

AS AMENDED,

by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Public Labor Relations Act is amended by changing Sections 3 and 6 as follows:

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

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

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

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

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

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

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

(f) "Exclusive representative", except with respect to non-State fire fighters and paramedics employed by fire departments and fire protection districts, non-State peace officers, and peace officers in the Department of State Police, means the labor organization that has been (i) designated by the Board as the representative of a majority

of public employees in an appropriate bargaining unit in accordance with the procedures contained in this Act, (ii) historically recognized by the State of Illinois or any political subdivision of the State before July 1, 1984 (the effective date of this Act) as the exclusive representative of the employees in an appropriate bargaining unit, (iii) after July 1, 1984 (the effective date of this Act) recognized by an employer upon evidence, acceptable to the Board, that the labor organization has been designated as the exclusive representative by a majority of the employees in an appropriate bargaining unit; (iv) recognized as the exclusive representative of personal care attendants or personal assistants under Executive Order 2003-8 prior to the effective date of this amendatory Act of the 93rd General Assembly, and the organization shall be considered to be the exclusive representative of the personal care attendants or personal assistants as defined in this Section; or (v) recognized as the exclusive representative of child and day care home providers, including licensed and license exempt providers, pursuant to an election held under Executive Order 2005-1 prior to the effective date of this amendatory Act of the 94th General Assembly, and the organization shall be considered to be the exclusive representative of the child and day care home providers as defined in this Section.

With respect to non-State fire fighters and paramedics employed by fire departments and fire protection districts, non-State peace officers, and peace officers in the Department of State Police, "exclusive representative" means the labor organization that has been (i) designated by the Board as the representative of a majority of peace officers or fire fighters in an appropriate bargaining unit in accordance with the procedures contained in this Act, (ii) historically recognized by the State of Illinois or any political subdivision of the State before January 1, 1986 (the effective date of this amendatory Act of 1985) as the exclusive representative by a majority of the peace officers or fire fighters in an appropriate bargaining unit, or (iii) after January 1, 1986 (the effective date of this amendatory Act of 1985) recognized by an employer upon evidence, acceptable to the Board, that the labor organization has been designated as the exclusive representative by a majority of the peace officers or fire fighters in an appropriate bargaining unit.

(g) "Fair share agreement" means an agreement between the employer and an employee organization under which all

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

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

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

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

(i) "Labor organization" means any organization in which public employees participate and that exists for the

purpose, in whole or in part, of dealing with a public employer concerning wages, hours, and other terms and conditions of employment, including the settlement of grievances.

(i-5) "Legislative liaison" means a person who is an employee of a department, division, agency, board, commission, or office under the jurisdiction of the Governor, Lieutenant Governor, Attorney General, Secretary of State, Comptroller, or Treasurer and who communicates in the course of his or her employment with any official or staff of the legislative branch of State government for the purpose of influencing any legislative action.

(j) "Managerial employee" means an individual who is engaged predominantly in executive and management functions and is charged with the responsibility of directing the effectuation of management policies and practices. With respect only to State employees in positions under the jurisdiction of the Governor, Lieutenant Governor, Attorney General, Secretary of State, Comptroller, or Treasurer (i) that are filled or for which a petition is filed with the Illinois Public Labor Relations Board on or after the effective date of this amendatory Act of the 96th General Assembly or (ii) for which a petition is pending before the Illinois Public Labor Relations Board on that date, "managerial employee" means an individual who is engaged in executive and management functions or who is charged with the effectuation of management policies and practices or who represents management interests by taking or recommending discretionary actions that effectively control or implement policy.

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

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

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

(1-5) "Policy-making employee" means any State employee, regardless of job title, under the jurisdiction of the Governor, Lieutenant Governor, Attorney General, Secretary of State, Comptroller, or Treasurer (1) whose function, either principally or otherwise, involves either administrative responsibility for the determination of policy or administrative responsibility for the way in which policies are carried out; (2) whose position is otherwise exempt from the requirements of the Rutan decision, including, but not limited to, (i) an employee who advises or renders opinions to a State agency head or an executive branch constitutional officer regarding matters of law or (ii) an employee who engages in crafting legislation, lobbying, or contacting General Assembly members on behalf of a State agency or an executive branch constitutional officer to influence the outcome of legislation before the General Assembly; or (3) whose position authorizes, either directly or indirectly, meaningful input into government decision-making on issues where there is room for principled disagreement on goals or their implementation.

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

routine mental, manual, or physical processes; or any employee who has completed the courses of specialized intellectual instruction and study prescribed in this subsection (m) and is performing related work under the supervision of a professional person to qualify to become a professional employee as defined in this subsection (m).

(n) "Public employee" or "employee", for the purposes of this Act, means any individual employed by a public employer, including (i) interns and residents at public hospitals, (ii) as of the effective date of this amendatory Act of the 93rd General Assembly, but not before, personal care attendants and personal assistants working under the Home Services Program under Section 3 of the Disabled Persons Rehabilitation Act, subject to the limitations set forth in this Act and in the Disabled Persons Rehabilitation Act, and (iii) as of the effective date of this amendatory Act of the 94th General Assembly, but not before, child and day care home providers participating in the child care assistance program under Section 9A-11 of the Illinois Public Aid Code, subject to the limitations set forth in this Act and in Section 9A-11 of the Illinois Public Aid Code, but excluding all of the following: employees of the Office of the Governor; employees of the Governor's Office of Management and Budget; employees of the Office of the Lieutenant Governor; employees of the General Assembly of the State of Illinois; elected officials; executive heads of a department; members of boards or commissions; the Executive Inspectors General; any special Executive Inspectors General; employees of each Office of an Executive Inspector General; commissioners and employees of the Executive Ethics Commission; the Auditor General's Inspector General; employees of the Office of the Auditor General's Inspector General; the Legislative Inspector General; any special Legislative Inspectors General; employees of the Office of the Legislative Inspector General; commissioners and employees of the Legislative Ethics Commission; employees of any agency, board or commission created by this Act; employees appointed to State positions of a temporary or emergency nature; all employees of school districts and higher education institutions except firefighters and peace officers employed by a state university and except peace officers employed by a school district in its own police department in existence on the effective date of this amendatory Act of the 96th General Assembly; managerial

employees; short-term employees; legislative liaisons; a person who is a State employee under the jurisdiction of the Governor who holds the position classification of Senior Public Service Administrator; a person who is a State employee under the jurisdiction of the Office of the Attorney General who is licensed to practice law; a person who is a State employee under the jurisdiction of the Office of the Comptroller who holds the position of Public Service Administrator or whose position is otherwise exempt under the Comptroller Merit Employment Code; a person who is a State employee under the jurisdiction of the Secretary of State who holds the position classification of Executive I or higher or whose position is otherwise exempt under the Secretary of State Merit Employment Code; a person who is a State employee under the jurisdiction of the Treasurer who holds a position that is exempt from the State Treasurer Employment Code; State employees who were certified in a bargaining unit on or after July 1, 2009, who are completely exempt from jurisdiction B of the Personnel Code in Rutan-exempt positions; State employees who are completely exempt from jurisdiction B of the Personnel Code, or the Secretary of State Merit Employment Code, in Rutan-exempt positions on or after the effective date of this amendatory Act of the 96th General Assembly; term appointed State employees pursuant to Section 8b.18 and 8b.19 of the Personnel Code; policy-making employees; confidential employees; independent contractors; and supervisors except as provided in this Act.

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

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

Notwithstanding Section 9, subsection (c), or any other provisions of this Act, all peace officers above the

rank of captain in municipalities with more than 1,000,000 inhabitants shall be excluded from this Act.

(o) Except as otherwise in subsection (o-5), "public employer" or "employer" means the State of Illinois; any political subdivision of the State, unit of local government or school district; authorities including departments, divisions, bureaus, boards, commissions, or other agencies of the foregoing entities; and any person acting within the scope of his or her authority, express or implied, on behalf of those entities in dealing with its employees. As of the effective date of the amendatory Act of the 93rd General Assembly, but not before, the State of Illinois shall be considered the employer of the personal care attendants and personal assistants working under the Home Services Program under Section 3 of the Disabled Persons Rehabilitation Act, subject to the limitations set forth in this Act and in the Disabled Persons Rehabilitation Act. The State shall not be considered to be the employer of personal care attendants and personal assistants for any purposes not specifically provided for in this amendatory Act of the 93rd General Assembly, including but not limited to, purposes of vicarious liability in tort and purposes of statutory retirement or health insurance benefits. Personal care attendants and personal assistants shall not be covered by the State Employees Group Insurance Act of 1971 (5 ILCS 375/). As of the effective date of this amendatory Act of the 94th General Assembly but not before, the State of Illinois shall be considered the employer of the day and child care home providers participating in the child care assistance program under Section 9A-11 of the Illinois Public Aid Code, subject to the limitations set forth in this Act and in Section 9A-11 of the Illinois Public Aid Code. The State shall not be considered to be the employer of child and day care home providers for any purposes not specifically provided for in this amendatory Act of the 94th General Assembly, including but not limited to, purposes of vicarious liability in tort and purposes of statutory retirement or health insurance benefits. Child and day care home providers shall not be covered by the State Employees Group Insurance Act of 1971.

"Public employer" or "employer" as used in this Act, however, does not mean and shall not include the General Assembly of the State of Illinois, the Executive Ethics

Commission, the Offices of the Executive Inspectors General, the Legislative Ethics Commission, the Office of the Legislative Inspector General, the Office of the Auditor General's Inspector General, and educational employers or employers as defined in the Illinois Educational Labor Relations Act, except with respect to a state university in its employment of firefighters and peace officers and except with respect to a school district in the employment of peace officers in its own police department in existence on the effective date of this amendatory Act of the 96th General Assembly. County boards and county sheriffs shall be designated as joint or co-employers of county peace officers appointed under the authority of a county sheriff. Nothing in this subsection (o) shall be construed to prevent the State Panel or the Local Panel from determining that employers are joint or co-employers.

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

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

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

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

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

(q) "Short-term employee" means an employee who is employed

for less than 2 consecutive calendar quarters during a calendar year and who does not have a reasonable assurance that he or she will be rehired by the same employer for the same service in a subsequent calendar year.

(r) "Supervisor" is:

(1) An ~~an~~ employee whose principal work is substantially different from that of his or her subordinates and who has authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, direct, reward, or discipline employees, to adjust their grievances, or to effectively recommend any of those actions, if the exercise of that authority is not of a merely routine or clerical nature, but requires the consistent use of independent judgment. Except with respect to police employment, the term "supervisor" includes only those individuals who devote a preponderance of their employment time to exercising that authority, State supervisors notwithstanding. In addition, in determining supervisory status in police employment, rank shall not be determinative. The Board shall consider, as evidence of bargaining unit inclusion or exclusion, the common law enforcement policies and relationships between police officer ranks and certification under applicable civil service law, ordinances, personnel codes, or Division 2.1 of Article 10 of the Illinois Municipal Code, but these factors shall not be the sole or predominant factors considered by the Board in determining police supervisory status. Notwithstanding the provisions of the preceding paragraph, in determining supervisory status in fire fighter employment, no fire fighter shall be excluded as a supervisor who has established representation rights under Section 9 of this Act. Further, in new fire fighter units, employees shall consist of fire fighters of the rank of company officer and below. If a company officer otherwise qualifies as a supervisor under the preceding paragraph, however, he or she shall not be included in the fire fighter unit. If there is no rank between that of chief and the highest company officer,

the employer may designate a position on each shift as a Shift Commander, and the persons occupying those positions shall be supervisors. All other ranks above that of company officer shall be supervisors.

(2) With respect only to State employees in positions under the jurisdiction of the Governor, Lieutenant Governor, Attorney General, Secretary of State, Comptroller, or Treasurer (i) that are filled or for which a petition is filed with the Illinois Public Labor Relations Board on or after the effective date of this amendatory Act of the 96th General Assembly or (ii) for which a petition is pending before the Illinois Public Labor Relations Board on that date, an employee who qualifies as a supervisor under (A) Section 152 of the National Labor Relations Act and (B) orders of the National Labor Relations Board interpreting that provision or decisions of courts reviewing decisions of the National Labor Relations Board.

(s) (1) "Unit" means a class of jobs or positions that are hld by employees whose collective interests may suitably be represented by a labor organization for collective bargaining. Except with respect to non-State fire fighters and paramedics employed by fire departments and fire protection districts, non-State peace officers, and peace officers in the Department of State Police, a bargaining unit determined by the Board shall not include both employees and supervisors, or supervisors only, except as provided in paragraph (2) of this subsection (s) and except for bargaining units in existence on July 1, 1984 (the effective date of this Act). With respect to non-State fire fighters and paramedics employed by fire departments and fire protection districts, non-State peace officers, and peace officers in the Department of State Police, a bargaining unit determined by the Board shall not include both supervisors and nonsupervisors, or supervisors only, except as provided in paragraph (2) of this subsection (s) and except for bargaining units in existence on January 1, 1986 (the effective date of this amendatory Act of 1985). A bargaining unit determined by the Board

to contain peace officers shall contain no employees other than peace officers unless otherwise agreed to by the employer and the labor organization or labor organizations involved. Notwithstanding any other provision of this Act, a bargaining unit, including a historical bargaining unit, containing sworn peace officers of the Department of Natural Resources (formerly designated the Department of Conservation) shall contain no employees other than such sworn peace officers upon the effective date of this amendatory Act of 1990 or upon the expiration date of any collective bargaining agreement in effect upon the effective date of this amendatory Act of 1990 covering both such sworn peace officers and other employees. (2) Notwithstanding the exclusion of supervisors from bargaining units as provided in paragraph (1) of this subsection (s), a public employer may agree to permit its supervisory employees to form bargaining units and may bargain with those units. This Act shall apply if the public employer chooses to bargain under this subsection. (3) Public employees who are court reporters, as defined in the Court Reporters Act, shall be divided into 3 units for collective bargaining purposes. One unit shall be court reporters employed by the Cook County Judicial Circuit; one unit shall be court reporters employed by the 12th, 18th, 19th, and, on and after December 4, 2006, the 22nd judicial circuits; and one unit shall be court reporters employed by all other judicial circuits.

Sec. 6. Right to organize and bargain collectively; exclusive representation; and fair share arrangements.

(a) Employees of the State and any political subdivision of the State, excluding employees of the General Assembly of the State of Illinois, policy-making employees, and other employees specifically excluded from the definition of "public employee" under subsection (n) of Section 3 of this Act, have, and are protected in the exercise of, the right of self-organization, and may form, join or assist any labor organization, to bargain collectively through representatives of their own choosing on questions of wages, hours and other conditions of

employment, not excluded by Section 4 of this Act, and to engage in other concerted activities not otherwise prohibited by law for the purposes of collective bargaining or other mutual aid or protection, free from interference, restraint or coercion. Employees also have, and are protected in the exercise of, the right to refrain from participating in any such concerted activities. Employees may be required, pursuant to the terms of a lawful fair share agreement, to pay a fee which shall be their proportionate share of the costs of the collective bargaining process, contract administration and pursuing matters affecting wages, hours and other conditions of employment as defined in Section 3(g).

(b) Nothing in this Act prevents an employee from presenting a grievance to the employer and having the grievance heard and settled without the intervention of an employee organization; provided that the exclusive bargaining representative is afforded the opportunity to be present at such conference and that any settlement made shall not be inconsistent with the terms of any agreement in effect between the employer and the exclusive bargaining representative.

(c) A labor organization designated by the Board as the representative of the majority of public employees in an appropriate unit in accordance with the procedures herein or recognized by a public employer as the representative of the majority of public employees in an appropriate unit is the exclusive representative for the employees of such unit for the purpose of collective bargaining with respect to rates of pay, wages, hours and other conditions of employment not excluded by Section 4 of this Act. A public employer is required upon request to furnish the exclusive bargaining representative with a complete list of the names and addresses of the public employees in the bargaining unit, provided that a public employer shall not be required to furnish such a list more than once per payroll period. The exclusive bargaining representative shall use the list exclusively for bargaining representation purposes and shall not disclose any information contained in the list for any other purpose. Nothing in this Section, however, shall prohibit a bargaining representative from disseminating a list of its union members.

(d) Labor organizations recognized by a public employer as the exclusive representative or so designated

in accordance with the provisions of this Act are responsible for representing the interests of all public employees in the unit. Nothing herein shall be construed to limit an exclusive representative's right to exercise its discretion to refuse to process grievances of employees that are unmeritorious.

(e) When a collective bargaining agreement is entered into with an exclusive representative, it may include in the agreement a provision requiring employees covered by the agreement who are not members of the organization to pay their proportionate share of the costs of the collective bargaining process, contract administration and pursuing matters affecting wages, hours and conditions of employment, as defined in Section 3 (g), but not to exceed the amount of dues uniformly required of members. The organization shall certify to the employer the amount constituting each nonmember employee's proportionate share which shall not exceed dues uniformly required of members. In such case, the proportionate share payment in this Section shall be deducted by the employer from the earnings of the nonmember employees and paid to the employee organization.

(f) Only the exclusive representative may negotiate provisions in a collective bargaining agreement providing for the payroll deduction of labor organization dues, fair share payment, initiation fees and assessments. Except as provided in subsection (e) of this Section, any such deductions shall only be made upon an employee's written authorization, and continued until revoked in writing in the same manner or until the termination date of an applicable collective bargaining agreement. Such payments shall be paid to the exclusive representative. Where a collective bargaining agreement is terminated, or continues in effect beyond its scheduled expiration date pending the negotiation of a successor agreement or the resolution of an impasse under Section 14, the employer shall continue to honor and abide by any dues deduction or fair share clause contained therein until a new agreement is reached including dues deduction or a fair share clause. For the benefit of any successor exclusive representative certified under this Act, this provision shall be applicable, provided the successor exclusive representative:

- (i) certifies to the employer the amount constituting each non-member's proportionate share under subsection (e); or
- (ii) presents the employer with employee written

authorizations for the deduction of dues, assessments, and fees under this subsection. Failure to so honor and abide by dues deduction or fair share clauses for the benefit of any exclusive representative, including a successor, shall be a violation of the duty to bargain and an unfair labor practice.

(g) Agreements containing a fair share agreement must safeguard the right of nonassociation of employees based upon bona fide religious tenets or teachings of a church or religious body of which such employees are members. Such employees may be required to pay an amount equal to their fair share, determined under a lawful fair share agreement, to a nonreligious charitable organization mutually agreed upon by the employees affected and the exclusive bargaining representative to which such employees would otherwise pay such service fee. If the affected employees and the bargaining representative are unable to reach an agreement on the matter, the Board may establish an approved list of charitable organizations to which such payments may be made.

(Source: P.A. 93-854, eff. 1-1-05; 94-472, eff. 1-1-06.)
Section 95. Severability. The provisions of this Act are severable under Section 1.31 of the Statute on Statutes.
Section 99. Effective date. This Act takes effect upon becoming law."