

1 AMENDMENT TO HOUSE BILL 2221

2 AMENDMENT NO. _____. Amend House Bill 2221 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 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
15 other conditions of employment, as detailed in Section 7 and
16 which are not excluded by Section 4.

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

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

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

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

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

33 With respect to non-State fire fighters and paramedics
34 employed by fire departments and fire protection districts,

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

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

32 (g-1) "Fire fighter" means, for the purposes of this Act
33 only, any person who has been or is hereafter appointed to a
34 fire department or fire protection district or employed by a

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

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

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

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

33 (j) "Managerial employee" means an individual who is
34 engaged predominantly in executive and management functions

1 and is charged with the responsibility of directing the
2 effectuation of management policies and practices.

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

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

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

1 output produced or the result accomplished cannot be
2 standardized in relation to a given period of time; and
3 requiring advanced knowledge in a field of science or
4 learning customarily acquired by a prolonged course of
5 specialized intellectual instruction and study in an
6 institution of higher learning or a hospital, as
7 distinguished from a general academic education or from
8 apprenticeship or from training in the performance of routine
9 mental, manual, or physical processes; or any employee who
10 has completed the courses of specialized intellectual
11 instruction and study prescribed in this subsection (m) and
12 is performing related work under the supervision of a
13 professional person to qualify to become a professional
14 employee as defined 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 interns and residents at public hospitals and, as
18 of the effective date of this amendatory Act of the 93rd
19 General Assembly, but not before, personal care attendants
20 and personal assistants working under the Home Services
21 Program under Section 3 of the Disabled Persons
22 Rehabilitation Act, but excluding all of the following:
23 employees of the General Assembly of the State of Illinois;
24 elected officials; executive heads of a department; members
25 of boards or commissions; employees of any agency, board or
26 commission created by this Act; employees appointed to State
27 positions of a temporary or emergency nature; all employees
28 of school districts and higher education institutions except
29 firefighters and peace officers employed by a state
30 university; managerial employees; short-term employees;
31 confidential employees; independent contractors; and
32 supervisors except as provided in this Act.

33 Notwithstanding Section 9, subsection (c), or any other
34 provisions of this Act, all peace officers above the rank of

1 captain in municipalities with more than 1,000,000
2 inhabitants shall be excluded from this Act.

3 (o) "Public employer" or "employer" means the State of
4 Illinois; any political subdivision of the State, unit of
5 local government or school district; authorities including
6 departments, divisions, bureaus, boards, commissions, or
7 other agencies of the foregoing entities; and any person
8 acting within the scope of his or her authority, express or
9 implied, on behalf of those entities in dealing with its
10 employees. As of the effective date of this amendatory Act of
11 the 93rd General Assembly, but not before, the State of
12 Illinois shall be considered the employer of the personal
13 care attendants and personal assistants working under the
14 Home Services Program under Section 3 of the Disabled Persons
15 Rehabilitation Act. "Public employer" or "employer" as used
16 in this Act, however, does not mean and shall not include the
17 General Assembly of the State of Illinois and educational
18 employers or employers as defined in the Illinois Educational
19 Labor Relations Act, except with respect to a state
20 university in its employment of firefighters and peace
21 officers. County boards and county sheriffs shall be
22 designated as joint or co-employers of county peace officers
23 appointed under the authority of a county sheriff. Nothing
24 in this subsection (o) shall be construed to prevent the
25 State Panel or the Local Panel from determining that
26 employers are joint or co-employers.

27 (p) "Security employee" means an employee who is
28 responsible for the supervision and control of inmates at
29 correctional facilities. The term also includes other
30 non-security employees in bargaining units having the
31 majority of employees being responsible for the supervision
32 and control of inmates at correctional facilities.

33 (q) "Short-term employee" means an employee who is
34 employed for less than 2 consecutive calendar quarters during

1 a calendar year and who does not have a reasonable assurance
2 that he or she will be rehired by the same employer for the
3 same service in a subsequent calendar year.

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

26 Notwithstanding the provisions of the preceding
27 paragraph, in determining supervisory status in fire fighter
28 employment, no fire fighter shall be excluded as a supervisor
29 who has established representation rights under Section 9 of
30 this Act. Further, in new fire fighter units, employees
31 shall consist of fire fighters of the rank of company officer
32 and below. If a company officer otherwise qualifies as a
33 supervisor under the preceding paragraph, however, he or she
34 shall not be included in the fire fighter unit. If there is

1 no rank between that of chief and the highest company
2 officer, the employer may designate a position on each shift
3 as a Shift Commander, and the persons occupying those
4 positions shall be supervisors. All other ranks above that
5 of company officer shall be supervisors.

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

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

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

14 (Source: P.A. 90-14, eff. 7-1-97; 90-655, eff. 7-30-98;
15 91-798, eff. 7-9-00.)

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

18 (20 ILCS 2405/3) (from Ch. 23, par. 3434)

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

21 (a) To co-operate with the federal government in the
22 administration of the provisions of the federal
23 Rehabilitation Act of 1973, as amended, of the Workforce
24 Investment Act of 1998, and of the federal Social Security
25 Act to the extent and in the manner provided in these Acts.

26 (b) To prescribe and supervise such courses of
27 vocational training and provide such other services as may be
28 necessary for the habilitation and rehabilitation of persons
29 with one or more disabilities, including the administrative
30 activities under subsection (e) of this Section, and to
31 co-operate with State and local school authorities and other
32 recognized agencies engaged in habilitation, rehabilitation

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

5 (c) (Blank).

6 (d) To report in writing, to the Governor, annually on
7 or before the first day of December, and at such other times
8 and in such manner and upon such subjects as the Governor may
9 require. The annual report shall contain (1) a statement of
10 the existing condition of comprehensive rehabilitation
11 services, habilitation and rehabilitation in the State; (2) a
12 statement of suggestions and recommendations with reference
13 to the 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
18 amounts 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
24 the Social Security Act, thereby enabling them to remain in
25 their own homes or other living arrangements. Such preventive
26 services may include, but are not limited to, any or all of
27 the following:

- 28 (1) home health services;
- 29 (2) home nursing services;
- 30 (3) homemaker services;
- 31 (4) chore and housekeeping services;
- 32 (5) day care services;
- 33 (6) home-delivered meals;
- 34 (7) education in self-care;

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

7 The Department shall establish eligibility standards for
8 such services taking into consideration the unique economic
9 and social needs of the population for whom they are to be
10 provided. Such eligibility standards may be based on the
11 recipient's ability to pay for services; provided, however,
12 that any portion of a person's income that is equal to or
13 less than the "protected income" level shall not be
14 considered by the Department in determining eligibility. The
15 "protected income" level shall be determined by the
16 Department, shall never be less than the federal poverty
17 standard, and shall be adjusted each year to reflect changes
18 in the Consumer Price Index For All Urban Consumers as
19 determined by the United States Department of Labor.
20 Additionally, in determining the amount and nature of
21 services for which a person may qualify, consideration shall
22 not be given to the value of cash, property or other assets
23 held in the name of the person's spouse pursuant to a written
24 agreement dividing marital property into equal but separate
25 shares or pursuant to a transfer of the person's interest in
26 a home to his spouse, provided that the spouse's share of the
27 marital property is not made available to the person seeking
28 such services.

29 The services shall be provided to eligible persons to
30 prevent unnecessary or premature institutionalization, to the
31 extent that the cost of the services, together with the other
32 personal maintenance expenses of the persons, are reasonably
33 related to the standards established for care in a group
34 facility appropriate to their condition. These

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

5 Personal care attendants shall be paid:

6 (i) A \$5 per hour minimum rate beginning July 1,
7 1995.

8 (ii) A \$5.30 per hour minimum rate beginning July
9 1, 1997.

10 (iii) A \$5.40 per hour minimum rate beginning July
11 1, 1998.

12 Personal care attendants and personal assistants
13 providing services under the Department's Home Services
14 Program shall be considered to be public employees and the
15 State of Illinois shall be considered to be their employer as
16 of the effective date of this amendatory Act of the 93rd
17 General Assembly.

18 The Department shall execute, relative to the nursing
19 home prescreening project, as authorized by Section 4.03 of
20 the Illinois Act on the Aging, written inter-agency
21 agreements with the Department on Aging and the Department of
22 Public Aid, to effect the following: (i) intake procedures
23 and common eligibility criteria for those persons who are
24 receiving non-institutional services; and (ii) the
25 establishment and development of non-institutional services
26 in areas of the State where they are not currently available
27 or are undeveloped. On and after July 1, 1996, all nursing
28 home prescreenings for individuals 18 through 59 years of age
29 shall be conducted by the Department.

30 The Department is authorized to establish a system of
31 recipient cost-sharing for services provided under this
32 Section. The cost-sharing shall be based upon the
33 recipient's ability to pay for services, but in no case shall
34 the recipient's share exceed the actual cost of the services

1 provided. Protected income shall not be considered by the
2 Department in its determination of the recipient's ability to
3 pay a share of the cost of services. The level of
4 cost-sharing shall be adjusted each year to reflect changes
5 in the "protected income" level. The Department shall deduct
6 from the recipient's share of the cost of services any money
7 expended by the recipient for disability-related expenses.

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

1 spouse or relative, as defined by the rules and regulations
2 of the Illinois Department of Public Aid, regardless of the
3 value of the property.

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

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

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

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

30 (i) To possess all powers reasonable and necessary for
31 the exercise and administration of the powers, duties and
32 responsibilities of the Department which are provided for by
33 law.

34 (j) To establish a procedure whereby new providers of

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

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

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

26 (m) To assure that the names and case records of persons
27 who received or are receiving services from the Department,
28 including persons receiving vocational rehabilitation, home
29 services, or other services, and those attending one of the
30 Department's schools or other supervised facility shall be
31 confidential and not be open to the general public. Those
32 case records and reports or the information contained in
33 those records and reports shall be disclosed by the Director
34 only to proper law enforcement officials, individuals

1 authorized by a court, the General Assembly or any committee
2 or commission of the General Assembly, and other persons and
3 for reasons as the Director designates by rule. Disclosure
4 by the Director may be only in accordance with other
5 applicable law.

6 (Source: P.A. 91-540, eff. 8-13-99; 92-84, eff. 7-1-02.)

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