing

1 matters affecting wages, hours, and other conditions of
2 employment, but not to exceed the amount of dues uniformly
3 required of members. The amount certified by the exclusive
4 representative shall not include any fees for contributions
5 related to the election or support of any candidate for
6 political office. Nothing in this subsection (g) shall preclude
7 an employee from making voluntary political contributions in
8 conjunction with his or her fair share payment.

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

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

1 Leader of the Senate, the Joint Committee on Legislative
2 Support Services and any legislative support services agency
3 listed in the Legislative Commission Reorganization Act of
4 1984.

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

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

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

22 (k) "Peace officer" means, for the purposes of this Act
23 only, any persons who have been or are hereafter appointed to a
24 coroner's office and any persons who have been or are hereafter
25 appointed to a police force, department, or agency and sworn or
26 commissioned to perform police duties, except that the

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

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

23 (m) "Professional employee" means any employee engaged in
24 work predominantly intellectual and varied in character rather
25 than routine mental, manual, mechanical or physical work;
26 involving the consistent exercise of discretion and adjustment

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

15 (n) "Public employee" or "employee", for the purposes of
16 this Act, means any individual employed by a public employer,
17 including (i) interns and residents at public hospitals, (ii)
18 as of the effective date of this amendatory Act of the 93rd
19 General Assembly, but not before, personal care attendants and
20 personal assistants working under the Home Services Program
21 under Section 3 of the Disabled Persons Rehabilitation Act,
22 subject to the limitations set forth in this Act and in the
23 Disabled Persons Rehabilitation Act, (iii) as of the effective
24 date of this amendatory Act of the 94th General Assembly, but
25 not before, child and day care home providers participating in
26 the child care assistance program under Section 9A-11 of the

1 Illinois Public Aid Code, subject to the limitations set forth
2 in this Act and in Section 9A-11 of the Illinois Public Aid
3 Code, and (iv) as of the effective date of this amendatory Act
4 of the 97th General Assembly, but not before except as
5 otherwise provided in this subsection (n), home care and home
6 health workers who function as personal care attendants,
7 personal assistants, and individual maintenance home health
8 workers and who also work under the Home Services Program under
9 Section 3 of the Disabled Persons Rehabilitation Act, no matter
10 whether the State provides those services through direct
11 fee-for-service arrangements, with the assistance of a managed
12 care organization or other intermediary, or otherwise, but
13 excluding all of the following: employees of the General
14 Assembly of the State of Illinois; elected officials; executive
15 heads of a department; members of boards or commissions; the
16 Executive Inspectors General; any special Executive Inspectors
17 General; employees of each Office of an Executive Inspector
18 General; commissioners and employees of the Executive Ethics
19 Commission; the Auditor General's Inspector General; employees
20 of the Office of the Auditor General's Inspector General; the
21 Legislative Inspector General; any special Legislative
22 Inspectors General; employees of the Office of the Legislative
23 Inspector General; commissioners and employees of the
24 Legislative Ethics Commission; employees of any agency, board
25 or commission created by this Act; employees appointed to State
26 positions of a temporary or emergency nature; all employees of

1 school districts and higher education institutions except
2 firefighters and peace officers employed by a state university
3 and except peace officers employed by a school district in its
4 own police department in existence on the effective date of
5 this amendatory Act of the 96th General Assembly; managerial
6 employees; short-term employees; confidential employees;
7 independent contractors; and supervisors except as provided in
8 this Act.

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

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

1 but not limited to, purposes of vicarious liability in tort and
2 purposes of statutory retirement or health insurance benefits.
3 Child and day care home providers shall not be covered by the
4 State Employees Group Insurance Act of 1971.

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

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

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

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

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

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

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

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

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

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

23 (p) "Security employee" means an employee who is
24 responsible for the supervision and control of inmates at
25 correctional facilities. The term also includes other
26 non-security employees in bargaining units having the majority

1 of employees being responsible for the supervision and control
2 of inmates at correctional facilities.

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

8 (r) "Supervisor" is an employee whose principal work is
9 substantially different from that of his or her subordinates
10 and who has authority, in the interest of the employer, to
11 hire, transfer, suspend, lay off, recall, promote, discharge,
12 direct, reward, or discipline employees, to adjust their
13 grievances, or to effectively recommend any of those actions,
14 if the exercise of that authority is not of a merely routine or
15 clerical nature, but requires the consistent use of independent
16 judgment. Except with respect to police employment, the term
17 "supervisor" includes only those individuals who devote a
18 preponderance of their employment time to exercising that
19 authority, State supervisors notwithstanding. In addition, in
20 determining supervisory status in police employment, rank
21 shall not be determinative. The Board shall consider, as
22 evidence of bargaining unit inclusion or exclusion, the common
23 law enforcement policies and relationships between police
24 officer ranks and certification under applicable civil service
25 law, ordinances, personnel codes, or Division 2.1 of Article 10
26 of the Illinois Municipal Code, but these factors shall not be

1 the sole or predominant factors considered by the Board in
2 determining police supervisory status.

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

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

1 non-State fire fighters and paramedics employed by fire
2 departments and fire protection districts, non-State peace
3 officers, and peace officers in the Department of State Police,
4 a bargaining unit determined by the Board shall not include
5 both supervisors and nonsupervisors, or supervisors only,
6 except as provided in paragraph (2) of this subsection (s) and
7 except for bargaining units in existence on January 1, 1986
8 (the effective date of this amendatory Act of 1985). A
9 bargaining unit determined by the Board to contain peace
10 officers shall contain no employees other than peace officers
11 unless otherwise agreed to by the employer and the labor
12 organization or labor organizations involved. Notwithstanding
13 any other provision of this Act, a bargaining unit, including a
14 historical bargaining unit, containing sworn peace officers of
15 the Department of Natural Resources (formerly designated the
16 Department of Conservation) shall contain no employees other
17 than such sworn peace officers upon the effective date of this
18 amendatory Act of 1990 or upon the expiration date of any
19 collective bargaining agreement in effect upon the effective
20 date of this amendatory Act of 1990 covering both such sworn
21 peace officers and other employees.

22 (2) Notwithstanding the exclusion of supervisors from
23 bargaining units as provided in paragraph (1) of this
24 subsection (s), a public employer may agree to permit its
25 supervisory employees to form bargaining units and may bargain
26 with those units. This Act shall apply if the public employer

1 chooses to bargain under this subsection.

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

10 (Source: P.A. 96-1257, eff. 7-23-10; 97-586, eff. 8-26-11;
11 97-1158, eff. 1-29-13.)

12 Section 99. Effective date. This Act takes effect upon
13 becoming law."