

SB3016



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

SB3016

Introduced 2/7/2014, by Sen. Michael Connelly

SYNOPSIS AS INTRODUCED:

5 ILCS 315/3

from Ch. 48, par. 1603

Amends Illinois Public Labor Relations Act. Provides that 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". Provides that the following is considered to be a person who formulates, determines, and effectuates labor relations policy under the Act: (i) the mayor, village president, county board president, county board chairman, or other chief executive officer of a unit of local government, and (ii) any village or city manager or village or city administrator, or anyone in a like position in any unit of local government. Effective immediately.

LRB098 17375 OMW 52473 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. 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". The following is
4 considered to be a person who formulates, determines, and
5 effectuates labor relations policy under the Act: (i) the
6 mayor, village president, county board president, county board
7 chairman, or other chief executive officer of a unit of local
8 government, and (ii) any village or city manager or village or
9 city administrator, or anyone in a like position in any unit of
10 local government.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 (i-5) "Legislative liaison" means a person who is an
22 employee of a State agency, the Attorney General, the Secretary
23 of State, the Comptroller, or the Treasurer, as the case may
24 be, and whose job duties require the person to regularly
25 communicate in the course of his or her employment with any
26 official or staff of the General Assembly of the State of

1 Illinois for the purpose of influencing any legislative action.

2 (j) "Managerial employee" means an individual who is
3 engaged predominantly in executive and management functions
4 and is charged with the responsibility of directing the
5 effectuation of management policies and practices. With
6 respect only to State employees in positions under the
7 jurisdiction of the Attorney General, Secretary of State,
8 Comptroller, or Treasurer (i) that were certified in a
9 bargaining unit on or after December 2, 2008, (ii) for which a
10 petition is filed with the Illinois Public Labor Relations
11 Board on or after April 5, 2013 (the effective date of Public
12 Act 97-1172), or (iii) for which a petition is pending before
13 the Illinois Public Labor Relations Board on that date,
14 "managerial employee" means an individual who is engaged in
15 executive and management functions or who is charged with the
16 effectuation of management policies and practices or who
17 represents management interests by taking or recommending
18 discretionary actions that effectively control or implement
19 policy. Nothing in this definition prohibits an individual from
20 also meeting the definition of "supervisor" under subsection
21 (r) of this Section.

22 (k) "Peace officer" means, for the purposes of this Act
23 only, any persons who have been or are hereafter appointed to a
24 police force, department, or agency and sworn or commissioned
25 to perform police duties, except that the following persons are
26 not included: part-time police officers, special police

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

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

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

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

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

1 in this Act and in Section 9A-11 of the Illinois Public Aid
2 Code, (iv) as of January 29, 2013 (the effective date of Public
3 Act 97-1158), but not before except as otherwise provided in
4 this subsection (n), home care and home health workers who
5 function as personal care attendants, personal assistants, and
6 individual maintenance home health workers and who also work
7 under the Home Services Program under Section 3 of the Disabled
8 Persons Rehabilitation Act, no matter whether the State
9 provides those services through direct fee-for-service
10 arrangements, with the assistance of a managed care
11 organization or other intermediary, or otherwise, (v)
12 beginning on the effective date of this amendatory Act of the
13 98th General Assembly and notwithstanding any other provision
14 of this Act, any person employed by a public employer and who
15 is classified as or who holds the employment title of Chief
16 Stationary Engineer, Assistant Chief Stationary Engineer,
17 Sewage Plant Operator, Water Plant Operator, Stationary
18 Engineer, Plant Operating Engineer, and any other employee who
19 holds the position of: Civil Engineer V, Civil Engineer VI,
20 Civil Engineer VII, Technical Manager I, Technical Manager II,
21 Technical Manager III, Technical Manager IV, Technical Manager
22 V, Technical Manager VI, Realty Specialist III, Realty
23 Specialist IV, Realty Specialist V, Technical Advisor I,
24 Technical Advisor II, Technical Advisor III, Technical Advisor
25 IV, or Technical Advisor V employed by the Department of
26 Transportation who is in a position which is certified in a

1 bargaining unit on or before the effective date of this
2 amendatory Act of the 98th General Assembly, and (vi) beginning
3 on the effective date of this amendatory Act of the 98th
4 General Assembly and notwithstanding any other provision of
5 this Act, any mental health administrator in the Department of
6 Corrections who is classified as or who holds the position of
7 Public Service Administrator (Option 8K), any employee of the
8 Office of the Inspector General in the Department of Human
9 Services who is classified as or who holds the position of
10 Public Service Administrator (Option 7), any Deputy of
11 Intelligence in the Department of Corrections who is classified
12 as or who holds the position of Public Service Administrator
13 (Option 7), and any employee of the Department of State Police
14 who handles issues concerning the Illinois State Police Sex
15 Offender Registry and who is classified as or holds the
16 position of Public Service Administrator (Option 7), but
17 excluding all of the following: employees of the General
18 Assembly of the State of Illinois; elected officials; executive
19 heads of a department; members of boards or commissions; the
20 Executive Inspectors General; any special Executive Inspectors
21 General; employees of each Office of an Executive Inspector
22 General; commissioners and employees of the Executive Ethics
23 Commission; the Auditor General's Inspector General; employees
24 of the Office of the Auditor General's Inspector General; the
25 Legislative Inspector General; any special Legislative
26 Inspectors General; employees of the Office of the Legislative

1 Inspector General; commissioners and employees of the
2 Legislative Ethics Commission; employees of any agency, board
3 or commission created by this Act; employees appointed to State
4 positions of a temporary or emergency nature; all employees of
5 school districts and higher education institutions except
6 firefighters and peace officers employed by a state university
7 and except peace officers employed by a school district in its
8 own police department in existence on the effective date of
9 this amendatory Act of the 96th General Assembly; managerial
10 employees; short-term employees; legislative liaisons; a
11 person who is a State employee under the jurisdiction of the
12 Office of the Attorney General who is licensed to practice law
13 or whose position authorizes, either directly or indirectly,
14 meaningful input into government decision-making on issues
15 where there is room for principled disagreement on goals or
16 their implementation; a person who is a State employee under
17 the jurisdiction of the Office of the Comptroller who holds the
18 position of Public Service Administrator or whose position is
19 otherwise exempt under the Comptroller Merit Employment Code; a
20 person who is a State employee under the jurisdiction of the
21 Secretary of State who holds the position classification of
22 Executive I or higher, whose position authorizes, either
23 directly or indirectly, meaningful input into government
24 decision-making on issues where there is room for principled
25 disagreement on goals or their implementation, or who is
26 otherwise exempt under the Secretary of State Merit Employment

1 Code; employees in the Office of the Secretary of State who are
2 completely exempt from jurisdiction B of the Secretary of State
3 Merit Employment Code and who are in Rutan-exempt positions on
4 or after April 5, 2013 (the effective date of Public Act
5 97-1172); a person who is a State employee under the
6 jurisdiction of the Treasurer who holds a position that is
7 exempt from the State Treasurer Employment Code; any employee
8 of a State agency who (i) holds the title or position of, or
9 exercises substantially similar duties as a legislative
10 liaison, Agency General Counsel, Agency Chief of Staff, Agency
11 Executive Director, Agency Deputy Director, Agency Chief
12 Fiscal Officer, Agency Human Resources Director, Public
13 Information Officer, or Chief Information Officer and (ii) was
14 neither included in a bargaining unit nor subject to an active
15 petition for certification in a bargaining unit; any employee
16 of a State agency who (i) is in a position that is
17 Rutan-exempt, as designated by the employer, and completely
18 exempt from jurisdiction B of the Personnel Code and (ii) was
19 neither included in a bargaining unit nor subject to an active
20 petition for certification in a bargaining unit; any term
21 appointed employee of a State agency pursuant to Section 8b.18
22 or 8b.19 of the Personnel Code who was neither included in a
23 bargaining unit nor subject to an active petition for
24 certification in a bargaining unit; any employment position
25 properly designated pursuant to Section 6.1 of this Act;
26 confidential employees; independent contractors; and

1 supervisors except as provided in this Act.

2 Home care and home health workers who function as personal
3 care attendants, personal assistants, and individual
4 maintenance home health workers and who also work under the
5 Home Services Program under Section 3 of the Disabled Persons
6 Rehabilitation Act shall not be considered public employees for
7 any purposes not specifically provided for in Public Act 93-204
8 or Public Act 97-1158, including but not limited to, purposes
9 of vicarious liability in tort and purposes of statutory
10 retirement or health insurance benefits. Home care and home
11 health workers who function as personal care attendants,
12 personal assistants, and individual maintenance home health
13 workers and who also work under the Home Services Program under
14 Section 3 of the Disabled Persons Rehabilitation Act shall not
15 be covered by the State Employees Group Insurance Act of 1971
16 (5 ILCS 375/).

17 Child and day care home providers shall not be considered
18 public employees for any purposes not specifically provided for
19 in this amendatory Act of the 94th General Assembly, including
20 but not limited to, purposes of vicarious liability in tort and
21 purposes of statutory retirement or health insurance benefits.
22 Child and day care home providers shall not be covered by the
23 State Employees Group Insurance Act of 1971.

24 Notwithstanding Section 9, subsection (c), or any other
25 provisions of this Act, all peace officers above the rank of
26 captain in municipalities with more than 1,000,000 inhabitants

1 shall be excluded from this Act.

2 (o) Except as otherwise in subsection (o-5), "public
3 employer" or "employer" means the State of Illinois; any
4 political subdivision of the State, unit of local government or
5 school district; authorities including departments, divisions,
6 bureaus, boards, commissions, or other agencies of the
7 foregoing entities; and any person acting within the scope of
8 his or her authority, express or implied, on behalf of those
9 entities in dealing with its employees. As of the effective
10 date of the amendatory Act of the 93rd General Assembly, but
11 not before, the State of Illinois shall be considered the
12 employer of the personal care attendants and personal
13 assistants working under the Home Services Program under
14 Section 3 of the Disabled Persons Rehabilitation Act, subject
15 to the limitations set forth in this Act and in the Disabled
16 Persons Rehabilitation Act. As of January 29, 2013 (the
17 effective date of Public Act 97-1158), but not before except as
18 otherwise provided in this subsection (o), the State shall be
19 considered the employer of home care and home health workers
20 who function as personal care attendants, personal assistants,
21 and individual maintenance home health workers and who also
22 work under the Home Services Program under Section 3 of the
23 Disabled Persons Rehabilitation Act, no matter whether the
24 State provides those services through direct fee-for-service
25 arrangements, with the assistance of a managed care
26 organization or other intermediary, or otherwise, but subject

1 to the limitations set forth in this Act and the Disabled
2 Persons Rehabilitation Act. The State shall not be considered
3 to be the employer of home care and home health workers who
4 function as personal care attendants, personal assistants, and
5 individual maintenance home health workers and who also work
6 under the Home Services Program under Section 3 of the Disabled
7 Persons Rehabilitation Act, for any purposes not specifically
8 provided for in Public Act 93-204 or Public Act 97-1158,
9 including but not limited to, purposes of vicarious liability
10 in tort and purposes of statutory retirement or health
11 insurance benefits. Home care and home health workers who
12 function as personal care attendants, personal assistants, and
13 individual maintenance home health workers and who also work
14 under the Home Services Program under Section 3 of the Disabled
15 Persons Rehabilitation Act shall not be covered by the State
16 Employees Group Insurance Act of 1971 (5 ILCS 375/). As of the
17 effective date of this amendatory Act of the 94th General
18 Assembly but not before, the State of Illinois shall be
19 considered the employer of the day and child care home
20 providers participating in the child care assistance program
21 under Section 9A-11 of the Illinois Public Aid Code, subject to
22 the limitations set forth in this Act and in Section 9A-11 of
23 the Illinois Public Aid Code. The State shall not be considered
24 to be the employer of child and day care home providers for any
25 purposes not specifically provided for in this amendatory Act
26 of the 94th General Assembly, including but not limited to,

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

5 "Public employer" or "employer" as used in this Act,
6 however, does not mean and shall not include the General
7 Assembly of the State of Illinois, the Executive Ethics
8 Commission, the Offices of the Executive Inspectors General,
9 the Legislative Ethics Commission, the Office of the
10 Legislative Inspector General, the Office of the Auditor
11 General's Inspector General, the Office of the Governor, the
12 Governor's Office of Management and Budget, the Illinois
13 Finance Authority, the Office of the Lieutenant Governor, the
14 State Board of Elections, and educational employers or
15 employers as defined in the Illinois Educational Labor
16 Relations Act, except with respect to a state university in its
17 employment of firefighters and peace officers and except with
18 respect to a school district in the employment of peace
19 officers in its own police department in existence on the
20 effective date of this amendatory Act of the 96th General
21 Assembly. County boards and county sheriffs shall be designated
22 as joint or co-employers of county peace officers appointed
23 under the authority of a county sheriff. Nothing in this
24 subsection (o) shall be construed to prevent the State Panel or
25 the Local Panel from determining that employers are joint or
26 co-employers.

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

6 (1) For court reporters employed by the Cook County
7 Judicial Circuit, the chief judge of the Cook County
8 Circuit Court is the public employer and employer
9 representative.

10 (2) For court reporters employed by the 12th, 18th,
11 19th, and, on and after December 4, 2006, the 22nd judicial
12 circuits, a group consisting of the chief judges of those
13 circuits, acting jointly by majority vote, is the public
14 employer and employer representative.

15 (3) For court reporters employed by all other judicial
16 circuits, a group consisting of the chief judges of those
17 circuits, acting jointly by majority vote, is the public
18 employer and employer representative.

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

25 (q) "Short-term employee" means an employee who is employed
26 for less than 2 consecutive calendar quarters during a calendar

1 year and who does not have a reasonable assurance that he or
2 she will be rehired by the same employer for the same service
3 in a subsequent calendar year.

4 (q-5) "State agency" means an agency directly responsible
5 to the Governor, as defined in Section 3.1 of the Executive
6 Reorganization Implementation Act, and the Illinois Commerce
7 Commission, the Illinois Workers' Compensation Commission, the
8 Civil Service Commission, the Pollution Control Board, the
9 Illinois Racing Board, and the Department of State Police Merit
10 Board.

11 (r) "Supervisor" is:

12 (1) An employee whose principal work is substantially
13 different from that of his or her subordinates and who has
14 authority, in the interest of the employer, to hire,
15 transfer, suspend, lay off, recall, promote, discharge,
16 direct, reward, or discipline employees, to adjust their
17 grievances, or to effectively recommend any of those
18 actions, if the exercise of that authority is not of a
19 merely routine or clerical nature, but requires the
20 consistent use of independent judgment. Except with
21 respect to police employment, the term "supervisor"
22 includes only those individuals who devote a preponderance
23 of their employment time to exercising that authority,
24 State supervisors notwithstanding. Nothing in this
25 definition prohibits an individual from also meeting the
26 definition of "managerial employee" under subsection (j)

1 of this Section. In addition, in determining supervisory
2 status in police employment, rank shall not be
3 determinative. The Board shall consider, as evidence of
4 bargaining unit inclusion or exclusion, the common law
5 enforcement policies and relationships between police
6 officer ranks and certification under applicable civil
7 service law, ordinances, personnel codes, or Division 2.1
8 of Article 10 of the Illinois Municipal Code, but these
9 factors shall not be the sole or predominant factors
10 considered by the Board in determining police supervisory
11 status.

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

1 (2) With respect only to State employees in positions
2 under the jurisdiction of the Attorney General, Secretary
3 of State, Comptroller, or Treasurer (i) that were certified
4 in a bargaining unit on or after December 2, 2008, (ii) for
5 which a petition is filed with the Illinois Public Labor
6 Relations Board on or after April 5, 2013 (the effective
7 date of Public Act 97-1172), or (iii) for which a petition
8 is pending before the Illinois Public Labor Relations Board
9 on that date, an employee who qualifies as a supervisor
10 under (A) Section 152 of the National Labor Relations Act
11 and (B) orders of the National Labor Relations Board
12 interpreting that provision or decisions of courts
13 reviewing decisions of the National Labor Relations Board.

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

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

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

26 (3) Public employees who are court reporters, as defined in

1 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, 19th,
5 and, on and after December 4, 2006, the 22nd judicial circuits;
6 and one unit shall be court reporters employed by all other
7 judicial circuits.

8 (t) "Active petition for certification in a bargaining
9 unit" means a petition for certification filed with the Board
10 under one of the following case numbers: S-RC-11-110;
11 S-RC-11-098; S-UC-11-080; S-RC-11-086; S-RC-11-074;
12 S-RC-11-076; S-RC-11-078; S-UC-11-052; S-UC-11-054;
13 S-RC-11-062; S-RC-11-060; S-RC-11-042; S-RC-11-014;
14 S-RC-11-016; S-RC-11-020; S-RC-11-030; S-RC-11-004;
15 S-RC-10-244; S-RC-10-228; S-RC-10-222; S-RC-10-220;
16 S-RC-10-214; S-RC-10-196; S-RC-10-194; S-RC-10-178;
17 S-RC-10-176; S-RC-10-162; S-RC-10-156; S-RC-10-088;
18 S-RC-10-074; S-RC-10-076; S-RC-10-078; S-RC-10-060;
19 S-RC-10-070; S-RC-10-044; S-RC-10-038; S-RC-10-040;
20 S-RC-10-042; S-RC-10-018; S-RC-10-024; S-RC-10-004;
21 S-RC-10-006; S-RC-10-008; S-RC-10-010; S-RC-10-012;
22 S-RC-09-202; S-RC-09-182; S-RC-09-180; S-RC-09-156;
23 S-UC-09-196; S-UC-09-182; S-RC-08-130; S-RC-07-110; or
24 S-RC-07-100.

25 (Source: P.A. 97-586, eff. 8-26-11; 97-1158, eff. 1-29-13;
26 97-1172, eff. 4-5-13; 98-100, eff. 7-19-13.)

1 Section 99. Effective date. This Act takes effect upon
2 becoming law.