

**SB2437**



**95TH GENERAL ASSEMBLY**

**State of Illinois**

**2007 and 2008**

**SB2437**

Introduced 2/15/2008, by Sen. William Delgado

**SYNOPSIS AS INTRODUCED:**

5 ILCS 315/3

from Ch. 48, par. 1603

Amends the Illinois Public Labor Relations Act. Redefines "public employee" to include physicians and attending physicians at public hospitals.

LRB095 19097 JAM 45302 b

**A BILL FOR**

1 AN ACT concerning government.

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

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

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

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

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

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

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

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

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

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

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

12 With respect to non-State fire fighters and paramedics  
13 employed by fire departments and fire protection districts,  
14 non-State peace officers, and peace officers in the Department  
15 of State Police, "exclusive representative" means the labor  
16 organization that has been (i) designated by the Board as the  
17 representative of a majority of peace officers or fire fighters  
18 in an appropriate bargaining unit in accordance with the  
19 procedures contained in this Act, (ii) historically recognized  
20 by the State of Illinois or any political subdivision of the  
21 State before January 1, 1986 (the effective date of this  
22 amendatory Act of 1985) as the exclusive representative by a  
23 majority of the peace officers or fire fighters in an  
24 appropriate bargaining unit, or (iii) after January 1, 1986  
25 (the effective date of this amendatory Act of 1985) recognized  
26 by an 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 peace officers or fire  
3 fighters in an appropriate bargaining unit.

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

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

1 officials.

2 (g-2) "General Assembly of the State of Illinois" means the  
3 legislative branch of the government of the State of Illinois,  
4 as provided for under Article IV of the Constitution of the  
5 State of Illinois, and includes but is not limited to the House  
6 of Representatives, the Senate, the Speaker of the House of  
7 Representatives, the Minority Leader of the House of  
8 Representatives, the President of the Senate, the Minority  
9 Leader of the Senate, the Joint Committee on Legislative  
10 Support Services and any legislative support services agency  
11 listed in the Legislative Commission Reorganization Act of  
12 1984.

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

21 (i) "Labor organization" means any organization in which  
22 public employees participate and that exists for the purpose,  
23 in whole or in part, of dealing with a public employer  
24 concerning wages, hours, and other terms and conditions of  
25 employment, including the settlement of grievances.

26 (j) "Managerial employee" means an individual who is

1 engaged predominantly in executive and management functions  
2 and is charged with the responsibility of directing the  
3 effectuation of management policies and practices.

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

22 (l) "Person" includes one or more individuals, labor  
23 organizations, public employees, associations, corporations,  
24 legal representatives, trustees, trustees in bankruptcy,  
25 receivers, or the State of Illinois or any political  
26 subdivision of the State or governing body, but does not

1 include the General Assembly of the State of Illinois or any  
2 individual employed by the General Assembly of the State of  
3 Illinois.

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

22 (n) "Public employee" or "employee", for the purposes of  
23 this Act, means any individual employed by a public employer,  
24 including (i) physicians, attending physicians, interns, and  
25 residents at public hospitals, (ii) as of the effective date of  
26 this amendatory Act of the 93rd General Assembly, but not



1 before, personal care attendants and personal assistants  
2 working under the Home Services Program under Section 3 of the  
3 Disabled Persons Rehabilitation Act, subject to the  
4 limitations set forth in this Act and in the Disabled Persons  
5 Rehabilitation Act, and (iii) as of the effective date of this  
6 amendatory Act of the 94th General Assembly, but not before,  
7 child and day care home providers participating in the child  
8 care assistance program under Section 9A-11 of the Illinois  
9 Public Aid Code, subject to the limitations set forth in this  
10 Act and in Section 9A-11 of the Illinois Public Aid Code, but  
11 excluding all of the following: employees of the General  
12 Assembly of the State of Illinois; elected officials; executive  
13 heads of a department; members of boards or commissions; the  
14 Executive Inspectors General; any special Executive Inspectors  
15 General; employees of each Office of an Executive Inspector  
16 General; commissioners and employees of the Executive Ethics  
17 Commission; the Auditor General's Inspector General; employees  
18 of the Office of the Auditor General's Inspector General; the  
19 Legislative Inspector General; any special Legislative  
20 Inspectors General; employees of the Office of the Legislative  
21 Inspector General; commissioners and employees of the  
22 Legislative Ethics Commission; employees of any agency, board  
23 or commission created by this Act; employees appointed to State  
24 positions of a temporary or emergency nature; all employees of  
25 school districts and higher education institutions except  
26 firefighters and peace officers employed by a state university;

1 managerial employees; short-term employees; confidential  
2 employees; independent contractors; and supervisors except as  
3 provided in this Act.

4 Personal care attendants and personal assistants shall not  
5 be considered public employees for any purposes not  
6 specifically provided for in the amendatory Act of the 93rd  
7 General Assembly, including but not limited to, purposes of  
8 vicarious liability in tort and purposes of statutory  
9 retirement or health insurance benefits. Personal care  
10 attendants and personal assistants shall not be covered by the  
11 State Employees Group Insurance Act of 1971 (5 ILCS 375/).

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

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

23 (o) Except as otherwise in subsection (o-5), "public  
24 employer" or "employer" means the State of Illinois; any  
25 political subdivision of the State, unit of local government or  
26 school district; authorities including departments, divisions,

1     bureaus, boards, commissions, or other agencies of the  
2     foregoing entities; and any person acting within the scope of  
3     his or her authority, express or implied, on behalf of those  
4     entities in dealing with its employees. As of the effective  
5     date of the amendatory Act of the 93rd General Assembly, but  
6     not before, the State of Illinois shall be considered the  
7     employer of the personal care attendants and personal  
8     assistants working under the Home Services Program under  
9     Section 3 of the Disabled Persons Rehabilitation Act, subject  
10    to the limitations set forth in this Act and in the Disabled  
11    Persons Rehabilitation Act. The State shall not be considered  
12    to be the employer of personal care attendants and personal  
13    assistants for any purposes not specifically provided for in  
14    this amendatory Act of the 93rd General Assembly, including but  
15    not limited to, purposes of vicarious liability in tort and  
16    purposes of statutory retirement or health insurance benefits.  
17    Personal care attendants and personal assistants shall not be  
18    covered by the State Employees Group Insurance Act of 1971 (5  
19    ILCS 375/). As of the effective date of this amendatory Act of  
20    the 94th General Assembly but not before, the State of Illinois  
21    shall be considered the employer of the day and child care home  
22    providers participating in the child care assistance program  
23    under Section 9A-11 of the Illinois Public Aid Code, subject to  
24    the limitations set forth in this Act and in Section 9A-11 of  
25    the Illinois Public Aid Code. The State shall not be considered  
26    to be the employer of child and day care home providers for any

1 purposes not specifically provided for in this amendatory Act  
2 of the 94th General Assembly, including but not limited to,  
3 purposes of vicarious liability in tort and purposes of  
4 statutory retirement or health insurance benefits. Child and  
5 day care home providers shall not be covered by the State  
6 Employees Group Insurance Act of 1971.

7 "Public employer" or "employer" as used in this Act,  
8 however, does not mean and shall not include the General  
9 Assembly of the State of Illinois, the Executive Ethics  
10 Commission, the Offices of the Executive Inspectors General,  
11 the Legislative Ethics Commission, the Office of the  
12 Legislative Inspector General, the Office of the Auditor  
13 General's Inspector General, and educational employers or  
14 employers as defined in the Illinois Educational Labor  
15 Relations Act, except with respect to a state university in its  
16 employment of firefighters and peace officers. County boards  
17 and county sheriffs shall be designated as joint or  
18 co-employers of county peace officers appointed under the  
19 authority of a county sheriff. Nothing in this subsection (o)  
20 shall be construed to prevent the State Panel or the Local  
21 Panel from determining that employers are joint or  
22 co-employers.

23 (o-5) With respect to wages, fringe benefits, hours,  
24 holidays, vacations, proficiency examinations, sick leave, and  
25 other conditions of employment, the public employer of public  
26 employees who are court reporters, as defined in the Court

1 Reporters Act, shall be determined as follows:

2 (1) For court reporters employed by the Cook County  
3 Judicial Circuit, the chief judge of the Cook County  
4 Circuit Court is the public employer and employer  
5 representative.

6 (2) For court reporters employed by the 12th, 18th,  
7 19th, and, on and after December 4, 2006, the 22nd judicial  
8 circuits, a group consisting of the chief judges of those  
9 circuits, acting jointly by majority vote, is the public  
10 employer and employer representative.

11 (3) For court reporters employed by all other 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 (p) "Security employee" means an employee who is  
16 responsible for the supervision and control of inmates at  
17 correctional facilities. The term also includes other  
18 non-security employees in bargaining units having the majority  
19 of employees being responsible for the supervision and control  
20 of inmates at correctional facilities.

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

26 (r) "Supervisor" is an employee whose principal work is

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

21 Notwithstanding the provisions of the preceding paragraph,  
22 in determining supervisory status in fire fighter employment,  
23 no fire fighter shall be excluded as a supervisor who has  
24 established representation rights under Section 9 of this Act.  
25 Further, in new fire fighter units, employees shall consist of  
26 fire fighters of the rank of company officer and below. If a

1 company officer otherwise qualifies as a supervisor under the  
2 preceding paragraph, however, he or she shall not be included  
3 in the fire fighter unit. If there is no rank between that of  
4 chief and the highest company officer, the employer may  
5 designate a position on each shift as a Shift Commander, and  
6 the persons occupying those positions shall be supervisors. All  
7 other ranks above that of company officer shall be supervisors.

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

1           1986 (the effective date of this amendatory Act of 1985). A  
2           bargaining unit determined by the Board to contain peace  
3           officers shall contain no employees other than peace  
4           officers unless otherwise agreed to by the employer and the  
5           labor organization or labor organizations involved.  
6           Notwithstanding any other provision of this Act, a  
7           bargaining unit, including a historical bargaining unit,  
8           containing sworn peace officers of the Department of  
9           Natural Resources (formerly designated the Department of  
10          Conservation) shall contain no employees other than such  
11          sworn peace officers upon the effective date of this  
12          amendatory Act of 1990 or upon the expiration date of any  
13          collective bargaining agreement in effect upon the  
14          effective date of this amendatory Act of 1990 covering both  
15          such sworn peace officers and other employees.

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

22           (3) Public employees who are court reporters, as  
23          defined in the Court Reporters Act, shall be divided into 3  
24          units for collective bargaining purposes. One unit shall be  
25          court reporters employed by the Cook County Judicial  
26          Circuit; one unit shall be court reporters employed by the



1           12th, 18th, 19th, and, on and after December 4, 2006, the  
2           22nd judicial circuits; and one unit shall be court  
3           reporters employed by all other judicial circuits.

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