

1 AMENDMENT TO HOUSE BILL 2221

2 AMENDMENT NO. _____. Amend House Bill 2221 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Public Labor Relations Act is
5 amended by changing Sections 3 and 7 as follows:

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

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

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

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

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

1 effectuation or review of the employer's collective
2 bargaining policies.

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

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

10 (f) "Exclusive representative", except with respect to
11 non-State fire fighters and paramedics employed by fire
12 departments and fire protection districts, non-State peace
13 officers, and peace officers in the Department of State
14 Police, means the labor organization that has been (i)
15 designated by the Board as the representative of a majority
16 of public employees in an appropriate bargaining unit in
17 accordance with the procedures contained in this Act, (ii)
18 historically recognized by the State of Illinois or any
19 political subdivision of the State before July 1, 1984 (the
20 effective date of this Act) as the exclusive representative
21 of the employees in an appropriate bargaining unit, or (iii)
22 after July 1, 1984 (the effective date of this Act)
23 recognized by an employer upon evidence, acceptable to the
24 Board, that the labor organization has been designated as the
25 exclusive representative by a majority of the employees in an
26 appropriate bargaining unit; or (iv) recognized as the
27 exclusive representative of personal care attendants or
28 personal assistants under Executive Order 2003-8 prior to the
29 effective date of this amendatory Act of the 93rd General
30 Assembly, and the organization shall be considered to be the
31 exclusive representative of the personal care attendants or
32 personal assistants as defined in this Section.

33 With respect to non-State fire fighters and paramedics
34 employed by fire departments and fire protection districts,

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

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

32 (g-1) "Fire fighter" means, for the purposes of this Act
33 only, any person who has been or is hereafter appointed to a
34 fire department or fire protection district or employed by a

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

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

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

28 (i) "Labor organization" means any organization in which
29 public employees participate and that exists for the purpose,
30 in whole or in part, of dealing with a public employer
31 concerning wages, hours, and other terms and conditions of
32 employment, including the settlement of grievances.

33 (j) "Managerial employee" means an individual who is
34 engaged predominantly in executive and management functions

1 and is charged with the responsibility of directing the
2 effectuation of management policies and practices.

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

30 (m) "Professional employee" means any employee engaged
31 in work predominantly intellectual and varied in character
32 rather than routine mental, manual, mechanical or physical
33 work; involving the consistent exercise of discretion and
34 adjustment in its performance; of such a character that the

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

15 (n) "Public employee" or "employee", for the purposes of
16 this Act, means any individual employed by a public employer,
17 including interns and residents at public hospitals and, as
18 of the effective date of this amendatory Act of the 93rd
19 General Assembly, but not before, personal care attendants
20 and personal assistants working under the Home Services
21 Program under Section 3 of the Disabled Persons
22 Rehabilitation Act, subject to the limitations set forth in
23 this Act and in the Disabled Persons Rehabilitation Act, but
24 excluding all of the following: employees of the General
25 Assembly of the State of Illinois; elected officials;
26 executive heads of a department; members of boards or
27 commissions; employees of any agency, board or commission
28 created by this Act; employees appointed to State positions
29 of a temporary or emergency nature; all employees of school
30 districts and higher education institutions except
31 firefighters and peace officers employed by a state
32 university; managerial employees; short-term employees;
33 confidential employees; independent contractors; and
34 supervisors except as provided in this Act.

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

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

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

1 the State Employees Group Insurance Act of 1971 (5 ILCS
2 375/). "Public employer" or "employer" as used in this Act,
3 however, does not mean and shall not include the General
4 Assembly of the State of Illinois and educational employers
5 or employers as defined in the Illinois Educational Labor
6 Relations Act, except with respect to a state university in
7 its employment of firefighters and peace officers. County
8 boards and county sheriffs shall be designated as joint or
9 co-employers of county peace officers appointed under the
10 authority of a county sheriff. Nothing in this subsection
11 (o) shall be construed to prevent the State Panel or the
12 Local Panel from determining that employers are joint or
13 co-employers.

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

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

25 (r) "Supervisor" is an employee whose principal work is
26 substantially different from that of his or her subordinates
27 and who has authority, in the interest of the employer, to
28 hire, transfer, suspend, lay off, recall, promote, discharge,
29 direct, reward, or discipline employees, to adjust their
30 grievances, or to effectively recommend any of those actions,
31 if the exercise of that authority is not of a merely routine
32 or clerical nature, but requires the consistent use of
33 independent judgment. Except with respect to police
34 employment, the term "supervisor" includes only those

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

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

27 (s) (1) "Unit" means a class of jobs or positions that
28 are held by employees whose collective interests may
29 suitably be represented by a labor organization for
30 collective bargaining. Except with respect to non-State
31 fire fighters and paramedics employed by fire departments
32 and fire protection districts, non-State peace officers,
33 and peace officers in the Department of State Police, a
34 bargaining unit determined by the Board shall not include

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

28 (2) Notwithstanding the exclusion of supervisors
29 from bargaining units as provided in paragraph (1) of
30 this subsection (s), a public employer may agree to
31 permit its supervisory employees to form bargaining units
32 and may bargain with those units. This Act shall apply
33 if the public employer chooses to bargain under this
34 subsection.

1 (Source: P.A. 90-14, eff. 7-1-97; 90-655, eff. 7-30-98;
2 91-798, eff. 7-9-00.)

3 (5 ILCS 315/7) (from Ch. 48, par. 1607)

4 Sec. 7. Duty to bargain. A public employer and the
5 exclusive representative have the authority and the duty to
6 bargain collectively set forth in this Section.

7 For the purposes of this Act, "to bargain collectively"
8 means the performance of the mutual obligation of the public
9 employer or his designated representative and the
10 representative of the public employees to meet at reasonable
11 times, including meetings in advance of the budget-making
12 process, and to negotiate in good faith with respect to
13 wages, hours, and other conditions of employment, not
14 excluded by Section 4 of this Act, or the negotiation of an
15 agreement, or any question arising thereunder and the
16 execution of a written contract incorporating any agreement
17 reached if requested by either party, but such obligation
18 does not compel either party to agree to a proposal or
19 require the making of a concession.

20 The duty "to bargain collectively" shall also include an
21 obligation to negotiate over any matter with respect to
22 wages, hours and other conditions of employment, not
23 specifically provided for in any other law or not
24 specifically in violation of the provisions of any law. If
25 any other law pertains, in part, to a matter affecting the
26 wages, hours and other conditions of employment, such other
27 law shall not be construed as limiting the duty "to bargain
28 collectively" and to enter into collective bargaining
29 agreements containing clauses which either supplement,
30 implement, or relate to the effect of such provisions in
31 other laws.

32 The duty "to bargain collectively" shall also include
33 negotiations as to the terms of a collective bargaining

1 agreement. The parties may, by mutual agreement, provide for
2 arbitration of impasses resulting from their inability to
3 agree upon wages, hours and terms and conditions of
4 employment to be included in a collective bargaining
5 agreement. Such arbitration provisions shall be subject to
6 the Illinois "Uniform Arbitration Act" unless agreed by the
7 parties.

8 The duty "to bargain collectively" shall also mean that
9 no party to a collective bargaining contract shall terminate
10 or modify such contract, unless the party desiring such
11 termination or modification:

12 (1) serves a written notice upon the other party to the
13 contract of the proposed termination or modification 60 days
14 prior to the expiration date thereof, or in the event such
15 contract contains no expiration date, 60 days prior to the
16 time it is proposed to make such termination or modification;

17 (2) offers to meet and confer with the other party for
18 the purpose of negotiating a new contract or a contract
19 containing the proposed modifications;

20 (3) notifies the Board within 30 days after such notice
21 of the existence of a dispute, provided no agreement has been
22 reached by that time; and

23 (4) continues in full force and effect, without
24 resorting to strike or lockout, all the terms and conditions
25 of the existing contract for a period of 60 days after such
26 notice is given to the other party or until the expiration
27 date of such contract, whichever occurs later.

28 The duties imposed upon employers, employees and labor
29 organizations by paragraphs (2), (3) and (4) shall become
30 inapplicable upon an intervening certification of the Board,
31 under which the labor organization, which is a party to the
32 contract, has been superseded as or ceased to be the
33 exclusive representative of the employees pursuant to the
34 provisions of subsection (a) of Section 9, and the duties so

1 imposed shall not be construed as requiring either party to
2 discuss or agree to any modification of the terms and
3 conditions contained in a contract for a fixed period, if
4 such modification is to become effective before such terms
5 and conditions can be reopened under the provisions of the
6 contract.

7 Collective bargaining for personal care attendants and
8 personal assistants under the Home Services Program shall be
9 limited to the terms and conditions of employment under the
10 State's control, as defined in this amendatory Act of the
11 93rd General Assembly.

12 (Source: P.A. 83-1012.)

13 Section 10. The Disabled Persons Rehabilitation Act is
14 amended by changing Section 3 as follows:

15 (20 ILCS 2405/3) (from Ch. 23, par. 3434)

16 Sec. 3. Powers and duties. The Department shall have the
17 powers and duties enumerated herein:

18 (a) To co-operate with the federal government in the
19 administration of the provisions of the federal
20 Rehabilitation Act of 1973, as amended, of the Workforce
21 Investment Act of 1998, and of the federal Social Security
22 Act to the extent and in the manner provided in these Acts.

23 (b) To prescribe and supervise such courses of
24 vocational training and provide such other services as may be
25 necessary for the habilitation and rehabilitation of persons
26 with one or more disabilities, including the administrative
27 activities under subsection (e) of this Section, and to
28 co-operate with State and local school authorities and other
29 recognized agencies engaged in habilitation, rehabilitation
30 and comprehensive rehabilitation services; and to cooperate
31 with the Department of Children and Family Services regarding
32 the care and education of children with one or more

1 disabilities.

2 (c) (Blank).

3 (d) To report in writing, to the Governor, annually on
4 or before the first day of December, and at such other times
5 and in such manner and upon such subjects as the Governor may
6 require. The annual report shall contain (1) a statement of
7 the existing condition of comprehensive rehabilitation
8 services, habilitation and rehabilitation in the State; (2) a
9 statement of suggestions and recommendations with reference
10 to the development of comprehensive rehabilitation services,
11 habilitation and rehabilitation in the State; and (3) an
12 itemized statement of the amounts of money received from
13 federal, State and other sources, and of the objects and
14 purposes to which the respective items of these several
15 amounts have been devoted.

16 (e) (Blank).

17 (f) To establish a program of services to prevent
18 unnecessary institutionalization of persons with Alzheimer's
19 disease and related disorders or persons in need of long term
20 care who are established as blind or disabled as defined by
21 the Social Security Act, thereby enabling them to remain in
22 their own homes or other living arrangements. Such preventive
23 services may include, but are not limited to, any or all of
24 the following:

- 25 (1) home health services;
- 26 (2) home nursing services;
- 27 (3) homemaker services;
- 28 (4) chore and housekeeping services;
- 29 (5) day care services;
- 30 (6) home-delivered meals;
- 31 (7) education in self-care;
- 32 (8) personal care services;
- 33 (9) adult day health services;
- 34 (10) habilitation services;

- 1 (11) respite care; or
- 2 (12) other nonmedical social services that may
- 3 enable the person to become self-supporting.

4 The Department shall establish eligibility standards for
5 such services taking into consideration the unique economic
6 and social needs of the population for whom they are to be
7 provided. Such eligibility standards may be based on the
8 recipient's ability to pay for services; provided, however,
9 that any portion of a person's income that is equal to or
10 less than the "protected income" level shall not be
11 considered by the Department in determining eligibility. The
12 "protected income" level shall be determined by the
13 Department, shall never be less than the federal poverty
14 standard, and shall be adjusted each year to reflect changes
15 in the Consumer Price Index For All Urban Consumers as
16 determined by the United States Department of Labor.
17 Additionally, in determining the amount and nature of
18 services for which a person may qualify, consideration shall
19 not be given to the value of cash, property or other assets
20 held in the name of the person's spouse pursuant to a written
21 agreement dividing marital property into equal but separate
22 shares or pursuant to a transfer of the person's interest in
23 a home to his spouse, provided that the spouse's share of the
24 marital property is not made available to the person seeking
25 such services.

26 The services shall be provided to eligible persons to
27 prevent unnecessary or premature institutionalization, to the
28 extent that the cost of the services, together with the other
29 personal maintenance expenses of the persons, are reasonably
30 related to the standards established for care in a group
31 facility appropriate to their condition. These
32 non-institutional services, pilot projects or experimental
33 facilities may be provided as part of or in addition to those
34 authorized by federal law or those funded and administered by

1 the Illinois Department on Aging.

2 Personal care attendants shall be paid:

3 (i) A \$5 per hour minimum rate beginning July 1,
4 1995.

5 (ii) A \$5.30 per hour minimum rate beginning July
6 1, 1997.

7 (iii) A \$5.40 per hour minimum rate beginning July
8 1, 1998.

9 Solely for the purposes of coverage under the Illinois
10 Public Labor Relations Act (5 ILCS 315/), personal care
11 attendants and personal assistants providing services under
12 the Department's Home Services Program shall be considered to
13 be public employees and the State of Illinois shall be
14 considered to be their employer as of the effective date of
15 this amendatory Act of the 93rd General Assembly, but not
16 before. The State shall engage in collective bargaining with
17 an exclusive representative of personal care attendants and
18 personal assistants working under the Home Services Program
19 concerning their terms and conditions of employment that are
20 within the State's control. Nothing in this paragraph shall
21 be understood to limit the right of the persons receiving
22 services defined in this Section to hire and fire personal
23 care attendants and personal assistants or supervise them
24 within the limitations set by the Home Services Program. The
25 State shall not be considered to be the employer of personal
26 care attendants and personal assistants for any purposes not
27 specifically provided in this amendatory Act of the 93rd
28 General Assembly, including but not limited to, purposes of
29 vicarious liability in tort and purposes of statutory
30 retirement or health insurance benefits. Personal care
31 attendants and personal assistants shall not be covered by
32 the State Employees Group Insurance Act of 1971 (5 ILCS
33 375/).

34 The Department shall execute, relative to the nursing

1 home prescreening project, as authorized by Section 4.03 of
2 the Illinois Act on the Aging, written inter-agency
3 agreements with the Department on Aging and the Department of
4 Public Aid, to effect the following: (i) intake procedures
5 and common eligibility criteria for those persons who are
6 receiving non-institutional services; and (ii) the
7 establishment and development of non-institutional services
8 in areas of the State where they are not currently available
9 or are undeveloped. On and after July 1, 1996, all nursing
10 home prescreenings for individuals 18 through 59 years of age
11 shall be conducted by the Department.

12 The Department is authorized to establish a system of
13 recipient cost-sharing for services provided under this
14 Section. The cost-sharing shall be based upon the
15 recipient's ability to pay for services, but in no case shall
16 the recipient's share exceed the actual cost of the services
17 provided. Protected income shall not be considered by the
18 Department in its determination of the recipient's ability to
19 pay a share of the cost of services. The level of
20 cost-sharing shall be adjusted each year to reflect changes
21 in the "protected income" level. The Department shall deduct
22 from the recipient's share of the cost of services any money
23 expended by the recipient for disability-related expenses.

24 The Department, or the Department's authorized
25 representative, shall recover the amount of moneys expended
26 for services provided to or in behalf of a person under this
27 Section by a claim against the person's estate or against the
28 estate of the person's surviving spouse, but no recovery may
29 be had until after the death of the surviving spouse, if any,
30 and then only at such time when there is no surviving child
31 who is under age 21, blind, or permanently and totally
32 disabled. This paragraph, however, shall not bar recovery,
33 at the death of the person, of moneys for services provided
34 to the person or in behalf of the person under this Section

1 to which the person was not entitled; provided that such
2 recovery shall not be enforced against any real estate while
3 it is occupied as a homestead by the surviving spouse or
4 other dependent, if no claims by other creditors have been
5 filed against the estate, or, if such claims have been filed,
6 they remain dormant for failure of prosecution or failure of
7 the claimant to compel administration of the estate for the
8 purpose of payment. This paragraph shall not bar recovery
9 from the estate of a spouse, under Sections 1915 and 1924 of
10 the Social Security Act and Section 5-4 of the Illinois
11 Public Aid Code, who precedes a person receiving services
12 under this Section in death. All moneys for services paid to
13 or in behalf of the person under this Section shall be
14 claimed for recovery from the deceased spouse's estate.
15 "Homestead", as used in this paragraph, means the dwelling
16 house and contiguous real estate occupied by a surviving
17 spouse or relative, as defined by the rules and regulations
18 of the Illinois Department of Public Aid, regardless of the
19 value of the property.

20 The Department and the Department on Aging shall
21 cooperate in the development and submission of an annual
22 report on programs and services provided under this Section.
23 Such joint report shall be filed with the Governor and the
24 General Assembly on or before March 30 each year.

25 The requirement for reporting to the General Assembly
26 shall be satisfied by filing copies of the report with the
27 Speaker, the Minority Leader and the Clerk of the House of
28 Representatives and the President, the Minority Leader and
29 the Secretary of the Senate and the Legislative Research
30 Unit, as required by Section 3.1 of the General Assembly
31 Organization Act, and filing additional copies with the State
32 Government Report Distribution Center for the General
33 Assembly as required under paragraph (t) of Section 7 of the
34 State Library Act.

1 (g) To establish such subdivisions of the Department as
2 shall be desirable and assign to the various subdivisions the
3 responsibilities and duties placed upon the Department by
4 law.

5 (h) To cooperate and enter into any necessary agreements
6 with the Department of Employment Security for the provision
7 of job placement and job referral services to clients of the
8 Department, including job service registration of such
9 clients with Illinois Employment Security offices and making
10 job listings maintained by the Department of Employment
11 Security available to such clients.

12 (i) To possess all powers reasonable and necessary for
13 the exercise and administration of the powers, duties and
14 responsibilities of the Department which are provided for by
15 law.

16 (j) To establish a procedure whereby new providers of
17 personal care attendant services shall submit vouchers to the
18 State for payment two times during their first month of
19 employment and one time per month thereafter. In no case
20 shall the Department pay personal care attendants an hourly
21 wage that is less than the federal minimum wage.

22 (k) To provide adequate notice to providers of chore and
23 housekeeping services informing them that they are entitled
24 to an interest payment on bills which are not promptly paid
25 pursuant to Section 3 of the State Prompt Payment Act.

26 (l) To establish, operate and maintain a Statewide
27 Housing Clearinghouse of information on available, government
28 subsidized housing accessible to disabled persons and
29 available privately owned housing accessible to disabled
30 persons. The information shall include but not be limited to
31 the location, rental requirements, access features and
32 proximity to public transportation of available housing. The
33 Clearinghouse shall consist of at least a computerized
34 database for the storage and retrieval of information and a

1 separate or shared toll free telephone number for use by
2 those seeking information from the Clearinghouse. Department
3 offices and personnel throughout the State shall also assist
4 in the operation of the Statewide Housing Clearinghouse.
5 Cooperation with local, State and federal housing managers
6 shall be sought and extended in order to frequently and
7 promptly update the Clearinghouse's information.

8 (m) To assure that the names and case records of persons
9 who received or are receiving services from the Department,
10 including persons receiving vocational rehabilitation, home
11 services, or other services, and those attending one of the
12 Department's schools or other supervised facility shall be
13 confidential and not be open to the general public. Those
14 case records and reports or the information contained in
15 those records and reports shall be disclosed by the Director
16 only to proper law enforcement officials, individuals
17 authorized by a court, the General Assembly or any committee
18 or commission of the General Assembly, and other persons and
19 for reasons as the Director designates by rule. Disclosure
20 by the Director may be only in accordance with other
21 applicable law.

22 (Source: P.A. 91-540, eff. 8-13-99; 92-84, eff. 7-1-02.)

23 Section 99. Effective date. This Act takes effect upon
24 becoming law."