



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB2863

Introduced 2/16/2023, by Rep. Gregg Johnson

SYNOPSIS AS INTRODUCED:

5 ILCS 315/3
5 ILCS 315/9

from Ch. 48, par. 1603
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 30908 DTM 57454 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.)