



Sen. Mattie Hunter

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LRB097 15168 JDS 68522 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 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

1 are not excluded by Section 4.

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

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

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

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

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

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

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

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

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

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

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

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

1 Representatives, the President of the Senate, the Minority  
2 Leader of the Senate, the Joint Committee on Legislative  
3 Support Services and any legislative support services agency  
4 listed in the Legislative Commission Reorganization Act of  
5 1984.

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

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

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

23 (k) "Peace officer" means, for the purposes of this Act  
24 only, any persons who have been or are hereafter appointed to a  
25 police force, department, or agency and sworn or commissioned  
26 to perform police duties, except that the following persons are

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

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

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

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

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



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

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

10 Home care and home health workers who function as personal  
11 ~~Personal~~ care attendants, ~~and~~ personal assistants, and  
12 individual maintenance home health workers and who also work  
13 under the Home Services Program under Section 3 of the Disabled  
14 Persons Rehabilitation Act shall not be considered public  
15 employees for any purposes not specifically provided for in  
16 Public Act 93-204 or this amendatory Act of the 97th General  
17 Assembly ~~the amendatory Act of the 93rd General Assembly,~~  
18 including but not limited to, purposes of vicarious liability  
19 in tort and purposes of statutory retirement or health  
20 insurance benefits. Home care and home health workers who  
21 function as personal ~~Personal~~ care attendants, ~~and~~ personal  
22 assistants, and individual maintenance home health workers and  
23 who also work under the Home Services Program under Section 3  
24 of the Disabled Persons Rehabilitation Act shall not be covered  
25 by the State Employees Group Insurance Act of 1971 (5 ILCS  
26 375/).

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

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

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

1 amendatory Act of the 97th General Assembly, but not before  
2 except as otherwise provided in this subsection (o), the State  
3 shall be considered the employer of home care and home health  
4 workers who function as personal care attendants, personal  
5 assistants, and individual maintenance home health workers and  
6 who also work under the Home Services Program under Section 3  
7 of the Disabled Persons Rehabilitation Act, no matter whether  
8 the State provides those services through direct  
9 fee-for-service arrangements, with the assistance of a managed  
10 care organization or other intermediary, or otherwise, but  
11 subject to the limitations set forth in this Act and the  
12 Disabled Persons Rehabilitation Act. The State shall not be  
13 considered to be the employer of home care and home health  
14 workers who function as 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, for any purposes  
18 not specifically provided for in Public Act 93-204 or this  
19 amendatory Act of the 97th General Assembly ~~this amendatory Act~~  
20 ~~of the 93rd General Assembly,~~ including but not limited to,  
21 purposes of vicarious liability in tort and purposes of  
22 statutory retirement or health insurance benefits. Home care  
23 and home health workers who function as personal ~~Personal~~ care  
24 attendants, and personal assistants, and individual  
25 maintenance home health workers and who also work under the  
26 Home Services Program under Section 3 of the Disabled Persons

1     Rehabilitation Act shall not be covered by the State Employees  
2     Group Insurance Act of 1971 (5 ILCS 375/). As of the effective  
3     date of this amendatory Act of the 94th General Assembly but  
4     not before, the State of Illinois shall be considered the  
5     employer of the day and child care home providers participating  
6     in the child care assistance program under Section 9A-11 of the  
7     Illinois Public Aid Code, subject to the limitations set forth  
8     in this Act and in Section 9A-11 of the Illinois Public Aid  
9     Code. The State shall not be considered to be the employer of  
10    child and day care home providers for any purposes not  
11    specifically provided for in this amendatory Act of the 94th  
12    General Assembly, including but not limited to, purposes of  
13    vicarious liability in tort and purposes of statutory  
14    retirement or health insurance benefits. Child and day care  
15    home providers shall not be covered by the State Employees  
16    Group Insurance Act of 1971.

17        "Public employer" or "employer" as used in this Act,  
18    however, does not mean and shall not include the General  
19    Assembly of the State of Illinois, the Executive Ethics  
20    Commission, the Offices of the Executive Inspectors General,  
21    the Legislative Ethics Commission, the Office of the  
22    Legislative Inspector General, the Office of the Auditor  
23    General's Inspector General, and educational employers or  
24    employers as defined in the Illinois Educational Labor  
25    Relations Act, except with respect to a state university in its  
26    employment of firefighters and peace officers and except with

1 respect to a school district in the employment of peace  
2 officers in its own police department in existence on the  
3 effective date of this amendatory Act of the 96th General  
4 Assembly. County boards and county sheriffs shall be designated  
5 as joint or co-employers of county peace officers appointed  
6 under the authority of a county sheriff. Nothing in this  
7 subsection (o) shall be construed to prevent the State Panel or  
8 the Local Panel from determining that employers are joint or  
9 co-employers.

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

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

19 (2) For court reporters employed by the 12th, 18th,  
20 19th, and, on and after December 4, 2006, the 22nd judicial  
21 circuits, a group consisting of the chief judges of those  
22 circuits, acting jointly by majority vote, is the public  
23 employer and employer representative.

24 (3) For court reporters employed by all other judicial  
25 circuits, a group consisting of the chief judges of those  
26 circuits, acting jointly by majority vote, is the public

1 employer and employer representative.

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

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

13 (r) "Supervisor" is an employee whose principal work is  
14 substantially different from that of his or her subordinates  
15 and who has authority, in the interest of the employer, to  
16 hire, transfer, suspend, lay off, recall, promote, discharge,  
17 direct, reward, or discipline employees, to adjust their  
18 grievances, or to effectively recommend any of those actions,  
19 if the exercise of that authority is not of a merely routine or  
20 clerical nature, but requires the consistent use of independent  
21 judgment. Except with respect to police employment, the term  
22 "supervisor" includes only those individuals who devote a  
23 preponderance of their employment time to exercising that  
24 authority, State supervisors notwithstanding. In addition, in  
25 determining supervisory status in police employment, rank  
26 shall not be determinative. The Board shall consider, as

1 evidence of bargaining unit inclusion or exclusion, the common  
2 law enforcement policies and relationships between police  
3 officer ranks and certification under applicable civil service  
4 law, ordinances, personnel codes, or Division 2.1 of Article 10  
5 of the Illinois Municipal Code, but these factors shall not be  
6 the sole or predominant factors considered by the Board in  
7 determining police supervisory status.

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

21 (s) (1) "Unit" means a class of jobs or positions that are  
22 held by employees whose collective interests may suitably be  
23 represented by a labor organization for collective bargaining.  
24 Except with respect to non-State fire fighters and paramedics  
25 employed by fire departments and fire protection districts,  
26 non-State peace officers, and peace officers in the Department



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

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

7           (3) Public employees who are court reporters, as defined in  
8 the Court Reporters Act, shall be divided into 3 units for  
9 collective bargaining purposes. One unit shall be court  
10 reporters employed by the Cook County Judicial Circuit; one  
11 unit shall be court reporters employed by the 12th, 18th, 19th,  
12 and, on and after December 4, 2006, the 22nd judicial circuits;  
13 and one unit shall be court reporters employed by all other  
14 judicial circuits.

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

16           (5 ILCS 315/7) (from Ch. 48, par. 1607)

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

20           For the purposes of this Act, "to bargain collectively"  
21 means the performance of the mutual obligation of the public  
22 employer or his designated representative and the  
23 representative of the public employees to meet at reasonable  
24 times, including meetings in advance of the budget-making  
25 process, and to negotiate in good faith with respect to wages,

1 hours, and other conditions of employment, not excluded by  
2 Section 4 of this Act, or the negotiation of an agreement, or  
3 any question arising thereunder and the execution of a written  
4 contract incorporating any agreement reached if requested by  
5 either party, but such obligation does not compel either party  
6 to agree to a proposal or require the making of a concession.

7 The duty "to bargain collectively" shall also include an  
8 obligation to negotiate over any matter with respect to wages,  
9 hours and other conditions of employment, not specifically  
10 provided for in any other law or not specifically in violation  
11 of the provisions of any law. If any other law pertains, in  
12 part, to a matter affecting the wages, hours and other  
13 conditions of employment, such other law shall not be construed  
14 as limiting the duty "to bargain collectively" and to enter  
15 into collective bargaining agreements containing clauses which  
16 either supplement, implement, or relate to the effect of such  
17 provisions in other laws.

18 The duty "to bargain collectively" shall also include  
19 negotiations as to the terms of a collective bargaining  
20 agreement. The parties may, by mutual agreement, provide for  
21 arbitration of impasses resulting from their inability to agree  
22 upon wages, hours and terms and conditions of employment to be  
23 included in a collective bargaining agreement. Such  
24 arbitration provisions shall be subject to the Illinois  
25 "Uniform Arbitration Act" unless agreed by the parties.

26 The duty "to bargain collectively" shall also mean that no

1 party to a collective bargaining contract shall terminate or  
2 modify such contract, unless the party desiring such  
3 termination or modification:

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

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

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

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

21 The duties imposed upon employers, employees and labor  
22 organizations by paragraphs (2), (3) and (4) shall become  
23 inapplicable upon an intervening certification of the Board,  
24 under which the labor organization, which is a party to the  
25 contract, has been superseded as or ceased to be the exclusive  
26 representative of the employees pursuant to the provisions of

1 subsection (a) of Section 9, and the duties so imposed shall  
2 not be construed as requiring either party to discuss or agree  
3 to any modification of the terms and conditions contained in a  
4 contract for a fixed period, if such modification is to become  
5 effective before such terms and conditions can be reopened  
6 under the provisions of the contract.

7 Collective bargaining for home care and home health workers  
8 who function as personal care attendants, ~~and~~ personal  
9 assistants, and individual maintenance home health workers  
10 under the Home Services Program shall be limited to the terms  
11 and conditions of employment under the State's control, as  
12 defined in Public Act 93-204 or this amendatory Act of the 97th  
13 General Assembly, as applicable ~~the amendatory Act of the 93rd~~  
14 ~~General Assembly.~~

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

19 Notwithstanding any other provision of this Section,  
20 whenever collective bargaining is for the purpose of  
21 establishing an initial agreement following original  
22 certification of units with fewer than 35 employees, with  
23 respect to public employees other than peace officers, fire  
24 fighters, and security employees, the following apply:

- 25 (1) Not later than 10 days after receiving a written  
26 request for collective bargaining from a labor

1 organization that has been newly certified as a  
2 representative as defined in Section 6(c), or within such  
3 further period as the parties agree upon, the parties shall  
4 meet and commence to bargain collectively and shall make  
5 every reasonable effort to conclude and sign a collective  
6 bargaining agreement.

7 (2) If anytime after the expiration of the 90-day  
8 period beginning on the date on which bargaining is  
9 commenced the parties have failed to reach an agreement,  
10 either party may notify the Illinois Public Labor Relations  
11 Board of the existence of a dispute and request mediation  
12 in accordance with the provisions of Section 14 of this  
13 Act.

14 (3) If after the expiration of the 30-day period  
15 beginning on the date on which mediation commenced, or such  
16 additional period as the parties may agree upon, the  
17 mediator is not able to bring the parties to agreement by  
18 conciliation, either the exclusive representative of the  
19 employees or the employer may request of the other, in  
20 writing, arbitration and shall submit a copy of the request  
21 to the board. Upon submission of the request for  
22 arbitration, the parties shall be required to participate  
23 in the impasse arbitration procedures set forth in Section  
24 14 of this Act, except the right to strike shall not be  
25 considered waived pursuant to Section 17 of this Act, until  
26 the actual convening of the arbitration hearing.

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

2 (5 ILCS 315/28 new)

3 Sec. 28. Applicability of changes made by amendatory Act of  
4 the 97th General Assembly. Nothing in this amendatory Act of  
5 the 97th General Assembly applies to workers or consumers in  
6 the Home Based Support Services Program in the Department of  
7 Human Services Division of Developmental Disabilities.

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

10 (20 ILCS 2405/3) (from Ch. 23, par. 3434)

11 Sec. 3. Powers and duties. The Department shall have the  
12 powers and duties enumerated herein:

13 (a) To co-operate with the federal government in the  
14 administration of the provisions of the federal Rehabilitation  
15 Act of 1973, as amended, of the Workforce Investment Act of  
16 1998, and of the federal Social Security Act to the extent and  
17 in the manner provided in these Acts.

18 (b) To prescribe and supervise such courses of vocational  
19 training and provide such other services as may be necessary  
20 for the habilitation and rehabilitation of persons with one or  
21 more disabilities, including the administrative activities  
22 under subsection (e) of this Section, and to co-operate with  
23 State and local school authorities and other recognized

1 agencies engaged in habilitation, rehabilitation and  
2 comprehensive rehabilitation services; and to cooperate with  
3 the Department of Children and Family Services regarding the  
4 care and education of children with one or more disabilities.

5 (c) (Blank).

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

19 (e) (Blank).

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



1 following:

2 (1) home health services;

3 (2) home nursing services;

4 (3) homemaker services;

5 (4) chore and housekeeping services;

6 (5) day care services;

7 (6) home-delivered meals;

8 (7) education in self-care;

9 (8) personal care services;

10 (9) adult day health services;

11 (10) habilitation services;

12 (11) respite care; or

13 (12) other nonmedical social services that may enable  
14 the person to become self-supporting.

15 The Department shall establish eligibility standards for  
16 such services taking into consideration the unique economic and  
17 social needs of the population for whom they are to be  
18 provided. Such eligibility standards may be based on the  
19 recipient's ability to pay for services; provided, however,  
20 that any portion of a person's income that is equal to or less  
21 than the "protected income" level shall not be considered by  
22 the Department in determining eligibility. The "protected  
23 income" level shall be determined by the Department, shall  
24 never be less than the federal poverty standard, and shall be  
25 adjusted each year to reflect changes in the Consumer Price  
26 Index For All Urban Consumers as determined by the United

1 States Department of Labor. The standards must provide that a  
2 person may have not more than \$10,000 in assets to be eligible  
3 for the services, and the Department may increase the asset  
4 limitation by rule. Additionally, in determining the amount and  
5 nature of services for which a person may qualify,  
6 consideration shall not be given to the value of cash, property  
7 or other assets held in the name of the person's spouse  
8 pursuant to a written agreement dividing marital property into  
9 equal but separate shares or pursuant to a transfer of the  
10 person's interest in a home to his spouse, provided that the  
11 spouse's share of the marital property is not made available to  
12 the person seeking such services.

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

23 Personal care attendants shall be paid:

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

25 (ii) A \$5.30 per hour minimum rate beginning July 1,

26 1997.

1 (iii) A \$5.40 per hour minimum rate beginning July 1,  
2 1998.

3 Solely for the purposes of coverage under the Illinois  
4 Public Labor Relations Act (5 ILCS 315/), personal care  
5 attendants and personal assistants providing services under  
6 the Department's Home Services Program shall be considered to  
7 be public employees, and the State of Illinois shall be  
8 considered to be their employer as of the effective date of  
9 this amendatory Act of the 93rd General Assembly, but not  
10 before. Solely for the purposes of coverage under the Illinois  
11 Public Labor Relations Act, home care and home health workers  
12 who function as personal care attendants, personal assistants,  
13 and individual maintenance home health workers and who also  
14 provide services under the Department's Home Services Program  
15 shall be considered to be public employees, no matter whether  
16 the State provides such services through direct  
17 fee-for-service arrangements, with the assistance of a managed  
18 care organization or other intermediary, or otherwise, and the  
19 State of Illinois shall be considered to be the employer of  
20 those persons as of the effective date of this amendatory Act  
21 of the 97th General Assembly, but not before except as  
22 otherwise provided under this subsection (f). The State shall  
23 engage in collective bargaining with an exclusive  
24 representative of home care and home health workers who  
25 function as personal care attendants, and personal assistants,  
26 and individual maintenance home health workers working under

1 the Home Services Program concerning their terms and conditions  
2 of employment that are within the State's control. Nothing in  
3 this paragraph shall be understood to limit the right of the  
4 persons receiving services defined in this Section to hire and  
5 fire home care and home health workers who function as personal  
6 care attendants, and personal assistants, and individual  
7 maintenance home health workers working under the Home Services  
8 Program or to supervise them within the limitations set by the  
9 Home Services Program. The State shall not be considered to be  
10 the employer of home care and home health workers who function  
11 as personal care attendants, and personal assistants, and  
12 individual maintenance home health workers working under the  
13 Home Services Program for any purposes not specifically  
14 provided in Public Act 93-204 or this amendatory Act of the  
15 97th General Assembly ~~this amendatory Act of the 93rd General~~  
16 ~~Assembly~~, including but not limited to, purposes of vicarious  
17 liability in tort and purposes of statutory retirement or  
18 health insurance benefits. Home care and home health workers  
19 who function as personal ~~Personal~~ care attendants, and personal  
20 assistants, and individual maintenance home health workers and  
21 who also provide services under the Department's Home Services  
22 Program shall not be covered by the State Employees Group  
23 Insurance Act of 1971 (5 ILCS 375/).

24 The Department shall execute, relative to the nursing home  
25 prescreening project, as authorized by Section 4.03 of the  
26 Illinois Act on the Aging, written inter-agency agreements with

1 the Department on Aging and the Department of Public Aid (now  
2 Department of Healthcare and Family Services), to effect the  
3 following: (i) intake procedures and common eligibility  
4 criteria for those persons who are receiving non-institutional  
5 services; and (ii) the establishment and development of  
6 non-institutional services in areas of the State where they are  
7 not currently available or are undeveloped. On and after July  
8 1, 1996, all nursing home prescreenings for individuals 18  
9 through 59 years of age shall be conducted by the Department.

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

22 The Department, or the Department's authorized  
23 representative, shall recover the amount of moneys expended for  
24 services provided to or in behalf of a person under this  
25 Section by a claim against the person's estate or against the  
26 estate of the person's surviving spouse, but no recovery may be

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

25 The Department and the Department on Aging shall cooperate  
26 in the development and submission of an annual report on

1 programs and services provided under this Section. Such joint  
2 report shall be filed with the Governor and the General  
3 Assembly on or before March 30 each year.

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

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

16 (h) To cooperate and enter into any necessary agreements  
17 with the Department of Employment Security for the provision of  
18 job placement and job referral services to clients of the  
19 Department, including job service registration of such clients  
20 with Illinois Employment Security offices and making job  
21 listings maintained by the Department of Employment Security  
22 available to such clients.

23 (i) To possess all powers reasonable and necessary for the  
24 exercise and administration of the powers, duties and  
25 responsibilities of the Department which are provided for by  
26 law.

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

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

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



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

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

15           Section 99. Effective date. This Act takes effect upon  
16 becoming law."