

1 AN ACT concerning government.

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

4 Section 5. The Illinois Public Labor Relations Act is  
5 amended by changing Sections 3 and 7 and adding Section 28 as  
6 follows:

7 (5 ILCS 315/3) (from Ch. 48, par. 1603)

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

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

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

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

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

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

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

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

1 assistants under Executive Order 2003-8 prior to the effective  
2 date of this amendatory Act of the 93rd General Assembly, and  
3 the organization shall be considered to be the exclusive  
4 representative of the personal care attendants or personal  
5 assistants as defined in this Section; or (v) recognized as the  
6 exclusive representative of child and day care home providers,  
7 including licensed and license exempt providers, pursuant to an  
8 election held under Executive Order 2005-1 prior to the  
9 effective date of this amendatory Act of the 94th General  
10 Assembly, and the organization shall be considered to be the  
11 exclusive representative of the child and day care home  
12 providers as defined in this Section.

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

1 by an employer upon evidence, acceptable to the Board, that the  
2 labor organization has been designated as the exclusive  
3 representative by a majority of the peace officers or fire  
4 fighters in an appropriate bargaining unit.

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

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

1 an employee from making voluntary political contributions in  
2 conjunction with his or her fair share payment.

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

14 (g-2) "General Assembly of the State of Illinois" means the  
15 legislative branch of the government of the State of Illinois,  
16 as provided for under Article IV of the Constitution of the  
17 State of Illinois, and includes but is not limited to the House  
18 of Representatives, the Senate, the Speaker of the House of  
19 Representatives, the Minority Leader of the House of  
20 Representatives, the President of the Senate, the Minority  
21 Leader of the Senate, the Joint Committee on Legislative  
22 Support Services and any legislative support services agency  
23 listed in the Legislative Commission Reorganization Act of  
24 1984.

25 (h) "Governing body" means, in the case of the State, the  
26 State Panel of the Illinois Labor Relations Board, the Director

1 of the Department of Central Management Services, and the  
2 Director of the Department of Labor; the county board in the  
3 case of a county; the corporate authorities in the case of a  
4 municipality; and the appropriate body authorized to provide  
5 for expenditures of its funds in the case of any other unit of  
6 government.

7 (i) "Labor organization" means any organization in which  
8 public employees participate and that exists for the purpose,  
9 in whole or in part, of dealing with a public employer  
10 concerning wages, hours, and other terms and conditions of  
11 employment, including the settlement of grievances.

12 (j) "Managerial employee" means an individual who is  
13 engaged predominantly in executive and management functions  
14 and is charged with the responsibility of directing the  
15 effectuation of management policies and practices.

16 (k) "Peace officer" means, for the purposes of this Act  
17 only, any persons who have been or are hereafter appointed to a  
18 police force, department, or agency and sworn or commissioned  
19 to perform police duties, except that the following persons are  
20 not included: part-time police officers, special police  
21 officers, auxiliary police as defined by Section 3.1-30-20 of  
22 the Illinois Municipal Code, night watchmen, "merchant  
23 police", court security officers as defined by Section 3-6012.1  
24 of the Counties Code, temporary employees, traffic guards or  
25 wardens, civilian parking meter and parking facilities  
26 personnel or other individuals specially appointed to aid or

1 direct traffic at or near schools or public functions or to aid  
2 in civil defense or disaster, parking enforcement employees who  
3 are not commissioned as peace officers and who are not armed  
4 and who are not routinely expected to effect arrests, parking  
5 lot attendants, clerks and dispatchers or other civilian  
6 employees of a police department who are not routinely expected  
7 to effect arrests, or elected officials.

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

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

1 from apprenticeship or from training in the performance of  
2 routine mental, manual, or physical processes; or any employee  
3 who has completed the courses of specialized intellectual  
4 instruction and study prescribed in this subsection (m) and is  
5 performing related work under the supervision of a professional  
6 person to qualify to become a professional employee as defined  
7 in this subsection (m).

8 (n) "Public employee" or "employee", for the purposes of  
9 this Act, means any individual employed by a public employer,  
10 including (i) interns and residents at public hospitals, (ii)  
11 as of the effective date of this amendatory Act of the 93rd  
12 General Assembly, but not before, personal care attendants and  
13 personal assistants working under the Home Services Program  
14 under Section 3 of the Disabled Persons Rehabilitation Act,  
15 subject to the limitations set forth in this Act and in the  
16 Disabled Persons Rehabilitation Act, ~~and~~ (iii) as of the  
17 effective date of this amendatory Act of the 94th General  
18 Assembly, but not before, child and day care home providers  
19 participating in the child care assistance program under  
20 Section 9A-11 of the Illinois Public Aid Code, subject to the  
21 limitations set forth in this Act and in Section 9A-11 of the  
22 Illinois Public Aid Code, and (iv) as of the effective date of  
23 this amendatory Act of the 97th General Assembly, but not  
24 before except as otherwise provided in this subsection (n),  
25 home care and home health workers who function as personal care  
26 attendants, personal assistants, and individual maintenance



1 home health workers and who also work under the Home Services  
2 Program under Section 3 of the Disabled Persons Rehabilitation  
3 Act, no matter whether the State provides those services  
4 through direct fee-for-service arrangements, with the  
5 assistance of a managed care organization or other  
6 intermediary, or otherwise, but excluding all of the following:  
7 employees of the General Assembly of the State of Illinois;  
8 elected officials; executive heads of a department; members of  
9 boards or commissions; the Executive Inspectors General; any  
10 special Executive Inspectors General; employees of each Office  
11 of an Executive Inspector General; commissioners and employees  
12 of the Executive Ethics Commission; the Auditor General's  
13 Inspector General; employees of the Office of the Auditor  
14 General's Inspector General; the Legislative Inspector  
15 General; any special Legislative Inspectors General; employees  
16 of the Office of the Legislative Inspector General;  
17 commissioners and employees of the Legislative Ethics  
18 Commission; employees of any agency, board or commission  
19 created by this Act; employees appointed to State positions of  
20 a temporary or emergency nature; all employees of school  
21 districts and higher education institutions except  
22 firefighters and peace officers employed by a state university  
23 and except peace officers employed by a school district in its  
24 own police department in existence on the effective date of  
25 this amendatory Act of the 96th General Assembly; managerial  
26 employees; short-term employees; confidential employees;

1 independent contractors; and supervisors except as provided in  
2 this Act.

3 Home care and home health workers who function as personal  
4 ~~Personal~~ care attendants, and personal assistants, and  
5 individual maintenance home health workers and who also work  
6 under the Home Services Program under Section 3 of the Disabled  
7 Persons Rehabilitation Act shall not be considered public  
8 employees for any purposes not specifically provided for in  
9 Public Act 93-204 or this amendatory Act of the 97th General  
10 Assembly ~~the amendatory Act of the 93rd General Assembly,~~  
11 including but not limited to, purposes of vicarious liability  
12 in tort and purposes of statutory retirement or health  
13 insurance benefits. Home care and home health workers who  
14 function as personal ~~Personal~~ care attendants, and personal  
15 assistants, and individual maintenance home health workers and  
16 who also work under the Home Services Program under Section 3  
17 of the Disabled Persons Rehabilitation Act shall not be covered  
18 by the State Employees Group Insurance Act of 1971 (5 ILCS  
19 375/).

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

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

5           (o) Except as otherwise in subsection (o-5), "public  
6 employer" or "employer" means the State of Illinois; any  
7 political subdivision of the State, unit of local government or  
8 school district; authorities including departments, divisions,  
9 bureaus, boards, commissions, or other agencies of the  
10 foregoing entities; and any person acting within the scope of  
11 his or her authority, express or implied, on behalf of those  
12 entities in dealing with its employees. As of the effective  
13 date of the amendatory Act of the 93rd General Assembly, but  
14 not before, the State of Illinois shall be considered the  
15 employer of the personal care attendants and personal  
16 assistants working under the Home Services Program under  
17 Section 3 of the Disabled Persons Rehabilitation Act, subject  
18 to the limitations set forth in this Act and in the Disabled  
19 Persons Rehabilitation Act. As of the effective date of this  
20 amendatory Act of the 97th General Assembly, but not before  
21 except as otherwise provided in this subsection (o), the State  
22 shall be considered the employer of home care and home health  
23 workers who function as personal care attendants, personal  
24 assistants, and individual maintenance home health workers and  
25 who also work under the Home Services Program under Section 3  
26 of the Disabled Persons Rehabilitation Act, no matter whether

1 the State provides those services through direct  
2 fee-for-service arrangements, with the assistance of a managed  
3 care organization or other intermediary, or otherwise, but  
4 subject to the limitations set forth in this Act and the  
5 Disabled Persons Rehabilitation Act. The State shall not be  
6 considered to be the employer of home care and home health  
7 workers who function as personal care attendants, and personal  
8 assistants, and individual maintenance home health workers and  
9 who also work under the Home Services Program under Section 3  
10 of the Disabled Persons Rehabilitation Act, for any purposes  
11 not specifically provided for in Public Act 93-204 or this  
12 amendatory Act of the 97th General Assembly ~~this amendatory Act~~  
13 ~~of the 93rd General Assembly,~~ including but not limited to,  
14 purposes of vicarious liability in tort and purposes of  
15 statutory retirement or health insurance benefits. Home care  
16 and home health workers who function as personal ~~Personal~~ care  
17 attendants, ~~and~~ personal assistants, and individual  
18 maintenance home health workers and who also work under the  
19 Home Services Program under Section 3 of the Disabled Persons  
20 Rehabilitation Act shall not be covered by the State Employees  
21 Group Insurance Act of 1971 (5 ILCS 375/). As of the effective  
22 date of this amendatory Act of the 94th General Assembly but  
23 not before, the State of Illinois shall be considered the  
24 employer of the day and child care home providers participating  
25 in the child care assistance program under Section 9A-11 of the  
26 Illinois Public Aid Code, subject to the limitations set forth

1 in this Act and in Section 9A-11 of the Illinois Public Aid  
2 Code. The State shall not be considered to be the employer of  
3 child and day care home providers for any purposes not  
4 specifically provided for in this amendatory Act of the 94th  
5 General Assembly, including but not limited to, purposes of  
6 vicarious liability in tort and purposes of statutory  
7 retirement or health insurance benefits. Child and day care  
8 home providers shall not be covered by the State Employees  
9 Group Insurance Act of 1971.

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

1 the Local Panel from determining that employers are joint or  
2 co-employers.

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

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

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

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

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

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

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

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

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



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

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

26 (3) Public employees who are court reporters, as defined in

1 the Court Reporters Act, shall be divided into 3 units for  
2 collective bargaining purposes. One unit shall be court  
3 reporters employed by the Cook County Judicial Circuit; one  
4 unit shall be court reporters employed by the 12th, 18th, 19th,  
5 and, on and after December 4, 2006, the 22nd judicial circuits;  
6 and one unit shall be court reporters employed by all other  
7 judicial circuits.

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

9 (5 ILCS 315/7) (from Ch. 48, par. 1607)

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

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

25 The duty "to bargain collectively" shall also include an

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

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

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

23 (1) serves a written notice upon the other party to the  
24 contract of the proposed termination or modification 60  
25 days prior to the expiration date thereof, or in the event  
26 such contract contains no expiration date, 60 days prior to

1 the time it is proposed to make such termination or  
2 modification;

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

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

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

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

26 Collective bargaining for home care and home health workers

1 who function as personal care attendants, and personal  
2 assistants, and individual maintenance home health workers  
3 under the Home Services Program shall be limited to the terms  
4 and conditions of employment under the State's control, as  
5 defined in Public Act 93-204 or this amendatory Act of the 97th  
6 General Assembly, as applicable ~~the amendatory Act of the 93rd~~  
7 ~~General Assembly.~~

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

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

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

26 (2) If anytime after the expiration of the 90-day

1 period beginning on the date on which bargaining is  
2 commenced the parties have failed to reach an agreement,  
3 either party may notify the Illinois Public Labor Relations  
4 Board of the existence of a dispute and request mediation  
5 in accordance with the provisions of Section 14 of this  
6 Act.

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

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

21 (5 ILCS 315/28 new)

22 Sec. 28. Applicability of changes made by amendatory Act of  
23 the 97th General Assembly. Nothing in this amendatory Act of  
24 the 97th General Assembly applies to workers or consumers in  
25 the Home Based Support Services Program in the Department of

1 Human Services Division of Developmental Disabilities.

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

4 (20 ILCS 2405/3) (from Ch. 23, par. 3434)

5 Sec. 3. Powers and duties. The Department shall have the  
6 powers and duties enumerated herein:

7 (a) To co-operate with the federal government in the  
8 administration of the provisions of the federal Rehabilitation  
9 Act of 1973, as amended, of the Workforce Investment Act of  
10 1998, and of the federal Social Security Act to the extent and  
11 in the manner provided in these Acts.

12 (b) To prescribe and supervise such courses of vocational  
13 training and provide such other services as may be necessary  
14 for the habilitation and rehabilitation of persons with one or  
15 more disabilities, including the administrative activities  
16 under subsection (e) of this Section, and to co-operate with  
17 State and local school authorities and other recognized  
18 agencies engaged in habilitation, rehabilitation and  
19 comprehensive rehabilitation services; and to cooperate with  
20 the Department of Children and Family Services regarding the  
21 care and education of children with one or more disabilities.

22 (c) (Blank).

23 (d) To report in writing, to the Governor, annually on or  
24 before the first day of December, and at such other times and

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

12 (e) (Blank).

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

- 21 (1) home health services;
- 22 (2) home nursing services;
- 23 (3) homemaker services;
- 24 (4) chore and housekeeping services;
- 25 (5) day care services;
- 26 (6) home-delivered meals;



- 1 (7) education in self-care;
- 2 (8) personal care services;
- 3 (9) adult day health services;
- 4 (10) habilitation services;
- 5 (11) respite care; or
- 6 (12) other nonmedical social services that may enable
- 7 the person to become self-supporting.

8 The Department shall establish eligibility standards for  
9 such services taking into consideration the unique economic and  
10 social needs of the population for whom they are to be  
11 provided. Such eligibility standards may be based on the  
12 recipient's ability to pay for services; provided, however,  
13 that any portion of a person's income that is equal to or less  
14 than the "protected income" level shall not be considered by  
15 the Department in determining eligibility. The "protected  
16 income" level shall be determined by the Department, shall  
17 never be less than the federal poverty standard, and shall be  
18 adjusted each year to reflect changes in the Consumer Price  
19 Index For All Urban Consumers as determined by the United  
20 States Department of Labor. The standards must provide that a  
21 person may have not more than \$10,000 in assets to be eligible  
22 for the services, and the Department may increase the asset  
23 limitation by rule. Additionally, in determining the amount and  
24 nature of services for which a person may qualify,  
25 consideration shall not be given to the value of cash, property  
26 or other assets held in the name of the person's spouse

1 pursuant to a written agreement dividing marital property into  
2 equal but separate shares or pursuant to a transfer of the  
3 person's interest in a home to his spouse, provided that the  
4 spouse's share of the marital property is not made available to  
5 the person seeking such services.

6 The services shall be provided to eligible persons to  
7 prevent unnecessary or premature institutionalization, to the  
8 extent that the cost of the services, together with the other  
9 personal maintenance expenses of the persons, are reasonably  
10 related to the standards established for care in a group  
11 facility appropriate to their condition. These  
12 non-institutional services, pilot projects or experimental  
13 facilities may be provided as part of or in addition to those  
14 authorized by federal law or those funded and administered by  
15 the Illinois Department on Aging.

16 Personal care attendants shall be paid:

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

18 (ii) A \$5.30 per hour minimum rate beginning July 1,  
19 1997.

20 (iii) A \$5.40 per hour minimum rate beginning July 1,  
21 1998.

22 Solely for the purposes of coverage under the Illinois  
23 Public Labor Relations Act (5 ILCS 315/), personal care  
24 attendants and personal assistants providing services under  
25 the Department's Home Services Program shall be considered to  
26 be public employees, and the State of Illinois shall be

1 considered to be their employer as of the effective date of  
2 this amendatory Act of the 93rd General Assembly, but not  
3 before. Solely for the purposes of coverage under the Illinois  
4 Public Labor Relations Act, home care and home health workers  
5 who function as personal care attendants, personal assistants,  
6 and individual maintenance home health workers and who also  
7 provide services under the Department's Home Services Program  
8 shall be considered to be public employees, no matter whether  
9 the State provides such services through direct  
10 fee-for-service arrangements, with the assistance of a managed  
11 care organization or other intermediary, or otherwise, and the  
12 State of Illinois shall be considered to be the employer of  
13 those persons as of the effective date of this amendatory Act  
14 of the 97th General Assembly, but not before except as  
15 otherwise provided under this subsection (f). The State shall  
16 engage in collective bargaining with an exclusive  
17 representative of home care and home health workers who  
18 function as personal care attendants, ~~and~~ personal assistants,  
19 and individual maintenance home health workers working under  
20 the Home Services Program concerning their terms and conditions  
21 of employment that are within the State's control. Nothing in  
22 this paragraph shall be understood to limit the right of the  
23 persons receiving services defined in this Section to hire and  
24 fire home care and home health workers who function as personal  
25 care attendants, ~~and~~ personal assistants, and individual  
26 maintenance home health workers working under the Home Services

1 Program or to supervise them within the limitations set by the  
2 Home Services Program. The State shall not be considered to be  
3 the employer of home care and home health workers who function  
4 as personal care attendants, and personal assistants, and  
5 individual maintenance home health workers working under the  
6 Home Services Program for any purposes not specifically  
7 provided in Public Act 93-204 or this amendatory Act of the  
8 97th General Assembly ~~this amendatory Act of the 93rd General~~  
9 ~~Assembly~~, including but not limited to, purposes of vicarious  
10 liability in tort and purposes of statutory retirement or  
11 health insurance benefits. Home care and home health workers  
12 who function as personal ~~Personal~~ care attendants, and personal  
13 assistants, and individual maintenance home health workers and  
14 who also provide services under the Department's Home Services  
15 Program shall not be covered by the State Employees Group  
16 Insurance Act of 1971 (5 ILCS 375/).

17 The Department shall execute, relative to the nursing home  
18 prescreening project, as authorized by Section 4.03 of the  
19 Illinois Act on the Aging, written inter-agency agreements with  
20 the Department on Aging and the Department of Public Aid (now  
21 Department of Healthcare and Family Services), to effect the  
22 following: (i) intake procedures and common eligibility  
23 criteria for those persons who are receiving non-institutional  
24 services; and (ii) the establishment and development of  
25 non-institutional services in areas of the State where they are  
26 not currently available or are undeveloped. On and after July

1 1, 1996, all nursing home prescreenings for individuals 18  
2 through 59 years of age shall be conducted by the Department.

3 The Department is authorized to establish a system of  
4 recipient cost-sharing for services provided under this  
5 Section. The cost-sharing shall be based upon the recipient's  
6 ability to pay for services, but in no case shall the  
7 recipient's share exceed the actual cost of the services  
8 provided. Protected income shall not be considered by the  
9 Department in its determination of the recipient's ability to  
10 pay a share of the cost of services. The level of cost-sharing  
11 shall be adjusted each year to reflect changes in the  
12 "protected income" level. The Department shall deduct from the  
13 recipient's share of the cost of services any money expended by  
14 the recipient for disability-related expenses.

15 The Department, or the Department's authorized  
16 representative, shall recover the amount of moneys expended for  
17 services provided to or in behalf of a person under this  
18 Section by a claim against the person's estate or against the  
19 estate of the person's surviving spouse, but no recovery may be  
20 had until after the death of the surviving spouse, if any, and  
21 then only at such time when there is no surviving child who is  
22 under age 21, blind, or permanently and totally disabled. This  
23 paragraph, however, shall not bar recovery, at the death of the  
24 person, of moneys for services provided to the person or in  
25 behalf of the person under this Section to which the person was  
26 not entitled; provided that such recovery shall not be enforced

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

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

23 The requirement for reporting to the General Assembly shall  
24 be satisfied by filing copies of the report with the Speaker,  
25 the Minority Leader and the Clerk of the House of  
26 Representatives and the President, the Minority Leader and the

1 Secretary of the Senate and the Legislative Research Unit, as  
2 required by Section 3.1 of the General Assembly Organization  
3 Act, and filing additional copies with the State Government  
4 Report Distribution Center for the General Assembly as required  
5 under paragraph (t) of Section 7 of the State Library Act.

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

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

16 (i) To possess all powers reasonable and necessary for the  
17 exercise and administration of the powers, duties and  
18 responsibilities of the Department which are provided for by  
19 law.

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

26 (k) To provide adequate notice to providers of chore and

1 housekeeping services informing them that they are entitled to  
2 an interest payment on bills which are not promptly paid  
3 pursuant to Section 3 of the State Prompt Payment Act.

4 (l) To establish, operate and maintain a Statewide Housing  
5 Clearinghouse of information on available, government  
6 subsidized housing accessible to disabled persons and  
7 available privately owned housing accessible to disabled  
8 persons. The information shall include but not be limited to  
9 the location, rental requirements, access features and  
10 proximity to public transportation of available housing. The  
11 Clearinghouse shall consist of at least a computerized database  
12 for the storage and retrieval of information and a separate or  
13 shared toll free telephone number for use by those seeking  
14 information from the Clearinghouse. Department offices and  
15 personnel throughout the State shall also assist in the  
16 operation of the Statewide Housing Clearinghouse. Cooperation  
17 with local, State and federal housing managers shall be sought  
18 and extended in order to frequently and promptly update the  
19 Clearinghouse's information.

20 (m) To assure that the names and case records of persons  
21 who received or are receiving services from the Department,  
22 including persons receiving vocational rehabilitation, home  
23 services, or other services, and those attending one of the  
24 Department's schools or other supervised facility shall be  
25 confidential and not be open to the general public. Those case  
26 records and reports or the information contained in those



1 records and reports shall be disclosed by the Director only to  
2 proper law enforcement officials, individuals authorized by a  
3 court, the General Assembly or any committee or commission of  
4 the General Assembly, and other persons and for reasons as the  
5 Director designates by rule. Disclosure by the Director may be  
6 only in accordance with other applicable law.

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

8 Section 99. Effective date. This Act takes effect upon  
9 becoming law.