



Rep. John E. Bradley

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LRB097 15168 JDS 67009 a

1 AMENDMENT TO HOUSE BILL 4177

2 AMENDMENT NO. _____. Amend House Bill 4177 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.

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

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

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

15 (f) "Exclusive representative", except with respect to
16 non-State fire fighters and paramedics employed by fire
17 departments and fire protection districts, non-State peace
18 officers, and peace officers in the Department of State Police,
19 means the labor organization that has been (i) designated by
20 the Board as the representative of a majority of public
21 employees in an appropriate bargaining unit in accordance with
22 the procedures contained in this Act, (ii) historically
23 recognized by the State of Illinois or any political
24 subdivision of the State before July 1, 1984 (the effective
25 date of this Act) as the exclusive representative of the
26 employees in an appropriate bargaining unit, (iii) after July

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

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

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

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

22 (g) "Fair share agreement" means an agreement between the
23 employer and an employee organization under which all or any of
24 the employees in a collective bargaining unit are required to
25 pay their proportionate share of the costs of the collective
26 bargaining process, contract administration, and pursuing

1 matters affecting wages, hours, and other conditions of
2 employment, but not to exceed the amount of dues uniformly
3 required of members. The amount certified by the exclusive
4 representative shall not include any fees for contributions
5 related to the election or support of any candidate for
6 political office. Nothing in this subsection (g) shall preclude
7 an employee from making voluntary political contributions in
8 conjunction with his or her fair share payment.

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

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

1 Leader of the Senate, the Joint Committee on Legislative
2 Support Services and any legislative support services agency
3 listed in the Legislative Commission Reorganization Act of
4 1984.

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

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

18 (j) "Managerial employee" means an individual who is
19 engaged predominantly in executive and management functions
20 and is charged with the responsibility of directing the
21 effectuation of management policies and practices.

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

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

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

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

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

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

1 limitations set forth in this Act and in Section 9A-11 of the
2 Illinois Public Aid Code, and (iv) as of the effective date of
3 this amendatory Act of the 97th General Assembly, but not
4 before except as otherwise provided in this subsection (n),
5 home care and home health workers, including personal care
6 attendants, personal assistants, and maintenance home health
7 workers, who work under the Home Services Program under Section
8 3 of the Disabled Persons Rehabilitation Act, no matter whether
9 the State provides those services through direct
10 fee-for-service arrangements, with the assistance of a managed
11 care organization or other intermediary, or otherwise, but
12 excluding all of the following: employees of the General
13 Assembly of the State of Illinois; elected officials; executive
14 heads of a department; members of boards or commissions; the
15 Executive Inspectors General; any special Executive Inspectors
16 General; employees of each Office of an Executive Inspector
17 General; commissioners and employees of the Executive Ethics
18 Commission; the Auditor General's Inspector General; employees
19 of the Office of the Auditor General's Inspector General; the
20 Legislative Inspector General; any special Legislative
21 Inspectors General; employees of the Office of the Legislative
22 Inspector General; commissioners and employees of the
23 Legislative Ethics Commission; employees of any agency, board
24 or commission created by this Act; employees appointed to State
25 positions of a temporary or emergency nature; all employees of
26 school districts and higher education institutions except

1 firefighters and peace officers employed by a state university
2 and except peace officers employed by a school district in its
3 own police department in existence on the effective date of
4 this amendatory Act of the 96th General Assembly; managerial
5 employees; short-term employees; confidential employees;
6 independent contractors; and supervisors except as provided in
7 this Act.

8 Home care and home health workers, including personal
9 ~~Personal~~ care attendants, and personal assistants, and
10 maintenance home health workers, shall not be considered public
11 employees for any purposes not specifically provided for in
12 Public Act 93-204 or this amendatory Act of the 97th General
13 Assembly ~~the amendatory Act of the 93rd General Assembly,~~
14 including but not limited to, purposes of vicarious liability
15 in tort and purposes of statutory retirement or health
16 insurance benefits. Home care and home health workers,
17 including personal ~~Personal~~ care attendants, and personal
18 assistants, and maintenance home health workers, shall not be
19 covered by the State Employees Group Insurance Act of 1971 (5
20 ILCS 375/).

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

1 State Employees Group Insurance Act of 1971.

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

6 (o) Except as otherwise in subsection (o-5), "public
7 employer" or "employer" means the State of Illinois; any
8 political subdivision of the State, unit of local government or
9 school district; authorities including departments, divisions,
10 bureaus, boards, commissions, or other agencies of the
11 foregoing entities; and any person acting within the scope of
12 his or her authority, express or implied, on behalf of those
13 entities in dealing with its employees. As of the effective
14 date of the amendatory Act of the 93rd General Assembly, but
15 not before, the State of Illinois shall be considered the
16 employer of the personal care attendants and personal
17 assistants working under the Home Services Program under
18 Section 3 of the Disabled Persons Rehabilitation Act, subject
19 to the limitations set forth in this Act and in the Disabled
20 Persons Rehabilitation Act. As of the effective date of this
21 amendatory Act of the 97th General Assembly, but not before
22 except as otherwise provided in this subsection (o), the State
23 shall be considered the employer of home care and home health
24 workers, including personal care attendants, personal
25 assistants, and maintenance home health workers, who work under
26 the Home Services Program under Section 3 of the Disabled

1 Persons Rehabilitation Act, no matter whether the State
2 provides those services through direct fee-for-service
3 arrangements, with the assistance of a managed care
4 organization or other intermediary, or otherwise, but subject
5 to the limitations set forth in this Act and the Disabled
6 Persons Rehabilitation Act. The State shall not be considered
7 to be the employer of home care and home health workers,
8 including personal care attendants, ~~and~~ personal assistants,
9 and maintenance home health workers, for any purposes not
10 specifically provided for in Public Act 93-204 or this
11 amendatory Act of the 97th General Assembly ~~this amendatory Act~~
12 ~~of the 93rd General Assembly,~~ including but not limited to,
13 purposes of vicarious liability in tort and purposes of
14 statutory retirement or health insurance benefits. Home care
15 and home health workers, including personal ~~Personal~~ care
16 attendants, ~~and~~ personal assistants, and maintenance home
17 health workers, shall not be covered by the State Employees
18 Group Insurance Act of 1971 (5 ILCS 375/). As of the effective
19 date of this amendatory Act of the 94th General Assembly but
20 not before, the State of Illinois shall be considered the
21 employer of the day and child care home providers participating
22 in the child care assistance program under Section 9A-11 of the
23 Illinois Public Aid Code, subject to the limitations set forth
24 in this Act and in Section 9A-11 of the Illinois Public Aid
25 Code. The State shall not be considered to be the employer of
26 child and day care home providers for any purposes not

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

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

26 (o-5) With respect to wages, fringe benefits, hours,

1 holidays, vacations, proficiency examinations, sick leave, and
2 other conditions of employment, the public employer of public
3 employees who are court reporters, as defined in the Court
4 Reporters Act, shall be determined as follows:

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

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

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

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

1 she will be rehired by the same employer for the same service
2 in a subsequent calendar year.

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

24 Notwithstanding the provisions of the preceding paragraph,
25 in determining supervisory status in fire fighter employment,
26 no fire fighter shall be excluded as a supervisor who has

1 established representation rights under Section 9 of this Act.
2 Further, in new fire fighter units, employees shall consist of
3 fire fighters of the rank of company officer and below. If a
4 company officer otherwise qualifies as a supervisor under the
5 preceding paragraph, however, he or she shall not be included
6 in the fire fighter unit. If there is no rank between that of
7 chief and the highest company officer, the employer may
8 designate a position on each shift as a Shift Commander, and
9 the persons occupying those positions shall be supervisors. All
10 other ranks above that of company officer shall be supervisors.

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

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

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

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

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

5 (Source: P.A. 96-1257, eff. 7-23-10; 97-586, eff. 8-26-11.)

6 (5 ILCS 315/7) (from Ch. 48, par. 1607)

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

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

22 The duty "to bargain collectively" shall also include an
23 obligation to negotiate over any matter with respect to wages,
24 hours and other conditions of employment, not specifically
25 provided for in any other law or not specifically in violation

1 of the provisions of any law. If any other law pertains, in
2 part, to a matter affecting the wages, hours and other
3 conditions of employment, such other law shall not be construed
4 as limiting the duty "to bargain collectively" and to enter
5 into collective bargaining agreements containing clauses which
6 either supplement, implement, or relate to the effect of such
7 provisions in other laws.

8 The duty "to bargain collectively" shall also include
9 negotiations as to the terms of a collective bargaining
10 agreement. The parties may, by mutual agreement, provide for
11 arbitration of impasses resulting from their inability to agree
12 upon wages, hours and terms and conditions of employment to be
13 included in a collective bargaining agreement. Such
14 arbitration provisions shall be subject to the Illinois
15 "Uniform Arbitration Act" unless agreed by the parties.

16 The duty "to bargain collectively" shall also mean that no
17 party to a collective bargaining contract shall terminate or
18 modify such contract, unless the party desiring such
19 termination or modification:

20 (1) serves a written notice upon the other party to the
21 contract of the proposed termination or modification 60
22 days prior to the expiration date thereof, or in the event
23 such contract contains no expiration date, 60 days prior to
24 the time it is proposed to make such termination or
25 modification;

26 (2) offers to meet and confer with the other party for

1 the purpose of negotiating a new contract or a contract
2 containing the proposed modifications;

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

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

11 The duties imposed upon employers, employees and labor
12 organizations by paragraphs (2), (3) and (4) shall become
13 inapplicable upon an intervening certification of the Board,
14 under which the labor organization, which is a party to the
15 contract, has been superseded as or ceased to be the exclusive
16 representative of the employees pursuant to the provisions of
17 subsection (a) of Section 9, and the duties so imposed shall
18 not be construed as requiring either party to discuss or agree
19 to any modification of the terms and conditions contained in a
20 contract for a fixed period, if such modification is to become
21 effective before such terms and conditions can be reopened
22 under the provisions of the contract.

23 Collective bargaining for home care and home health
24 workers, including personal care attendants, ~~and~~ personal
25 assistants, and maintenance home health workers, under the Home
26 Services Program shall be limited to the terms and conditions

1 of employment under the State's control, as defined in Public
2 Act 93-204 or this amendatory Act of the 97th General Assembly,
3 as applicable ~~the amendatory Act of the 93rd General Assembly.~~

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

8 Notwithstanding any other provision of this Section,
9 whenever collective bargaining is for the purpose of
10 establishing an initial agreement following original
11 certification of units with fewer than 35 employees, with
12 respect to public employees other than peace officers, fire
13 fighters, and security employees, the following apply:

14 (1) Not later than 10 days after receiving a written
15 request for collective bargaining from a labor
16 organization that has been newly certified as a
17 representative as defined in Section 6(c), or within such
18 further period as the parties agree upon, the parties shall
19 meet and commence to bargain collectively and shall make
20 every reasonable effort to conclude and sign a collective
21 bargaining agreement.

22 (2) If anytime after the expiration of the 90-day
23 period beginning on the date on which bargaining is
24 commenced the parties have failed to reach an agreement,
25 either party may notify the Illinois Public Labor Relations
26 Board of the existence of a dispute and request mediation

1 in accordance with the provisions of Section 14 of this
2 Act.

3 (3) If after the expiration of the 30-day period
4 beginning on the date on which mediation commenced, or such
5 additional period as the parties may agree upon, the
6 mediator is not able to bring the parties to agreement by
7 conciliation, either the exclusive representative of the
8 employees or the employer may request of the other, in
9 writing, arbitration and shall submit a copy of the request
10 to the board. Upon submission of the request for
11 arbitration, the parties shall be required to participate
12 in the impasse arbitration procedures set forth in Section
13 14 of this Act, except the right to strike shall not be
14 considered waived pursuant to Section 17 of this Act, until
15 the actual convening of the arbitration hearing.

16 (Source: P.A. 96-598, eff. 1-1-10.)

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

19 (20 ILCS 2405/3) (from Ch. 23, par. 3434)

20 Sec. 3. Powers and duties. The Department shall have the
21 powers and duties enumerated herein:

22 (a) To co-operate with the federal government in the
23 administration of the provisions of the federal Rehabilitation
24 Act of 1973, as amended, of the Workforce Investment Act of

1 1998, and of the federal Social Security Act to the extent and
2 in the manner provided in these Acts.

3 (b) To prescribe and supervise such courses of vocational
4 training and provide such other services as may be necessary
5 for the habilitation and rehabilitation of persons with one or
6 more disabilities, including the administrative activities
7 under subsection (e) of this Section, and to co-operate with
8 State and local school authorities and other recognized
9 agencies engaged in habilitation, rehabilitation and
10 comprehensive rehabilitation services; and to cooperate with
11 the Department of Children and Family Services regarding the
12 care and education of children with one or more disabilities.

13 (c) (Blank).

14 (d) To report in writing, to the Governor, annually on or
15 before the first day of December, and at such other times and
16 in such manner and upon such subjects as the Governor may
17 require. The annual report shall contain (1) a statement of the
18 existing condition of comprehensive rehabilitation services,
19 habilitation and rehabilitation in the State; (2) a statement
20 of suggestions and recommendations with reference to the
21 development of comprehensive rehabilitation services,
22 habilitation and rehabilitation in the State; and (3) an
23 itemized statement of the amounts of money received from
24 federal, State and other sources, and of the objects and
25 purposes to which the respective items of these several amounts
26 have been devoted.

1 (e) (Blank).

2 (f) To establish a program of services to prevent
3 unnecessary institutionalization of persons with Alzheimer's
4 disease and related disorders or persons in need of long term
5 care who are established as blind or disabled as defined by the
6 Social Security Act, thereby enabling them to remain in their
7 own homes or other living arrangements. Such preventive
8 services may include, but are not limited to, any or all of the
9 following:

- 10 (1) home health services;
- 11 (2) home nursing services;
- 12 (3) homemaker services;
- 13 (4) chore and housekeeping services;
- 14 (5) day care services;
- 15 (6) home-delivered meals;
- 16 (7) education in self-care;
- 17 (8) personal care services;
- 18 (9) adult day health services;
- 19 (10) habilitation services;
- 20 (11) respite care; or
- 21 (12) other nonmedical social services that may enable
22 the person to become self-supporting.

23 The Department shall establish eligibility standards for
24 such services taking into consideration the unique economic and
25 social needs of the population for whom they are to be
26 provided. Such eligibility standards may be based on the

1 recipient's ability to pay for services; provided, however,
2 that any portion of a person's income that is equal to or less
3 than the "protected income" level shall not be considered by
4 the Department in determining eligibility. The "protected
5 income" level shall be determined by the Department, shall
6 never be less than the federal poverty standard, and shall be
7 adjusted each year to reflect changes in the Consumer Price
8 Index For All Urban Consumers as determined by the United
9 States Department of Labor. The standards must provide that a
10 person may have not more than \$10,000 in assets to be eligible
11 for the services, and the Department may increase the asset
12 limitation by rule. Additionally, in determining the amount and
13 nature of services for which a person may qualify,
14 consideration shall not be given to the value of cash, property
15 or other assets held in the name of the person's spouse
16 pursuant to a written agreement dividing marital property into
17 equal but separate shares or pursuant to a transfer of the
18 person's interest in a home to his spouse, provided that the
19 spouse's share of the marital property is not made available to
20 the person seeking such services.

21 The services shall be provided to eligible persons to
22 prevent unnecessary or premature institutionalization, to the
23 extent that the cost of the services, together with the other
24 personal maintenance expenses of the persons, are reasonably
25 related to the standards established for care in a group
26 facility appropriate to their condition. These

1 non-institutional services, pilot projects or experimental
2 facilities may be provided as part of or in addition to those
3 authorized by federal law or those funded and administered by
4 the Illinois Department on Aging.

5 Personal care attendants shall be paid:

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

7 (ii) A \$5.30 per hour minimum rate beginning July 1,
8 1997.

9 (iii) A \$5.40 per hour minimum rate beginning July 1,
10 1998.

11 Solely for the purposes of coverage under the Illinois
12 Public Labor Relations Act (5 ILCS 315/), personal care
13 attendants and personal assistants providing services under
14 the Department's Home Services Program shall be considered to
15 be public employees, and the State of Illinois shall be
16 considered to be their employer as of the effective date of
17 this amendatory Act of the 93rd General Assembly, but not
18 before. Solely for the purposes of coverage under the Illinois
19 Public Labor Relations Act (5 ILCS 315/), home care and home
20 health workers, including personal care attendants, personal
21 assistants, and maintenance home health workers, who provide
22 services under the Department's Home Services Program shall be
23 considered to be public employees, no matter whether the State
24 provides such services through direct fee-for-service
25 arrangements, with the assistance of a managed care
26 organization or other intermediary, or otherwise, and the State

1 of Illinois shall be considered to be the employer of those
2 persons as of the effective date of this amendatory Act of the
3 97rd General Assembly, but not before except as otherwise
4 provided under this subsection (f). The State shall engage in
5 collective bargaining with an exclusive representative of home
6 care and home health workers, including personal care
7 attendants, and personal assistants, and maintenance home
8 health workers, working under the Home Services Program
9 concerning their terms and conditions of employment that are
10 within the State's control. Nothing in this paragraph shall be
11 understood to limit the right of the persons receiving services
12 defined in this Section to hire and fire home care and home
13 health workers, including personal care attendants, and
14 personal assistants, and maintenance home health workers, or to
15 supervise them within the limitations set by the Home Services
16 Program. The State shall not be considered to be the employer
17 of home care and home health workers, including personal care
18 attendants, and personal assistants, and maintenance home
19 health workers, for any purposes not specifically provided in
20 Public Act 93-204 or this amendatory Act of the 97th General
21 Assembly ~~this amendatory Act of the 93rd General Assembly,~~
22 including but not limited to, purposes of vicarious liability
23 in tort and purposes of statutory retirement or health
24 insurance benefits. Home care and home health workers,
25 including personal ~~Personal~~ care attendants, and personal
26 assistants, and maintenance home health workers, shall not be

1 covered by the State Employees Group Insurance Act of 1971 (5
2 ILCS 375/).

3 The Department shall execute, relative to the nursing home
4 prescreening project, as authorized by Section 4.03 of the
5 Illinois Act on the Aging, written inter-agency agreements with
6 the Department on Aging and the Department of Public Aid (now
7 Department of Healthcare and Family Services), to effect the
8 following: (i) intake procedures and common eligibility
9 criteria for those persons who are receiving non-institutional
10 services; and (ii) the establishment and development of
11 non-institutional services in areas of the State where they are
12 not currently available or are undeveloped. On and after July
13 1, 1996, all nursing home prescreenings for individuals 18
14 through 59 years of age shall be conducted by the Department.

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

1 The Department, or the Department's authorized
2 representative, shall recover the amount of moneys expended for
3 services provided to or in behalf of a person under this
4 Section by a claim against the person's estate or against the
5 estate of the person's surviving spouse, but no recovery may be
6 had until after the death of the surviving spouse, if any, and
7 then only at such time when there is no surviving child who is
8 under age 21, blind, or permanently and totally disabled. This
9 paragraph, however, shall not bar recovery, at the death of the
10 person, of moneys for services provided to the person or in
11 behalf of the person under this Section to which the person was
12 not entitled; provided that such recovery shall not be enforced
13 against any real estate while it is occupied as a homestead by
14 the surviving spouse or other dependent, if no claims by other
15 creditors have been filed against the estate, or, if such
16 claims have been filed, they remain dormant for failure of
17 prosecution or failure of the claimant to compel administration
18 of the estate for the purpose of payment. This paragraph shall
19 not bar recovery from the estate of a spouse, under Sections
20 1915 and 1924 of the Social Security Act and Section 5-4 of the
21 Illinois Public Aid Code, who precedes a person receiving
22 services under this Section in death. All moneys for services
23 paid to or in behalf of the person under this Section shall be
24 claimed for recovery from the deceased spouse's estate.
25 "Homestead", as used in this paragraph, means the dwelling
26 house and contiguous real estate occupied by a surviving spouse

1 or relative, as defined by the rules and regulations of the
2 Department of Healthcare and Family Services, regardless of the
3 value of the property.

4 The Department and the Department on Aging shall cooperate
5 in the development and submission of an annual report on
6 programs and services provided under this Section. Such joint
7 report shall be filed with the Governor and the General
8 Assembly on or before March 30 each year.

9 The requirement for reporting to the General Assembly shall
10 be satisfied by filing copies of the report with the Speaker,
11 the Minority Leader and the Clerk of the House of
12 Representatives and the President, the Minority Leader and the
13 Secretary of the Senate and the Legislative Research Unit, as
14 required by Section 3.1 of the General Assembly Organization
15 Act, and filing additional copies with the State Government
16 Report Distribution Center for the General Assembly as required
17 under paragraph (t) of Section 7 of the State Library Act.

18 (g) To establish such subdivisions of the Department as
19 shall be desirable and assign to the various subdivisions the
20 responsibilities and duties placed upon the Department by law.

21 (h) To cooperate and enter into any necessary agreements
22 with the Department of Employment Security for the provision of
23 job placement and job referral services to clients of the
24 Department, including job service registration of such clients
25 with Illinois Employment Security offices and making job
26 listings maintained by the Department of Employment Security

1 available to such clients.

2 (i) To possess all powers reasonable and necessary for the
3 exercise and administration of the powers, duties and
4 responsibilities of the Department which are provided for by
5 law.

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

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

16 (l) To establish, operate and maintain a Statewide Housing
17 Clearinghouse of information on available, government
18 subsidized housing accessible to disabled persons and
19 available privately owned housing accessible to disabled
20 persons. The information shall include but not be limited to
21 the location, rental requirements, access features and
22 proximity to public transportation of available housing. The
23 Clearinghouse shall consist of at least a computerized database
24 for the storage and retrieval of information and a separate or
25 shared toll free telephone number for use by those seeking
26 information from the Clearinghouse. Department offices and

1 personnel throughout the State shall also assist in the
2 operation of the Statewide Housing Clearinghouse. Cooperation
3 with local, State and federal housing managers shall be sought
4 and extended in order to frequently and promptly update the
5 Clearinghouse's information.

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

19 (Source: P.A. 94-252, eff. 1-1-06; 95-331, eff. 8-21-07.)

20 Section 99. Effective date. This Act takes effect upon
21 becoming law."