

SB3176



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

SB3176

Introduced 2/19/2016, by Sen. Matt Murphy

SYNOPSIS AS INTRODUCED:

5 ILCS 315/3

from Ch. 48, par. 1603

Amends the Illinois Public Labor Relations Act. Modifies the definition of "public employee" or "employee" to exclude from bargaining unit status any employee of the Department of Human Services who is classified as or who holds the position of Public Service Administrator, Executive 1, or Executive 2.

LRB099 20768 RJF 45433 b

A BILL FOR

1 AN ACT concerning government.

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

4 Section 5. The Illinois Public Labor Relations Act is
5 amended by changing 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.

17 (c) "Confidential employee" means an employee who, in the
18 regular course of his or her duties, assists and acts in a
19 confidential capacity to persons who formulate, determine, and
20 effectuate management policies with regard to labor relations
21 or who, in the regular course of his or her duties, has
22 authorized access to information relating to the effectuation
23 or review of the employer's collective bargaining policies.

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

3 (e) "Essential services employees" means those public
4 employees performing functions so essential that the
5 interruption or termination of the function will constitute a
6 clear and present danger to the health and safety of the
7 persons in the affected community.

8 (f) "Exclusive representative", except with respect to
9 non-State fire fighters and paramedics employed by fire
10 departments and fire protection districts, non-State peace
11 officers, and peace officers in the Department of State Police,
12 means the labor organization that has been (i) designated by
13 the Board as the representative of a majority of public
14 employees in an appropriate bargaining unit in accordance with
15 the procedures contained in this Act, (ii) historically
16 recognized by the State of Illinois or any political
17 subdivision of the State before July 1, 1984 (the effective
18 date of this Act) as the exclusive representative of the
19 employees in an appropriate bargaining unit, (iii) after July
20 1, 1984 (the effective date of this Act) recognized by an
21 employer upon evidence, acceptable to the Board, that the labor
22 organization has been designated as the exclusive
23 representative by a majority of the employees in an appropriate
24 bargaining unit; (iv) recognized as the exclusive
25 representative of personal assistants under Executive Order
26 2003-8 prior to the effective date of this amendatory Act of

1 the 93rd General Assembly, and the organization shall be
2 considered to be the exclusive representative of the personal
3 assistants as defined in this Section; or (v) recognized as the
4 exclusive representative of child and day care home providers,
5 including licensed and license exempt providers, pursuant to an
6 election held under Executive Order 2005-1 prior to the
7 effective date of this amendatory Act of the 94th General
8 Assembly, and the organization shall be considered to be the
9 exclusive representative of the child and day care home
10 providers as defined in this Section.

11 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 Department
14 of State Police, "exclusive representative" means the labor
15 organization that has been (i) designated by the Board as the
16 representative of a majority of peace officers or fire fighters
17 in an appropriate bargaining unit in accordance with the
18 procedures contained in this Act, (ii) historically recognized
19 by the State of Illinois or any political subdivision of the
20 State before January 1, 1986 (the effective date of this
21 amendatory Act of 1985) as the exclusive representative by a
22 majority of the peace officers or fire fighters in an
23 appropriate bargaining unit, or (iii) after January 1, 1986
24 (the effective date of this amendatory Act of 1985) recognized
25 by an employer upon evidence, acceptable to the Board, that the
26 labor organization has been designated as the exclusive

1 representative by a majority of the peace officers or fire
2 fighters in an appropriate bargaining unit.

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

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

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

12 (g-2) "General Assembly of the State of Illinois" means the
13 legislative branch of the government of the State of Illinois,
14 as provided for under Article IV of the Constitution of the
15 State of Illinois, and includes but is not limited to the House
16 of Representatives, the Senate, the Speaker of the House of
17 Representatives, the Minority Leader of the House of
18 Representatives, the President of the Senate, the Minority
19 Leader of the Senate, the Joint Committee on Legislative
20 Support Services and any legislative support services agency
21 listed in the Legislative Commission Reorganization Act of
22 1984.

23 (h) "Governing body" means, in the case of the State, the
24 State Panel of the Illinois Labor Relations Board, the Director
25 of the Department of Central Management Services, and the
26 Director of the Department of Labor; the county board in the

1 case of a county; the corporate authorities in the case of a
2 municipality; and the appropriate body authorized to provide
3 for expenditures of its funds in the case of any other unit of
4 government.

5 (i) "Labor organization" means any organization in which
6 public employees participate and that exists for the purpose,
7 in whole or in part, of dealing with a public employer
8 concerning wages, hours, and other terms and conditions of
9 employment, including the settlement of grievances.

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

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

1 Act 97-1172), or (iii) for which a petition is pending before
2 the Illinois Public Labor Relations Board on that date,
3 "managerial employee" means an individual who is engaged in
4 executive and management functions or who is charged with the
5 effectuation of management policies and practices or who
6 represents management interests by taking or recommending
7 discretionary actions that effectively control or implement
8 policy. Nothing in this definition prohibits an individual from
9 also meeting the definition of "supervisor" under subsection
10 (r) of this Section.

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

1 employees of a police department who are not routinely expected
2 to effect arrests, or elected officials.

3 (1) "Person" includes one or more individuals, labor
4 organizations, public employees, associations, corporations,
5 legal representatives, trustees, trustees in bankruptcy,
6 receivers, or the State of Illinois or any political
7 subdivision of the State or governing body, but does not
8 include the General Assembly of the State of Illinois or any
9 individual employed by the General Assembly of the State of
10 Illinois.

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

1 person to qualify to become a professional employee as defined
2 in this subsection (m).

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

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

1 position of Public Service Administrator (Option 7), and any
2 employee of the Department of State Police who handles issues
3 concerning the Illinois State Police Sex Offender Registry and
4 who is classified as or holds the position of Public Service
5 Administrator (Option 7), 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 and except peace officers employed by a school district in its
23 own police department in existence on the effective date of
24 this amendatory Act of the 96th General Assembly; managerial
25 employees; short-term employees; legislative liaisons; a
26 person who is a State employee under the jurisdiction of the

1 Office of the Attorney General who is licensed to practice law
2 or whose position authorizes, either directly or indirectly,
3 meaningful input into government decision-making on issues
4 where there is room for principled disagreement on goals or
5 their implementation; a person who is a State employee under
6 the jurisdiction of the Office of the Comptroller who holds the
7 position of Public Service Administrator or whose position is
8 otherwise exempt under the Comptroller Merit Employment Code; a
9 person who is a State employee under the jurisdiction of the
10 Secretary of State who holds the position classification of
11 Executive I or higher, whose position authorizes, either
12 directly or indirectly, meaningful input into government
13 decision-making on issues where there is room for principled
14 disagreement on goals or their implementation, or who is
15 otherwise exempt under the Secretary of State Merit Employment
16 Code; employees in the Office of the Secretary of State who are
17 completely exempt from jurisdiction B of the Secretary of State
18 Merit Employment Code and who are in Rutan-exempt positions on
19 or after April 5, 2013 (the effective date of Public Act
20 97-1172); a person who is a State employee under the
21 jurisdiction of the Treasurer who holds a position that is
22 exempt from the State Treasurer Employment Code; any employee
23 of a State agency who (i) holds the title or position of, or
24 exercises substantially similar duties as a legislative
25 liaison, Agency General Counsel, Agency Chief of Staff, Agency
26 Executive Director, Agency Deputy Director, Agency Chief

1 Fiscal Officer, Agency Human Resources Director, Public
2 Information Officer, or Chief Information Officer and (ii) was
3 neither included in a bargaining unit nor subject to an active
4 petition for certification in a bargaining unit; any employee
5 of a State agency who (i) is in a position that is
6 Rutan-exempt, as designated by the employer, and completely
7 exempt from jurisdiction B of the Personnel Code and (ii) was
8 neither included in a bargaining unit nor subject to an active
9 petition for certification in a bargaining unit; any term
10 appointed employee of a State agency pursuant to Section 8b.18
11 or 8b.19 of the Personnel Code who was neither included in a
12 bargaining unit nor subject to an active petition for
13 certification in a bargaining unit; any employment position
14 properly designated pursuant to Section 6.1 of this Act; any
15 employee of the Department of Human Services who is classified
16 as or who holds the position of Public Service Administrator,
17 Executive 1, or Executive 2; confidential employees;
18 independent contractors; and supervisors except as provided in
19 this Act.

20 Home care and home health workers who function as personal
21 assistants and individual maintenance home health workers and
22 who also work under the Home Services Program under Section 3
23 of the Rehabilitation of Persons with Disabilities Act shall
24 not be considered public employees for any purposes not
25 specifically provided for in Public Act 93-204 or Public Act
26 97-1158, including but not limited to, purposes of vicarious

1 liability in tort and purposes of statutory retirement or
2 health insurance benefits. Home care and home health workers
3 who function as personal assistants and individual maintenance
4 home health workers and who also work under the Home Services
5 Program under Section 3 of the Rehabilitation of Persons with
6 Disabilities Act shall not be covered by the State Employees
7 Group Insurance Act of 1971 (5 ILCS 375/).

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

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

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

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

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

21 "Public employer" or "employer" as used in this Act,
22 however, does not mean and shall not include the General
23 Assembly of the State of Illinois, the Executive Ethics
24 Commission, the Offices of the Executive Inspectors General,
25 the Legislative Ethics Commission, the Office of the
26 Legislative Inspector General, the Office of the Auditor

1 General's Inspector General, the Office of the Governor, the
2 Governor's Office of Management and Budget, the Illinois
3 Finance Authority, the Office of the Lieutenant Governor, the
4 State Board of Elections, and educational employers or
5 employers as defined in the Illinois Educational Labor
6 Relations Act, except with respect to a state university in its
7 employment of firefighters and peace officers and except with
8 respect to a school district in the employment of peace
9 officers in its own police department in existence on the
10 effective date of this amendatory Act of the 96th General
11 Assembly. County boards and county sheriffs shall be designated
12 as joint or co-employers of county peace officers appointed
13 under the authority of a county sheriff. Nothing in this
14 subsection (o) shall be construed to prevent the State Panel or
15 the Local Panel from determining that employers are joint or
16 co-employers.

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

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

26 (2) For court reporters employed by the 12th, 18th,

1 19th, and, on and after December 4, 2006, the 22nd judicial
2 circuits, a group consisting of the chief judges of those
3 circuits, acting jointly by majority vote, is the public
4 employer and employer representative.

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

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

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

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

1 (r) "Supervisor" is:

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

1 status.

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

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

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

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

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

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

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

24 (t) "Active petition for certification in a bargaining
25 unit" means a petition for certification filed with the Board
26 under one of the following case numbers: S-RC-11-110;

1 S-RC-11-098; S-UC-11-080; S-RC-11-086; S-RC-11-074;
2 S-RC-11-076; S-RC-11-078; S-UC-11-052; S-UC-11-054;
3 S-RC-11-062; S-RC-11-060; S-RC-11-042; S-RC-11-014;
4 S-RC-11-016; S-RC-11-020; S-RC-11-030; S-RC-11-004;
5 S-RC-10-244; S-RC-10-228; S-RC-10-222; S-RC-10-220;
6 S-RC-10-214; S-RC-10-196; S-RC-10-194; S-RC-10-178;
7 S-RC-10-176; S-RC-10-162; S-RC-10-156; S-RC-10-088;
8 S-RC-10-074; S-RC-10-076; S-RC-10-078; S-RC-10-060;
9 S-RC-10-070; S-RC-10-044; S-RC-10-038; S-RC-10-040;
10 S-RC-10-042; S-RC-10-018; S-RC-10-024; S-RC-10-004;
11 S-RC-10-006; S-RC-10-008; S-RC-10-010; S-RC-10-012;
12 S-RC-09-202; S-RC-09-182; S-RC-09-180; S-RC-09-156;
13 S-UC-09-196; S-UC-09-182; S-RC-08-130; S-RC-07-110; or
14 S-RC-07-100.
15 (Source: P.A. 98-100, eff. 7-19-13; 98-1004, eff. 8-18-14;
16 99-143, eff. 7-27-15.)