



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

SB2061

Introduced 2/10/2011, by Sen. Gary Forby

SYNOPSIS AS INTRODUCED:

5 ILCS 315/3
730 ILCS 5/3-2-2

from Ch. 48, par. 1603
from Ch. 38, par. 1003-2-2

Amends the Illinois Public Labor Relations Act. Provides that where an historical pattern of representation exists for the workers of a private medical vendor prior to becoming certified employees under the Personnel Code, the Board shall find the labor organization that has historically represented the workers to be the exclusive representative under the Act, and shall find the unit represented by the exclusive representative to be the appropriate unit. Provides that nothing shall preclude the exclusive representative of the workers from petitioning the Illinois Labor Relations Board for unit clarification to include any or all of the employees in an existing bargaining unit or units. Amends the Unified Code of Corrections. Provides that effective July 1, 2011, all contracts between the State and outside contractors to provide workers for medical services and related support services at all facilities of the Illinois Department of Corrections or the Department of Juvenile Justice shall be amended to allow for the conversion of vendor employees performing under the terms of a collective bargaining agreement to become employees of the State of Illinois. Provides that upon amendment of the contracts, each worker or staff member employed under the terms of a collective bargaining agreement shall be offered certified employment status under the Personnel Code with the State of Illinois. Provides that the position offered to each person shall be at the same facility and shall consist of the same duties and hours as previously existed under the amended contract or contracts. Effective July 1, 2011.

LRB097 09378 RLC 49513 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning medical services.

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 Section 3 as follows:

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

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

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

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

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

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

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

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

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

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

1 labor organization has been designated as the exclusive
2 representative by a majority of the peace officers or fire
3 fighters in an appropriate bargaining unit.

4 Where an historical pattern of representation exists for
5 the workers of a private medical vendor prior to becoming
6 certified employees under the Personnel Code, the Board shall
7 find the labor organization that has historically represented
8 the workers to be the exclusive representative under this Act,
9 and shall find the unit represented by the exclusive
10 representative to be the appropriate unit. Nothing shall
11 preclude the exclusive representative of the workers from
12 petitioning the Illinois Labor Relations Board for unit
13 clarification to include any or all of the employees in an
14 existing bargaining unit or units.

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

1 conjunction with his or her fair share payment.

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

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

24 (h) "Governing body" means, in the case of the State, the
25 State Panel of the Illinois Labor Relations Board, the Director
26 of the Department of Central Management Services, and the

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

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

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

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

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

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

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

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

7 (n) "Public employee" or "employee", for the purposes of
8 this Act, means any individual employed by a public employer,
9 including (i) interns and residents at public hospitals, (ii)
10 as of the effective date of this amendatory Act of the 93rd
11 General Assembly, but not before, personal care attendants and
12 personal assistants working under the Home Services Program
13 under Section 3 of the Disabled Persons Rehabilitation Act,
14 subject to the limitations set forth in this Act and in the
15 Disabled Persons Rehabilitation Act, and (iii) as of the
16 effective date of this amendatory Act of the 94th General
17 Assembly, but not before, child and day care home providers
18 participating in the child care assistance program under
19 Section 9A-11 of the Illinois Public Aid Code, subject to the
20 limitations set forth in this Act and in Section 9A-11 of the
21 Illinois Public Aid Code, but excluding all of the following:
22 employees of the General Assembly of the State of Illinois;
23 elected officials; executive heads of a department; members of
24 boards or commissions; the Executive Inspectors General; any
25 special Executive Inspectors General; employees of each Office
26 of an Executive Inspector General; commissioners and employees

1 of the Executive Ethics Commission; the Auditor General's
2 Inspector General; employees of the Office of the Auditor
3 General's Inspector General; the Legislative Inspector
4 General; any special Legislative Inspectors General; employees
5 of the Office of the Legislative Inspector General;
6 commissioners and employees of the Legislative Ethics
7 Commission; employees of any agency, board or commission
8 created by this Act; employees appointed to State positions of
9 a temporary or emergency nature; all employees of school
10 districts and higher education institutions except
11 firefighters and peace officers employed by a state university
12 and except peace officers employed by a school district in its
13 own police department in existence on the effective date of
14 this amendatory Act of the 96th General Assembly; managerial
15 employees; short-term employees; confidential employees;
16 independent contractors; and supervisors except as provided in
17 this Act.

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

26 Child and day care home providers shall not be considered

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

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

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

1 assistants for any purposes not specifically provided for in
2 this amendatory Act of the 93rd General Assembly, including but
3 not limited to, purposes of vicarious liability in tort and
4 purposes of statutory retirement or health insurance benefits.
5 Personal care attendants and personal assistants shall not be
6 covered by the State Employees Group Insurance Act of 1971 (5
7 ILCS 375/). As of the effective date of this amendatory Act of
8 the 94th General Assembly but not before, the State of Illinois
9 shall be considered the employer of the day and child care home
10 providers participating in the child care assistance program
11 under Section 9A-11 of the Illinois Public Aid Code, subject to
12 the limitations set forth in this Act and in Section 9A-11 of
13 the Illinois Public Aid Code. The State shall not be considered
14 to be the employer of child and day care home providers for any
15 purposes not specifically provided for in this amendatory Act
16 of the 94th General Assembly, including but not limited to,
17 purposes of vicarious liability in tort and purposes of
18 statutory retirement or health insurance benefits. Child and
19 day care home providers shall not be covered by the State
20 Employees Group Insurance Act of 1971.

21 "Public employer" or "employer" as used in this Act,
22 however, does not mean and shall not include the General
23 Assembly of the State of Illinois, the Executive Ethics
24 Commission, the Offices of the Executive Inspectors General,
25 the Legislative Ethics Commission, the Office of the
26 Legislative Inspector General, the Office of the Auditor

1 General's Inspector General, and educational employers or
2 employers as defined in the Illinois Educational Labor
3 Relations Act, except with respect to a state university in its
4 employment of firefighters and peace officers and except with
5 respect to a school district in the employment of peace
6 officers in its own police department in existence on the
7 effective date of this amendatory Act of the 96th General
8 Assembly. County boards and county sheriffs shall be designated
9 as joint or co-employers of county peace officers appointed
10 under the authority of a county sheriff. Nothing in this
11 subsection (o) shall be construed to prevent the State Panel or
12 the Local Panel from determining that employers are joint or
13 co-employers.

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

19 (1) For court reporters employed by the Cook County
20 Judicial Circuit, the chief judge of the Cook County
21 Circuit Court is the public employer and employer
22 representative.

23 (2) For court reporters employed by the 12th, 18th,
24 19th, and, on and after December 4, 2006, the 22nd 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 (3) For court reporters employed by all other judicial
3 circuits, a group consisting of the chief judges of those
4 circuits, acting jointly by majority vote, is the public
5 employer and employer representative.

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

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

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

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

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

25 (s) (1) "Unit" means a class of jobs or positions that are
26 held by employees whose collective interests may suitably

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

1 Conservation) shall contain no employees other than such
2 sworn peace officers upon the effective date of this
3 amendatory Act of 1990 or upon the expiration date of any
4 collective bargaining agreement in effect upon the
5 effective date of this amendatory Act of 1990 covering both
6 such sworn peace officers and other employees.

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

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

21 (Source: P.A. 95-331, eff. 8-21-07; 96-1257, eff. 7-23-10.)

22 Section 10. The Unified Code of Corrections is amended by
23 changing Section 3-2-2 as follows:

24 (730 ILCS 5/3-2-2) (from Ch. 38, par. 1003-2-2)

1 Sec. 3-2-2. Powers and Duties of the Department.

2 (1) In addition to the powers, duties and responsibilities
3 which are otherwise provided by law, the Department shall have
4 the following powers:

5 (a) To accept persons committed to it by the courts of
6 this State for care, custody, treatment and
7 rehabilitation, and to accept federal prisoners and aliens
8 over whom the Office of the Federal Detention Trustee is
9 authorized to exercise the federal detention function for
10 limited purposes and periods of time.

11 (b) To develop and maintain reception and evaluation
12 units for purposes of analyzing the custody and
13 rehabilitation needs of persons committed to it and to
14 assign such persons to institutions and programs under its
15 control or transfer them to other appropriate agencies. In
16 consultation with the Department of Alcoholism and
17 Substance Abuse (now the Department of Human Services), the
18 Department of Corrections shall develop a master plan for
19 the screening and evaluation of persons committed to its
20 custody who have alcohol or drug abuse problems, and for
21 making appropriate treatment available to such persons;
22 the Department shall report to the General Assembly on such
23 plan not later than April 1, 1987. The maintenance and
24 implementation of such plan shall be contingent upon the
25 availability of funds.

26 (b-1) To create and implement, on January 1, 2002, a

1 pilot program to establish the effectiveness of
2 pupillometer technology (the measurement of the pupil's
3 reaction to light) as an alternative to a urine test for
4 purposes of screening and evaluating persons committed to
5 its custody who have alcohol or drug problems. The pilot
6 program shall require the pupillometer technology to be
7 used in at least one Department of Corrections facility.
8 The Director may expand the pilot program to include an
9 additional facility or facilities as he or she deems
10 appropriate. A minimum of 4,000 tests shall be included in
11 the pilot program. The Department must report to the
12 General Assembly on the effectiveness of the program by
13 January 1, 2003.

14 (b-5) To develop, in consultation with the Department
15 of State Police, a program for tracking and evaluating each
16 inmate from commitment through release for recording his or
17 her gang affiliations, activities, or ranks.

18 (c) To maintain and administer all State correctional
19 institutions and facilities under its control and to
20 establish new ones as needed. Pursuant to its power to
21 establish new institutions and facilities, the Department
22 may, with the written approval of the Governor, authorize
23 the Department of Central Management Services to enter into
24 an agreement of the type described in subsection (d) of
25 Section 405-300 of the Department of Central Management
26 Services Law (20 ILCS 405/405-300). The Department shall

1 designate those institutions which shall constitute the
2 State Penitentiary System.

3 Pursuant to its power to establish new institutions and
4 facilities, the Department may authorize the Department of
5 Central Management Services to accept bids from counties
6 and municipalities for the construction, remodeling or
7 conversion of a structure to be leased to the Department of
8 Corrections for the purposes of its serving as a
9 correctional institution or facility. Such construction,
10 remodeling or conversion may be financed with revenue bonds
11 issued pursuant to the Industrial Building Revenue Bond Act
12 by the municipality or county. The lease specified in a bid
13 shall be for a term of not less than the time needed to
14 retire any revenue bonds used to finance the project, but
15 not to exceed 40 years. The lease may grant to the State
16 the option to purchase the structure outright.

17 Upon receipt of the bids, the Department may certify
18 one or more of the bids and shall submit any such bids to
19 the General Assembly for approval. Upon approval of a bid
20 by a constitutional majority of both houses of the General
21 Assembly, pursuant to joint resolution, the Department of
22 Central Management Services may enter into an agreement
23 with the county or municipality pursuant to such bid.

24 (c-5) To build and maintain regional juvenile
25 detention centers and to charge a per diem to the counties
26 as established by the Department to defray the costs of

1 housing each minor in a center. In this subsection (c-5),
2 "juvenile detention center" means a facility to house
3 minors during pendency of trial who have been transferred
4 from proceedings under the Juvenile Court Act of 1987 to
5 prosecutions under the criminal laws of this State in
6 accordance with Section 5-805 of the Juvenile Court Act of
7 1987, whether the transfer was by operation of law or
8 permissive under that Section. The Department shall
9 designate the counties to be served by each regional
10 juvenile detention center.

11 (d) To develop and maintain programs of control,
12 rehabilitation and employment of committed persons within
13 its institutions.

14 (d-5) To provide a pre-release job preparation program
15 for inmates at Illinois adult correctional centers.

16 (e) To establish a system of supervision and guidance
17 of committed persons in the community.

18 (f) To establish in cooperation with the Department of
19 Transportation to supply a sufficient number of prisoners
20 for use by the Department of Transportation to clean up the
21 trash and garbage along State, county, township, or
22 municipal highways as designated by the Department of
23 Transportation. The Department of Corrections, at the
24 request of the Department of Transportation, shall furnish
25 such prisoners at least annually for a period to be agreed
26 upon between the Director of Corrections and the Director

1 of Transportation. The prisoners used on this program shall
2 be selected by the Director of Corrections on whatever
3 basis he deems proper in consideration of their term,
4 behavior and earned eligibility to participate in such
5 program - where they will be outside of the prison facility
6 but still in the custody of the Department of Corrections.
7 Prisoners convicted of first degree murder, or a Class X
8 felony, or armed violence, or aggravated kidnapping, or
9 criminal sexual assault, aggravated criminal sexual abuse
10 or a subsequent conviction for criminal sexual abuse, or
11 forcible detention, or arson, or a prisoner adjudged a
12 Habitual Criminal shall not be eligible for selection to
13 participate in such program. The prisoners shall remain as
14 prisoners in the custody of the Department of Corrections
15 and such Department shall furnish whatever security is
16 necessary. The Department of Transportation shall furnish
17 trucks and equipment for the highway cleanup program and
18 personnel to supervise and direct the program. Neither the
19 Department of Corrections nor the Department of
20 Transportation shall replace any regular employee with a
21 prisoner.

22 (g) To maintain records of persons committed to it and
23 to establish programs of research, statistics and
24 planning.

25 (h) To investigate the grievances of any person
26 committed to the Department, to inquire into any alleged

1 misconduct by employees or committed persons, and to
2 investigate the assets of committed persons to implement
3 Section 3-7-6 of this Code; and for these purposes it may
4 issue subpoenas and compel the attendance of witnesses and
5 the production of writings and papers, and may examine
6 under oath any witnesses who may appear before it; to also
7 investigate alleged violations of a parolee's or
8 releasee's conditions of parole or release; and for this
9 purpose it may issue subpoenas and compel the attendance of
10 witnesses and the production of documents only if there is
11 reason to believe that such procedures would provide
12 evidence that such violations have occurred.

13 If any person fails to obey a subpoena issued under
14 this subsection, the Director may apply to any circuit
15 court to secure compliance with the subpoena. The failure
16 to comply with the order of the court issued in response
17 thereto shall be punishable as contempt of court.

18 (i) To appoint and remove the chief administrative
19 officers, and administer programs of training and
20 development of personnel of the Department. Personnel
21 assigned by the Department to be responsible for the
22 custody and control of committed persons or to investigate
23 the alleged misconduct of committed persons or employees or
24 alleged violations of a parolee's or releasee's conditions
25 of parole shall be conservators of the peace for those
26 purposes, and shall have the full power of peace officers

1 outside of the facilities of the Department in the
2 protection, arrest, retaking and reconfining of committed
3 persons or where the exercise of such power is necessary to
4 the investigation of such misconduct or violations.

5 (j) To cooperate with other departments and agencies
6 and with local communities for the development of standards
7 and programs for better correctional services in this
8 State.

9 (k) To administer all moneys and properties of the
10 Department.

11 (l) To report annually to the Governor on the committed
12 persons, institutions and programs of the Department.

13 (l-5) In a confidential annual report to the Governor,
14 the Department shall identify all inmate gangs by
15 specifying each current gang's name, population and allied
16 gangs. The Department shall further specify the number of
17 top leaders identified by the Department for each gang
18 during the past year, and the measures taken by the
19 Department to segregate each leader from his or her gang
20 and allied gangs. The Department shall further report the
21 current status of leaders identified and segregated in
22 previous years. All leaders described in the report shall
23 be identified by inmate number or other designation to
24 enable tracking, auditing, and verification without
25 revealing the names of the leaders. Because this report
26 contains law enforcement intelligence information

1 collected by the Department, the report is confidential and
2 not subject to public disclosure.

3 (m) To make all rules and regulations and exercise all
4 powers and duties vested by law in the Department.

5 (n) To establish rules and regulations for
6 administering a system of good conduct credits,
7 established in accordance with Section 3-6-3, subject to
8 review by the Prisoner Review Board.

9 (o) To administer the distribution of funds from the
10 State Treasury to reimburse counties where State penal
11 institutions are located for the payment of assistant
12 state's attorneys' salaries under Section 4-2001 of the
13 Counties Code.

14 (p) To exchange information with the Department of
15 Human Services and the Department of Healthcare and Family
16 Services for the purpose of verifying living arrangements
17 and for other purposes directly connected with the
18 administration of this Code and the Illinois Public Aid
19 Code.

20 (q) To establish a diversion program.

21 The program shall provide a structured environment for
22 selected technical parole or mandatory supervised release
23 violators and committed persons who have violated the rules
24 governing their conduct while in work release. This program
25 shall not apply to those persons who have committed a new
26 offense while serving on parole or mandatory supervised

1 release or while committed to work release.

2 Elements of the program shall include, but shall not be
3 limited to, the following:

4 (1) The staff of a diversion facility shall provide
5 supervision in accordance with required objectives set
6 by the facility.

7 (2) Participants shall be required to maintain
8 employment.

9 (3) Each participant shall pay for room and board
10 at the facility on a sliding-scale basis according to
11 the participant's income.

12 (4) Each participant shall:

13 (A) provide restitution to victims in
14 accordance with any court order;

15 (B) provide financial support to his
16 dependents; and

17 (C) make appropriate payments toward any other
18 court-ordered obligations.

19 (5) Each participant shall complete community
20 service in addition to employment.

21 (6) Participants shall take part in such
22 counseling, educational and other programs as the
23 Department may deem appropriate.

24 (7) Participants shall submit to drug and alcohol
25 screening.

26 (8) The Department shall promulgate rules

1 governing the administration of the program.

2 (r) To enter into intergovernmental cooperation
3 agreements under which persons in the custody of the
4 Department may participate in a county impact
5 incarceration program established under Section 3-6038 or
6 3-15003.5 of the Counties Code.

7 (r-5) (Blank).

8 (r-10) To systematically and routinely identify with
9 respect to each streetgang active within the correctional
10 system: (1) each active gang; (2) every existing inter-gang
11 affiliation or alliance; and (3) the current leaders in
12 each gang. The Department shall promptly segregate leaders
13 from inmates who belong to their gangs and allied gangs.
14 "Segregate" means no physical contact and, to the extent
15 possible under the conditions and space available at the
16 correctional facility, prohibition of visual and sound
17 communication. For the purposes of this paragraph (r-10),
18 "leaders" means persons who:

19 (i) are members of a criminal streetgang;

20 (ii) with respect to other individuals within the
21 streetgang, occupy a position of organizer,
22 supervisor, or other position of management or
23 leadership; and

24 (iii) are actively and personally engaged in
25 directing, ordering, authorizing, or requesting
26 commission of criminal acts by others, which are

1 punishable as a felony, in furtherance of streetgang
2 related activity both within and outside of the
3 Department of Corrections.

4 "Streetgang", "gang", and "streetgang related" have the
5 meanings ascribed to them in Section 10 of the Illinois
6 Streetgang Terrorism Omnibus Prevention Act.

7 (s) To operate a super-maximum security institution,
8 in order to manage and supervise inmates who are disruptive
9 or dangerous and provide for the safety and security of the
10 staff and the other inmates.

11 (t) To monitor any unprivileged conversation or any
12 unprivileged communication, whether in person or by mail,
13 telephone, or other means, between an inmate who, before
14 commitment to the Department, was a member of an organized
15 gang and any other person without the need to show cause or
16 satisfy any other requirement of law before beginning the
17 monitoring, except as constitutionally required. The
18 monitoring may be by video, voice, or other method of
19 recording or by any other means. As used in this
20 subdivision (1)(t), "organized gang" has the meaning
21 ascribed to it in Section 10 of the Illinois Streetgang
22 Terrorism Omnibus Prevention Act.

23 As used in this subdivision (1)(t), "unprivileged
24 conversation" or "unprivileged communication" means a
25 conversation or communication that is not protected by any
26 privilege recognized by law or by decision, rule, or order

1 of the Illinois Supreme Court.

2 (u) To establish a Women's and Children's Pre-release
3 Community Supervision Program for the purpose of providing
4 housing and services to eligible female inmates, as
5 determined by the Department, and their newborn and young
6 children.

7 (u-5) To issue an order, whenever a person committed to
8 the Department absconds or absents himself or herself,
9 without authority to do so, from any facility or program to
10 which he or she is assigned. The order shall be certified
11 by the Director, the Supervisor of the Apprehension Unit,
12 or any person duly designated by the Director, with the
13 seal of the Department affixed. The order shall be directed
14 to all sheriffs, coroners, and police officers, or to any
15 particular person named in the order. Any order issued
16 pursuant to this subdivision (1) (u-5) shall be sufficient
17 warrant for the officer or person named in the order to
18 arrest and deliver the committed person to the proper
19 correctional officials and shall be executed the same as
20 criminal process.

21 (v) To do all other acts necessary to carry out the
22 provisions of this Chapter.

23 (2) The Department of Corrections shall by January 1, 1998,
24 consider building and operating a correctional facility within
25 100 miles of a county of over 2,000,000 inhabitants, especially
26 a facility designed to house juvenile participants in the

1 impact incarceration program.

2 (3) When the Department lets bids for contracts for medical
3 services to be provided to persons committed to Department
4 facilities by a health maintenance organization, medical
5 service corporation, or other health care provider, the bid may
6 only be let to a health care provider that has obtained an
7 irrevocable letter of credit or performance bond issued by a
8 company whose bonds are rated AAA by a bond rating
9 organization.

10 (3.5) Effective July 1, 2011, all contracts between the
11 State and outside contractors to provide workers for medical
12 services and related support services at all facilities of the
13 Illinois Department of Corrections or the Department of
14 Juvenile Justice shall be amended to allow for the conversion
15 of vendor employees performing under the terms of a collective
16 bargaining agreement to become employees of the State of
17 Illinois. Upon amendment of the contracts, each worker or staff
18 member employed under the terms of a collective bargaining
19 agreement shall be offered certified employment status under
20 the Personnel Code with the State of Illinois. The position
21 offered to each person shall be at the same facility and shall
22 consist of the same duties and hours as previously existed
23 under the amended contract or contracts.

24 (4) When the Department lets bids for contracts for food or
25 commissary services to be provided to Department facilities,
26 the bid may only be let to a food or commissary services

1 provider that has obtained an irrevocable letter of credit or
2 performance bond issued by a company whose bonds are rated AAA
3 by a bond rating organization.

4 (Source: P.A. 96-1265, eff. 7-26-10.)

5 Section 99. Effective date. This Act takes effect July 1,
6 2011.