



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

SB2555

Introduced 2/15/2008, by Sen. Dan Cronin

SYNOPSIS AS INTRODUCED:

5 ILCS 315/3

from Ch. 48, par. 1603

Amends the Illinois Public Labor Relations Act. In the definition of a "confidential employee", provides that (i) a secretary, assistant, or one of like position to a person who formulates, determines, and effectuates labor relations policy is presumed to be a confidential employee and (ii) specified elected and appointed executive officers, managers, and administrators of units of local government are persons who formulate, determine, and effectuate labor relations policy.

LRB095 14872 JAM 40814 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 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. A

1 secretary, assistant, or one of like position to a person who
2 formulates, determines, and effectuates labor relations policy
3 is presumed to be a confidential employee. In all instances,
4 the mayor, village president, county board president, county
5 board chairman, or other chief executive officer of a unit of
6 local government, and any village or city manager or
7 administrator or anyone in a like position in any unit of local
8 government, is a person who formulates, determines, and
9 effectuates labor relations policy under this Act.

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

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

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

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

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

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

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

26 (g-1) "Fire fighter" means, for the purposes of this Act

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

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

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

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

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

9 (j) "Managerial employee" means an individual who is
10 engaged predominantly in executive and management functions
11 and is charged with the responsibility of directing the
12 effectuation of management policies and practices.

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

1 and who are not routinely expected to effect arrests, parking
2 lot attendants, clerks and dispatchers or other civilian
3 employees of a police department who are not routinely expected
4 to effect arrests, or elected officials.

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

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

1 instruction and study prescribed in this subsection (m) and is
2 performing related work under the supervision of a professional
3 person to qualify to become a professional employee as defined
4 in this subsection (m).

5 (n) "Public employee" or "employee", for the purposes of
6 this Act, means any individual employed by a public employer,
7 including (i) interns and residents at public hospitals, (ii)
8 as of the effective date of this amendatory Act of the 93rd
9 General Assembly, but not before, personal care attendants and
10 personal assistants working under the Home Services Program
11 under Section 3 of the Disabled Persons Rehabilitation Act,
12 subject to the limitations set forth in this Act and in the
13 Disabled Persons Rehabilitation Act, and (iii) as of the
14 effective date of this amendatory Act of the 94th General
15 Assembly, but not before, child and day care home providers
16 participating in the child care assistance program under
17 Section 9A-11 of the Illinois Public Aid Code, subject to the
18 limitations set forth in this Act and in Section 9A-11 of the
19 Illinois Public Aid Code, but excluding all of the following:
20 employees of the General Assembly of the State of Illinois;
21 elected officials; executive heads of a department; members of
22 boards or commissions; the Executive Inspectors General; any
23 special Executive Inspectors General; employees of each Office
24 of an Executive Inspector General; commissioners and employees
25 of the Executive Ethics Commission; the Auditor General's
26 Inspector General; employees of the Office of the Auditor

1 General's Inspector General; the Legislative Inspector
2 General; any special Legislative Inspectors General; employees
3 of the Office of the Legislative Inspector General;
4 commissioners and employees of the Legislative Ethics
5 Commission; employees of any agency, board or commission
6 created by this Act; employees appointed to State positions of
7 a temporary or emergency nature; all employees of school
8 districts and higher education institutions except
9 firefighters and peace officers employed by a state university;
10 managerial employees; short-term employees; confidential
11 employees; independent contractors; and supervisors except as
12 provided in this Act.

13 Personal care attendants and personal assistants shall not
14 be considered public employees for any purposes not
15 specifically provided for in the amendatory Act of the 93rd
16 General Assembly, including but not limited to, purposes of
17 vicarious liability in tort and purposes of statutory
18 retirement or health insurance benefits. Personal care
19 attendants and personal assistants shall not be covered by the
20 State Employees Group Insurance Act of 1971 (5 ILCS 375/).

21 Child and day care home providers shall not be considered
22 public employees for any purposes not specifically provided for
23 in this amendatory Act of the 94th General Assembly, including
24 but not limited to, purposes of vicarious liability in tort and
25 purposes of statutory retirement or health insurance benefits.
26 Child and day care home providers shall not be covered by the

1 State Employees Group Insurance Act of 1971.

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

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

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

16 "Public employer" or "employer" as used in this Act,
17 however, does not mean and shall not include the General
18 Assembly of the State of Illinois, the Executive Ethics
19 Commission, the Offices of the Executive Inspectors General,
20 the Legislative Ethics Commission, the Office of the
21 Legislative Inspector General, the Office of the Auditor
22 General's Inspector General, and educational employers or
23 employers as defined in the Illinois Educational Labor
24 Relations Act, except with respect to a state university in its
25 employment of firefighters and peace officers. County boards
26 and county sheriffs shall be designated as joint or

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

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

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

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

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

24 (p) "Security employee" means an employee who is
25 responsible for the supervision and control of inmates at
26 correctional facilities. The term also includes other

1 non-security employees in bargaining units having the majority
2 of employees being responsible for the supervision and control
3 of inmates at correctional facilities.

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

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

1 of the Illinois Municipal Code, but these factors shall not be
2 the sole or predominant factors considered by the Board in
3 determining police supervisory status.

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

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

1 for bargaining units in existence on July 1, 1984 (the
2 effective date of this Act). With respect to non-State fire
3 fighters and paramedics employed by fire departments and
4 fire protection districts, non-State peace officers, and
5 peace officers in the Department of State Police, a
6 bargaining unit determined by the Board shall not include
7 both supervisors and nonsupervisors, or supervisors only,
8 except as provided in paragraph (2) of this subsection (s)
9 and except for bargaining units in existence on January 1,
10 1986 (the effective date of this amendatory Act of 1985). A
11 bargaining unit determined by the Board to contain peace
12 officers shall contain no employees other than peace
13 officers unless otherwise agreed to by the employer and the
14 labor organization or labor organizations involved.
15 Notwithstanding any other provision of this Act, a
16 bargaining unit, including a historical bargaining unit,
17 containing sworn peace officers of the Department of
18 Natural Resources (formerly designated the Department of
19 Conservation) shall contain no employees other than such
20 sworn peace officers upon the effective date of this
21 amendatory Act of 1990 or upon the expiration date of any
22 collective bargaining agreement in effect upon the
23 effective date of this amendatory Act of 1990 covering both
24 such sworn peace officers and other employees.

25 (2) Notwithstanding the exclusion of supervisors from
26 bargaining units as provided in paragraph (1) of this

1 subsection (s), a public employer may agree to permit its
2 supervisory employees to form bargaining units and may
3 bargain with those units. This Act shall apply if the
4 public employer chooses to bargain under this subsection.

5 (3) Public employees who are court reporters, as
6 defined in the Court Reporters Act, shall be divided into 3
7 units for collective bargaining purposes. One unit shall be
8 court reporters employed by the Cook County Judicial
9 Circuit; one unit shall be court reporters employed by the
10 12th, 18th, 19th, and, on and after December 4, 2006, the
11 22nd judicial circuits; and one unit shall be court
12 reporters employed by all other judicial circuits.

13 (Source: P.A. 94-98, eff. 7-1-05; 94-320, eff. 1-1-06; 95-331,
14 eff. 8-21-07.)