



**Filed: 5/17/2005**

09400SB0143ham001

LRB094 06610 JAM 45070 a

1 AMENDMENT TO SENATE BILL 143

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 143 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 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.

24 (d) "Craft employees" means skilled journeymen, crafts

1 persons, and their apprentices and helpers.

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

7 (f) "Exclusive representative", except with respect to  
8 non-State fire fighters and paramedics employed by fire  
9 departments and fire protection districts, non-State peace  
10 officers, and peace officers in the Department of State Police,  
11 means the labor organization that has been (i) designated by  
12 the Board as the representative of a majority of public  
13 employees in an appropriate bargaining unit in accordance with  
14 the procedures contained in this Act, (ii) historically  
15 recognized by the State of Illinois or any political  
16 subdivision of the State before July 1, 1984 (the effective  
17 date of this Act) as the exclusive representative of the  
18 employees in an appropriate bargaining unit, (iii) after July  
19 1, 1984 (the effective date of this Act) recognized by an  
20 employer upon evidence, acceptable to the Board, that the labor  
21 organization has been designated as the exclusive  
22 representative by a majority of the employees in an appropriate  
23 bargaining unit; ~~or~~ (iv) recognized as the exclusive  
24 representative of personal care attendants or personal  
25 assistants under Executive Order 2003-8 prior to the effective  
26 date of this amendatory Act of the 93rd General Assembly, and  
27 the organization shall be considered to be the exclusive  
28 representative of the personal care attendants or personal  
29 assistants as defined in this Section; or (v) recognized as the  
30 exclusive representative of child and day care home providers,  
31 including licensed and license exempt providers, pursuant to an  
32 election held under Executive Order 2005-1 prior to the  
33 effective date of this amendatory Act of the 94th General  
34 Assembly, and the organization shall be considered to be the

1 exclusive representative of the child and day care home  
2 providers as defined in this Section.

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

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

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

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

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

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

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

1 (j) "Managerial employee" means an individual who is  
2 engaged predominantly in executive and management functions  
3 and is charged with the responsibility of directing the  
4 effectuation of management policies and practices.

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

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

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

1 in its performance; of such a character that the output  
2 produced or the result accomplished cannot be standardized in  
3 relation to a given period of time; and requiring advanced  
4 knowledge in a field of science or learning customarily  
5 acquired by a prolonged course of specialized intellectual  
6 instruction and study in an institution of higher learning or a  
7 hospital, as distinguished from a general academic education or  
8 from apprenticeship or from training in the performance of  
9 routine mental, manual, or physical processes; or any employee  
10 who has completed the courses of specialized intellectual  
11 instruction and study prescribed in this subsection (m) and is  
12 performing related work under the supervision of a professional  
13 person to qualify to become a professional employee as defined  
14 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 (i) interns and residents at public hospitals ~~and~~,  
18 (ii) as of the effective date of this amendatory Act of the  
19 93rd General Assembly, but not before, personal care attendants  
20 and personal assistants working under the Home Services Program  
21 under Section 3 of the Disabled Persons Rehabilitation Act,  
22 subject to the limitations set forth in this Act and in the  
23 Disabled Persons Rehabilitation Act, and (iii) as of the  
24 effective date of this amendatory Act of the 94th General  
25 Assembly, but not before, child and day care home providers  
26 participating in the child care assistance program under  
27 Section 9A-11 of the Illinois Public Aid Code, subject to the  
28 limitations set forth in this Act and in Section 9A-11 of the  
29 Illinois Public Aid Code, but excluding all of the following:  
30 employees of the General Assembly of the State of Illinois;  
31 elected officials; executive heads of a department; members of  
32 boards or commissions; the Executive Inspectors General; any  
33 special Executive Inspectors General; employees of each Office  
34 of an Executive Inspector General; commissioners and employees

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

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

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

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

34 (o) "Public employer" or "employer" means the State of

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



1 Group Insurance Act of 1971.

2 "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, the Executive Ethics  
5 Commission, the Offices of the Executive Inspectors General,  
6 the Legislative Ethics Commission, the Office of the  
7 Legislative Inspector General, the Office of the Auditor  
8 General's Inspector General, and educational employers or  
9 employers as defined in the Illinois Educational Labor  
10 Relations Act, except with respect to a state university in its  
11 employment of firefighters and peace officers. County boards  
12 and county sheriffs shall be designated as joint or  
13 co-employers of county peace officers appointed under the  
14 authority of a county sheriff. Nothing in this subsection (o)  
15 shall be construed to prevent the State Panel or the Local  
16 Panel from determining that employers are joint or  
17 co-employers.

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

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

29 (r) "Supervisor" is an employee whose principal work is  
30 substantially different from that of his or her subordinates  
31 and who has authority, in the interest of the employer, to  
32 hire, transfer, suspend, lay off, recall, promote, discharge,  
33 direct, reward, or discipline employees, to adjust their  
34 grievances, or to effectively recommend any of those actions,

1 if the exercise of that authority is not of a merely routine or  
2 clerical nature, but requires the consistent use of independent  
3 judgment. Except with respect to police employment, the term  
4 "supervisor" includes only those individuals who devote a  
5 preponderance of their employment time to exercising that  
6 authority, State supervisors notwithstanding. In addition, in  
7 determining supervisory status in police employment, rank  
8 shall not be determinative. The Board shall consider, as  
9 evidence of bargaining unit inclusion or exclusion, the common  
10 law enforcement policies and relationships between police  
11 officer ranks and certification under applicable civil service  
12 law, ordinances, personnel codes, or Division 2.1 of Article 10  
13 of the Illinois Municipal Code, but these factors shall not be  
14 the sole or predominant factors considered by the Board in  
15 determining police supervisory status.

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

29 (s) (1) "Unit" means a class of jobs or positions that are  
30 held by employees whose collective interests may suitably  
31 be represented by a labor organization for collective  
32 bargaining. Except with respect to non-State fire fighters  
33 and paramedics employed by fire departments and fire  
34 protection districts, non-State peace officers, and peace

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

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

1 (Source: P.A. 93-204, eff. 7-16-03; 93-617, eff. 12-9-03.)

2 (5 ILCS 315/7) (from Ch. 48, par. 1607)

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

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

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

29 The duty "to bargain collectively" shall also include  
30 negotiations as to the terms of a collective bargaining  
31 agreement. The parties may, by mutual agreement, provide for  
32 arbitration of impasses resulting from their inability to agree  
33 upon wages, hours and terms and conditions of employment to be

1 included in a collective bargaining agreement. Such  
2 arbitration provisions shall be subject to the Illinois  
3 "Uniform Arbitration Act" unless agreed by the parties.

4 The duty "to bargain collectively" shall also mean that no  
5 party to a collective bargaining contract shall terminate or  
6 modify such contract, unless the party desiring such  
7 termination or modification:

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

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

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

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

24 The duties imposed upon employers, employees and labor  
25 organizations by paragraphs (2), (3) and (4) shall become  
26 inapplicable upon an intervening certification of the Board,  
27 under which the labor organization, which is a party to the  
28 contract, has been superseded as or ceased to be the exclusive  
29 representative of the employees pursuant to the provisions of  
30 subsection (a) of Section 9, and the duties so imposed shall  
31 not be construed as requiring either party to discuss or agree  
32 to any modification of the terms and conditions contained in a  
33 contract for a fixed period, if such modification is to become  
34 effective before such terms and conditions can be reopened

1 under the provisions of the contract.

2 Collective bargaining for personal care attendants and  
3 personal assistants under the Home Services Program shall be  
4 limited to the terms and conditions of employment under the  
5 State's control, as defined in the ~~this~~ amendatory Act of the  
6 93rd General Assembly.

7 Collective bargaining for child and day care home providers  
8 under the child care assistance program shall be limited to the  
9 terms and conditions of employment under the State's control,  
10 as defined in this amendatory Act of the 94th General Assembly.

11 (Source: P.A. 93-204, eff. 7-16-03.)

12 Section 10. The Illinois Public Aid Code is amended by  
13 changing Section 9A-11 as follows:

14 (305 ILCS 5/9A-11) (from Ch. 23, par. 9A-11)

15 Sec. 9A-11. Child Care.

16 (a) The General Assembly recognizes that families with  
17 children need child care in order to work. Child care is  
18 expensive and families with low incomes, including those who  
19 are transitioning from welfare to work, often struggle to pay  
20 the costs of day care. The General Assembly understands the  
21 importance of helping low income working families become and  
22 remain self-sufficient. The General Assembly also believes  
23 that it is the responsibility of families to share in the costs  
24 of child care. It is also the preference of the General  
25 Assembly that all working poor families should be treated  
26 equally, regardless of their welfare status.

27 (b) To the extent resources permit, the Illinois Department  
28 shall provide child care services to parents or other relatives  
29 as defined by rule who are working or participating in  
30 employment or Department approved education or training  
31 programs. At a minimum, the Illinois Department shall cover the  
32 following categories of families:

1           (1) recipients of TANF under Article IV participating  
2           in work and training activities as specified in the  
3           personal plan for employment and self-sufficiency;

4           (2) families transitioning from TANF to work;

5           (3) families at risk of becoming recipients of TANF;

6           (4) families with special needs as defined by rule; and

7           (5) working families with very low incomes as defined  
8           by rule.

9           The Department shall specify by rule the conditions of  
10          eligibility, the application process, and the types, amounts,  
11          and duration of services. Eligibility for child care benefits  
12          and the amount of child care provided may vary based on family  
13          size, income, and other factors as specified by rule.

14          In determining income eligibility for child care benefits,  
15          the Department annually, at the beginning of each fiscal year,  
16          shall establish, by rule, one income threshold for each family  
17          size, in relation to percentage of State median income for a  
18          family of that size, that makes families with incomes below the  
19          specified threshold eligible for assistance and families with  
20          incomes above the specified threshold ineligible for  
21          assistance. The specified threshold must be no less than 50% of  
22          the then-current State median income for each family size.

23          In determining eligibility for assistance, the Department  
24          shall not give preference to any category of recipients or give  
25          preference to individuals based on their receipt of benefits  
26          under this Code.

27          The Department shall allocate \$7,500,000 annually for a  
28          test program for families who are income-eligible for child  
29          care assistance, who are not recipients of TANF under Article  
30          IV, and who need child care assistance to participate in  
31          education and training activities. The Department shall  
32          specify by rule the conditions of eligibility for this test  
33          program.

34          Nothing in this Section shall be construed as conferring

1 entitlement status to eligible families.

2 The Illinois Department is authorized to lower income  
3 eligibility ceilings, raise parent co-payments, create waiting  
4 lists, or take such other actions during a fiscal year as are  
5 necessary to ensure that child care benefits paid under this  
6 Article do not exceed the amounts appropriated for those child  
7 care benefits. These changes may be accomplished by emergency  
8 rule under Section 5-45 of the Illinois Administrative  
9 Procedure Act, except that the limitation on the number of  
10 emergency rules that may be adopted in a 24-month period shall  
11 not apply.

12 The Illinois Department may contract with other State  
13 agencies or child care organizations for the administration of  
14 child care services.

15 (c) Payment shall be made for child care that otherwise  
16 meets the requirements of this Section and applicable standards  
17 of State and local law and regulation, including any  
18 requirements the Illinois Department promulgates by rule in  
19 addition to the licensure requirements promulgated by the  
20 Department of Children and Family Services and Fire Prevention  
21 and Safety requirements promulgated by the Office of the State  
22 Fire Marshal and is provided in any of the following:

23 (1) a child care center which is licensed or exempt  
24 from licensure pursuant to Section 2.09 of the Child Care  
25 Act of 1969;

26 (2) a licensed child care home or home exempt from  
27 licensing;

28 (3) a licensed group child care home;

29 (4) other types of child care, including child care  
30 provided by relatives or persons living in the same home as  
31 the child, as determined by the Illinois Department by  
32 rule.

33 (b-5) Solely for the purposes of coverage under the  
34 Illinois Public Labor Relations Act, child and day care home



1 providers, including licensed and license exempt,  
2 participating in the Department's child care assistance  
3 program shall be considered to be public employees and the  
4 State of Illinois shall be considered to be their employer as  
5 of the effective date of this amendatory Act of the 94th  
6 General Assembly, but not before. The State shall engage in  
7 collective bargaining with an exclusive representative of  
8 child and day care home providers participating in the child  
9 care assistance program concerning their terms and conditions  
10 of employment that are within the State's control. Nothing in  
11 this subsection shall be understood to limit the right of  
12 families receiving services defined in this Section to select  
13 child and day care home providers or supervise them within the  
14 limits of this Section. The State shall not be considered to be  
15 the employer of child and day care home providers for any  
16 purposes not specifically provided in this amendatory Act of  
17 the 94th General Assembly, including but not limited to,  
18 purposes of vicarious liability in tort and purposes of  
19 statutory retirement or health insurance benefits. Child and  
20 day care home providers shall not be covered by the State  
21 Employees Group Insurance Act of 1971.

22 In according child and day care home providers and their  
23 selected representative rights under the Illinois Public Labor  
24 Relations Act, the State intends that the State action  
25 exemption to application of federal and State antitrust laws be  
26 fully available to the extent that their activities are  
27 authorized by this amendatory Act of the 94th General Assembly.

28 (d) The Illinois Department shall, by rule, require  
29 co-payments for child care services by any parent, including  
30 parents whose only income is from assistance under this Code.  
31 The co-payment shall be assessed based on a sliding scale based  
32 on family income, family size, and the number of children in  
33 care. Co-payments shall not be increased due solely to a change  
34 in the methodology for counting family income.

1 (e) The Illinois Department shall conduct a market rate  
2 survey based on the cost of care and other relevant factors  
3 which shall be completed by July 1, 1998.

4 (f) The Illinois Department shall, by rule, set rates to be  
5 paid for the various types of child care. Child care may be  
6 provided through one of the following methods:

7 (1) arranging the child care through eligible  
8 providers by use of purchase of service contracts or  
9 vouchers;

10 (2) arranging with other agencies and community  
11 volunteer groups for non-reimbursed child care;

12 (3) (blank); or

13 (4) adopting such other arrangements as the Department  
14 determines appropriate.

15 (f-5) The Illinois Department, in consultation with its  
16 Child Care and Development Advisory Council, shall develop a  
17 comprehensive plan to revise the State's rates for the various  
18 types of child care. The plan shall be completed no later than  
19 January 1, 2005 and shall include:

20 (1) Base reimbursement rates that are adequate to  
21 provide children receiving child care services from  
22 the Department equal access to quality child care,  
23 utilizing data from the most current market rate  
24 survey.

25 (2) A tiered reimbursement rate system that  
26 financially rewards providers of child care services  
27 that meet defined benchmarks of higher-quality care.

28 (3) Consideration of revisions to existing county  
29 groupings and age classifications, utilizing data from  
30 the most current market rate survey.

31 (4) Consideration of special rates for certain  
32 types of care such as caring for a child with a  
33 disability.

34 (g) Families eligible for assistance under this Section

1 shall be given the following options:

2 (1) receiving a child care certificate issued by the  
3 Department or a subcontractor of the Department that may be  
4 used by the parents as payment for child care and  
5 development services only; or

6 (2) if space is available, enrolling the child with a  
7 child care provider that has a purchase of service contract  
8 with the Department or a subcontractor of the Department  
9 for the provision of child care and development services.  
10 The Department may identify particular priority  
11 populations for whom they may request special  
12 consideration by a provider with purchase of service  
13 contracts, provided that the providers shall be permitted  
14 to maintain a balance of clients in terms of household  
15 incomes and families and children with special needs, as  
16 defined by rule.

17 (Source: P.A. 93-361, eff. 9-1-03; 93-1062, eff. 12-23-04.)".