



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB1438

Introduced 2/10/2005, by Rep. Wyvetter H. Younge

SYNOPSIS AS INTRODUCED:

New Act
20 ILCS 415/8b.7-1 new
30 ILCS 500/45-70 new

Creates the Welfare to Work Act. Places qualified welfare recipients in State jobs or jobs contracted out by the State. Provides that State agencies shall provide the Department of Human Services a job announcement simultaneously with posting its positions or putting a position out for hire by contract, except for those positions subject to recall by laid-off employees, or those otherwise exempt. The Department shall review positions, make eligibility determinations, recruit and screen potential employees, and refer aid recipients to apply for positions listed in job announcements. Employers shall make all employment decisions based on merit, with not less than 5% of the hours worked on a State contract meeting certain specifications being worked by qualified aid recipients, with some exceptions. Employment terms and conditions shall be the same as for any other member of the employer's workforce doing the same or similar work. Provides for reports regarding hiring practices under this Act to be submitted to the General Assembly, the Department of Labor, and the Department of Human Services. Amends the Personnel Code and the Illinois Procurement Code to make changes in conformance with this Act. Effective immediately.

LRB094 08143 RCE 38328 b

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning employment.

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

4 Section 1. Short title. This Act may be cited as the
5 Welfare to Work Act.

6 Section 5. Legislative findings; purpose. The General
7 Assembly hereby finds that:

8 (a) Poverty and welfare dependence are widespread
9 throughout the State of Illinois. Almost 1,500,000 of its
10 citizens are dependent on the State's public assistance
11 programs for their most basic needs; and over 200,000 families,
12 including 500,000 children, rely on cash assistance from the
13 State for all or part of their subsistence needs.

14 (b) Poverty and unemployment diminish individual
15 self-esteem, can undermine family stability, and affect family
16 formation, community security and cohesion.

17 (c) Under the new federal welfare law, the Personal
18 Responsibility and Work Opportunity Reconciliation Act of
19 1996, cash assistance benefits will be limited to 60 months,
20 and over 100,000 adult heads of households in the Illinois
21 welfare caseload must be employed by the year 2002 or they and
22 their children will be destitute.

23 (d) Voluntary efforts by the private sector to employ
24 welfare recipients are laudable and are to be commended, but
25 the State must also take direct responsibility to ensure that
26 welfare recipients are hired in jobs that will allow them to
27 leave the welfare rolls altogether.

28 (e) The State spends billions of dollars each year to
29 improve its economy and infrastructure, and to deliver services
30 to the people of the State, all of which also serves to provide
31 jobs for its citizens.

32 (f) The State can accomplish the objectives of relieving

1 welfare dependency and ensuring economic self-sufficiency as
2 well as the objectives related to carrying out necessary
3 governmental operations at the same time, and with significant
4 savings in State outlays in cash assistance and supportive
5 service dollars.

6 (g) Poverty and welfare dependency can be alleviated by
7 targeting some of the resources of the State and making jobs
8 available to the welfare poor, specifically by bringing
9 qualified poor persons into the State workforce and into the
10 workforces that are generated through State contracts, without
11 causing the displacement of existing workers.

12 (h) Some State jobs that are newly created or that are open
13 through attrition and some jobs created under State contracts,
14 can be filled by qualified welfare recipients without
15 compromising the integrity of the hiring process, contractor
16 profits, collective bargaining agreements, timely completion
17 of projects, or the health and safety of Illinois workers.

18 (i) To the extent that these jobs are filled by welfare
19 recipients, the State accomplishes 4 important governmental
20 objectives simultaneously: (1) the alleviation of welfare
21 dependency, ensuring of economic self-sufficiency, and lifting
22 of individuals and families out of poverty, (2) the
23 stabilization of families and communities that are hardest hit
24 by persistent poverty and unemployment, (3) the accomplishment
25 of the essential work of the State which must be performed
26 through these jobs, and (4) the reduction of State outlays for
27 cash assistance and services for the poor.

28 (j) The State's immediate, direct and significant interest
29 in relieving welfare dependency and the employment of the poor
30 in jobs generated through the expenditure of State funds
31 constitutes the basis of this Act.

32 Section 10. Definitions. As used in this Act:

33 "Aid recipient" means:

34 (a) a person financially eligible to receive cash
35 assistance under the Temporary Assistance for Needy

1 Families program, the Transitional Assistance program, or
2 any other cash assistance program administered by the
3 Department of Human Services financed in whole or in part
4 by the State;

5 (b) a person financially eligible for cash assistance
6 under Article VI of the Public Aid Code, whether receiving
7 assistance or not; an Earnfare participant; and an
8 unemployed person or employed person who is earning less
9 than the poverty level in wages and who is also married to
10 the parent of a child receiving cash assistance or the
11 legally adjudicated father of a child receiving cash
12 assistance; and

13 (c) a person who, within the previous 60 months, has
14 been found eligible and placed for training or employment
15 under the United States Department of Housing and Urban
16 Development's Section 3 program, or under any other local,
17 state, or federal government program that creates training
18 or hiring preferences or priorities for low income persons,
19 and who was, at the time of entry into such program an "aid
20 recipient" as defined under paragraph (a) or (b) of this
21 definition.

22 "Contracts for personal services" has the same meaning as
23 under Section 14 of the State Finance Act.

24 "Covered contract" means a contract, aid, or grant between
25 the State and any other entity or entities, whether private,
26 public, or not-for-profit, regardless of the purpose of the
27 contract, aid, or grant, and means contracts, aid, and grants
28 between those entities and their contractors and
29 subcontractors, but only if the contract or grant is payable by
30 the State in an amount in excess of \$250,000 or a subcontract
31 is for an amount in excess of \$100,000. Recipients of
32 contracts, aid, and grants may not divide contracts or spread
33 out the work to be undertaken for purposes of avoiding having a
34 covered contract.

35 "Covered employee" means a person who is found eligible for
36 employment and hired under this Act.

1 "Covered employer" means an employer in receipt of a
2 "covered contract" payment and thus subject to the requirements
3 of this Act with respect to a "covered contract".

4 "Covered position" means a State-funded position of
5 employment, whether civil service or under contract for
6 personal services, that the Department of Human Services has
7 not found exempt under Section 25 of this Act.

8 "Department" means the Department of Human Services.

9 "Qualified aid recipient" means an "aid recipient" who
10 meets each of the qualifications, including education,
11 training, and experience, if any, that have been established by
12 the employer for the position.

13 "State agencies" means all State departments (whether code
14 or otherwise), boards, commissions, authorities, councils,
15 officers, bureaus, units, colleges and universities, and
16 executive, legislative and judicial agencies.

17 Section 15. Disclosure of potential covered positions.
18 Simultaneously with posting its positions or putting a position
19 out for hire by contract, each State agency shall provide the
20 Department of Human Services with a copy of a job announcement
21 specifying the job description and qualifications of each
22 position that is newly created, is open, or is otherwise posted
23 for hire or for hire under contract. This requirement does not
24 apply when the position is one that is subject to recall by a
25 laid-off employee or employees.

26 Section 20. Duties of the Department of Human Services. The
27 Department shall administer that portion of this Act related to
28 reviewing positions, eligibility determinations, recruitment,
29 screening, and referral of aid recipients to covered positions
30 and positions under covered contracts.

31 Section 25. Review of positions.

32 (a) The Department shall review each position announcement
33 provided to it by State agencies to determine if there

1 currently are any potentially qualified aid recipients that
2 could be referred to apply for the position.

3 (b) If the Department determines there are no or too few
4 potentially qualified aid recipients to identify readily for
5 referral for the position, the Department shall provide the
6 State agency with a notice exempting that position from the
7 provisions of this Act. The Department may permanently or
8 temporarily exempt a position.

9 (c) If the position is permanently exempted, the State
10 agency need not provide the Department with position
11 announcements for that position in the future. However, the
12 Department may, at any time, revoke its exemption of any
13 position, and from the point of that revocation forward, the
14 State agency again shall provide the Department with
15 announcements of that position.

16 (d) If the position is temporarily exempted, the provisions
17 of this Act do not apply to the position, but the State agency
18 must provide announcements to the Department of future openings
19 of that position.

20 (e) If the position is not determined by the Department to
21 be exempted, it is a covered position under this Act.

22 Section 30. Eligibility determinations. Upon the request
23 of a person who believes that he or she is an aid recipient
24 within the meaning of this Act or the request of a State agency
25 or covered employer on behalf of such a person, the Department
26 shall make the determination of whether the person is an aid
27 recipient within the meaning of this Act and shall provide the
28 necessary written proof of aid recipient status to the aid
29 recipient and to any other person, including the party making
30 request on behalf of the aid recipient, if the aid recipient
31 authorizes it in writing.

32 Section 35. Recruitment, screening, and referrals to
33 training and for jobs under this Act.

34 (a) In order to facilitate a steady stream of potentially

1 qualified aid recipients into positions available under this
2 Act, the Department shall:

3 (1) work with public, private, and not-for-profit job
4 training programs and certified joint apprenticeship
5 training programs to develop and make use of training
6 programs to facilitate channeling aid recipients into such
7 training programs that correspond with, and will qualify
8 them for, open covered positions and positions under
9 covered contracts;

10 (2) coordinate the recruitment, screening, and
11 referrals for placement of aid recipients in education and
12 training programs that correspond with the job
13 qualifications and requirements of covered positions and
14 positions under covered contracts;

15 (3) coordinate the recruitment, screening, and
16 referrals of potentially qualified aid recipients to
17 employers for open covered positions and positions under
18 covered contracts;

19 (b) The Department shall maintain an equal balance in its
20 referrals of potentially qualified aid recipients to training
21 programs, to employers for covered positions, and to positions
22 under covered contracts as between those who qualify under
23 paragraph (a) of the definition of "aid recipient" in Section
24 10 of this Act (or who originally qualified under paragraph (a)
25 but who are now qualified under paragraph (c) of that
26 definition), and those who qualify under paragraph (b) of the
27 definition of "aid recipient" (or who originally qualified
28 under paragraph (b) but who are now qualified under paragraph
29 (c)).

30 (c) Support services, including transportation assistance,
31 uniforms, tools, and supplies, that are otherwise provided to
32 "aid recipients" under paragraph (a) of the definition of "aid
33 recipient" shall be provided, in the same manner and measure,
34 to those "aid recipients" under paragraph (b) of the definition
35 of "aid recipient" in connection with employment related
36 services provided by the Department under this Act.

1 (d) The duties of the Department specified in this Section
2 may be carried out, in whole or in part, under contracts
3 entered into by the Department with units of local government
4 or by not-for-profit community based organizations.

5 Section 40. Hiring without referrals authorized. Any aid
6 recipient who believes he or she is a qualified aid recipient
7 may apply, without a referral by the Department, for jobs under
8 this Act. For any covered position, whether previously
9 determined by the Department to be a covered position or not,
10 if the State agency finds the applicant to be a qualified aid
11 recipient, the applicant shall be provided the preference this
12 Act affords. For any position under a covered contract, the
13 employer may count, under the requirements imposed under this
14 Act, any aid recipient hired, whether referred by the
15 Department or not.

16 Section 45. Hiring requirements relative to covered
17 positions.

18 (a) Verification that an applicant for a position is an aid
19 recipient shall be made by the State agency by copying for its
20 records the applicant's public aid card or such other proof of
21 aid recipient status as has been provided to the aid recipient
22 or employer by the Department.

23 (b) The State agency with the open position shall make the
24 determination of whether an aid recipient who applies for the
25 position is qualified for hire.

26 (c) The State agency shall provide qualified aid recipients
27 with a hiring preference in accordance with the requirements
28 for civil service positions under Section 8b.7-1 of the
29 Personnel Code, and for personal service contract positions,
30 under Section 45-70 of the Illinois Procurement Code.

31 (d) The minimum qualifications for hire, wages, days per
32 week, hours per day, shifts of employment, and terms and
33 conditions of employment of a qualified aid recipient who is
34 hired under this Act shall be the same as for other members of

1 the employer's workforce doing the same or similar work and
2 shall be subject to the same State and federal laws.

3 (e) Nothing in this Act prevents a State agency from
4 counting a person hired under this Act, who is also a protected
5 female or minority, toward that employer's affirmative action
6 obligations that may otherwise be imposed.

7 (f) Nothing in this Act diminishes the full authority and
8 prerogative of State agencies to determine independently an aid
9 recipient's qualifications and to make independently all
10 hiring decisions, based on merit, under this Act.

11 Section 50. Contract requirements. Each covered contract
12 shall contain provisions incorporating all of the following
13 requirements:

14 (a) Not less than 5% of the hours worked under positions
15 that are paid under a covered contract shall be worked by
16 qualified aid recipients.

17 (b) In order to facilitate compliance with this Act, a
18 covered employer may notify the Department of Human Services of
19 jobs that are opening under the covered contract for which aid
20 recipients may be qualified in order to receive referrals of
21 aid recipients by the Department.

22 (c) The covered employer shall verify that an applicant for
23 a position is an aid recipient, and shall maintain a record of
24 the aid recipient's status by copying for its records the
25 applicant's public aid card or such other proof of aid
26 recipient status as has been provided to the recipient or
27 employer by the Department of Human Services.

28 (d) The covered employer shall make the determination of
29 whether an aid recipient who applies for the position is a
30 qualified aid recipient. Nothing in this Act implies a
31 diminution of the full authority and prerogative of covered
32 employers to determine independently an aid recipient's
33 qualifications and to make independently all hiring decisions
34 under this Act. No State agency may require an employer to hire
35 an aid recipient who is not qualified for the position for

1 which the aid recipient is applying.

2 (e) The number of covered employees in a workforce shall be
3 calculated as follows: the number of total hours worked under
4 the contract are the "worker hours". The number of hours that
5 covered employees have worked under the contract are the
6 "covered employee hours". The "covered employee hours" shall be
7 divided by the "worker hours" and the product shall be no less
8 than 0.05. If the covered contract includes positions that are
9 otherwise reported to the State and federal government only by
10 daily or weekly full time equivalency, then those positions
11 shall be calculated by dividing the full-time equivalent of the
12 covered employees in those positions by the total full-time
13 equivalent for those positions. An employer may sponsor a
14 covered worker in an apprenticeship training program or other
15 education or training program, in which case the employer may
16 count the number of hours or days in off-site training or
17 classroom instruction toward the requirements of this Section.

18 (f) A covered employer who is unable to hire at least 5% of
19 its workforce from qualified aid recipients under a covered
20 contract shall certify to the Department of Human Services the
21 circumstances which made meeting the requirements of this Act
22 impossible. Permitted circumstances may include the high
23 percentage of professional, high skilled, or journey level
24 workers needed under the contract, the need to recall out of
25 work employees who are receiving unemployment compensation
26 through the covered employer, or other circumstances outside of
27 the control of the covered employer. If a covered employer has
28 not met the percentage hire requirements under this Act, and
29 did not notify the Department of jobs that have become
30 available under its covered contract, and jobs existed under
31 that contract for potentially qualified aid recipients, the
32 covered employer shall be deemed to have been able to hire the
33 requisite percentage of aid recipients under this Act, and
34 failed to do so.

35 (g) At the request of the covered employer to the
36 Department of Human Services, the requirements of hiring

1 covered employees under this Section may be waived, in advance,
2 by the Department, in whole or in part, in accordance with
3 rules established by the Department, if enough qualified aid
4 recipients are not referred or cannot be hired due to
5 circumstances set forth in subsection (5). To receive this
6 waiver, the covered employer must request the waiver before
7 hiring under the covered contract, and must include in its
8 request for the waiver, job descriptions for each of the
9 positions that are subject to hire under the covered contract,
10 and the number of people estimated to be hired for each such
11 job.

12 (h) The minimum qualifications for hire, and the wages,
13 days per week, hours per day, shifts of employment, and terms
14 and conditions of employment, of a covered employee shall be
15 the same as for other members of the employer's workforce doing
16 the same or similar work and shall be subject to the same State
17 and federal laws.

18 (i) Covered employees shall abide by all health and safety
19 rules and laws imposed on a covered employer's workforce.

20 (j) This Act does not require covered employers to provide
21 any additional or separate training or apprenticeship programs
22 for aid recipients that the employer would not otherwise
23 provide to other workers in the same or similar jobs at the
24 same or similar level of experience.

25 (k) Nothing in this Act prevents a covered employer from
26 counting a covered employee, who is also a protected female or
27 minority, toward the employer's affirmative action obligations
28 that may otherwise be imposed.

29 Section 55. Duties of the Department of Labor. The
30 Department of Labor shall ensure that covered employers comply
31 with the provisions of this Act and shall work with the
32 Department of Human Services and the Social Services Advisory
33 Council in promulgating rules for implementation and
34 governance and to effectuate the purposes of this Act,
35 including contractor compliance. In promulgating compliance

1 rules, the Illinois Department of Labor shall create provisions
2 that assure that there will be good faith attempts at
3 negotiation and conciliation, and the affording of the
4 protections of due process of law before any sanctions against
5 a contractor are imposed.

6 Section 60. Compliance and Reporting.

7 (a) The Department of Human Services, the Department of
8 Labor, and the General Assembly are jointly empowered to ensure
9 and monitor covered employer and State agency compliance with
10 the provisions of this Act.

11 (b) Each State agency shall annually prepare a report to
12 the Department of Human Services and the General Assembly
13 demonstrating its hiring under this Act. The report shall be
14 submitted to the Department and the minority and majority
15 leaders of the House of Representatives and the Senate no later
16 than January 31 of each year. The report shall set forth, for
17 the previous calendar year, the total number of positions
18 filled by the State agency, the number of positions not
19 exempted and thus found to be covered positions by the
20 Department, and the number of positions filled by aid
21 recipients.

22 (c) The Department of Human Services shall collate the
23 reports and shall submit a report to the General Assembly no
24 later than the first day of March of each year, with the
25 totals, broken down by State agency in each category, and the
26 grand totals for the State in each of the three categories.

27 (d) Both the original reports and the summary Department
28 report shall be subject to public inspection, review and
29 copying.

30 (e) Each covered contractor shall annually prepare a single
31 duplicated report that documents its hiring practices under
32 this Act that shall be submitted both to the Department of
33 Labor and the Department of Human Services. The report shall be
34 submitted no later than January 31 of each year. The report
35 shall set forth, for the previous calendar year, for each

1 covered contract, the calculations of total worker hours and
2 covered employee hours and the percentage of covered employee
3 hours, and such other data and information as may be required
4 by rule.

5 (f) The Department of Labor shall collate the contractor
6 reports and shall submit a report to the minority and majority
7 leaders of both chambers of the General Assembly no later than
8 the first day of March of each year, with the total worker
9 hours, the total covered employee hours, and the percentage of
10 hours of work by covered employees. The Department of Human
11 Services shall set forth the number of aid recipients who have
12 closed their aid cases or had their aid reduced as a result of
13 positions obtained under this Act, and shall set forth such
14 other data and cost savings as it deems appropriate.

15 (g) The Department's summary reports shall be subject to
16 public inspection, review and copying.

17 Section 905. The Personnel Code is amended by adding
18 Section 8b.7-1 as follows:

19 (20 ILCS 415/8b.7-1 new)

20 Sec. 8b.7-1. Qualified aid recipient preference. For the
21 granting of preferences to "qualified aid recipients" within
22 the meaning of the Welfare to Work Act. The preference shall be
23 given only after the application and provision of veterans
24 preferences under Section 8b.7, unless the applicant is subject
25 to preferences under both veterans and qualified aid recipient
26 designations, in which case those persons shall take
27 precedence. When qualified aid recipients are on eligible lists
28 on the basis of category rankings such as superior, excellent,
29 well-qualified, and qualified, they shall be preferred over
30 nonveterans who are not qualified aid recipients in the same
31 category. Notwithstanding Section 8b.5, when a list is prepared
32 by numerical rankings, and a qualified aid recipient is one of
33 the top 3 candidates on the basis of the numerical ranking, the
34 qualified aid recipient shall be appointed, unless one or two

1 of the other candidates is a qualified veteran.

2 Section 910. The Illinois Procurement Code is amended by
3 adding Section 45-70 as follows:

4 (30 ILCS 500/45-70 new)

5 Sec. 45-70. Contracts for personal services; qualified aid
6 recipients. All contracts for personal services, as defined
7 under Section 14 of the State Finance Act, shall be subject to
8 the preference of "qualified aid recipients" within the meaning
9 of the Welfare to Work Act, over others who are similarly
10 qualified.

11 Section 999. Effective date. This Act takes effect upon
12 becoming law.