August 26, 2016

To the Honorable Members of
The Illinois House of Representatives,
99th General Assembly:

Today I return House Bill 5104 with specific recommendations for change. The bill would prohibit the Department of Corrections from considering outside vendors to provide medical care to inmates unless the Department retains every single medical personnel employed by the Department as of January 1, 2016. This mandate would hamstring the Department's ability to determine how best to care for persons in its custody and waste taxpayer dollars.

The Department of Corrections, like every state agency, must be thoughtful when it considers using outside vendors. In deciding whether contracting with an outside vendor would more efficiently use scarce taxpayer dollars, the Department should analyze its operational needs, the needs of its inmates, and any impact on current state employees.

But House Bill 5104 does not afford the Department the opportunity to undertake this type of analysis. Instead, the bill would categorically prohibit the Department from contracting out medical services unless the Department continued to employ all medical personnel on its staff as of January 1, 2016. That date is arbitrary; no one testifying in support of the bill could explain why that date was selected. As we work together on a bipartisan basis to reform our criminal justice system and reduce our prison population, that date would become more and more artificial, potentially leading to a waste of taxpayer dollars.

The bill would also interfere with the Department's ability to implement the court-approved settlement agreement reached between the Department and plaintiffs in *Rasho v. Baldwin*, which concerns mental health services for persons in the Department's custody. The Department is undertaking a holistic look at how best to provide all medical services at Department facilities. Statutory restrictions, like the one proposed in House Bill 5104, could hamper the Department's ability to successfully implement the settlement agreement.

Nor is the bill necessary for the Department to consider the impact of any contracting on its employees. The most recent collective bargaining agreement with the Illinois Nurses Association (INA) provided that it is State policy "to make every reasonable effort to utilize its employees to perform work they are qualified to do, and to that end, the [State] will avoid, insofar as is practicable, the sub-contracting of work performed by employees in the bargaining unit." The agreement also required the State to provide the union with a cost comparison between performing the work with employees and with a third-party contractor before undertaking any subcontracting. If the State did move forward with any subcontracting, the State was required to provide advance notice to the union and to meet with the union to discuss the decision. The State proposed to retain these employee protections by agreement with the union and agreed to additional procedures in the form of a labor-management committee and a commitment to discussing alternatives to subcontracting.

The provisions described above—which were negotiated with INA—offer a more reasonable and flexible alternative to House Bill 5104. These provisions afford employees reasonable protections against the potential impacts of subcontracting and allow the union to submit alternative proposals, which is the type of labor-management cooperation that we should welcome. These provisions also enable the Department to respond to its operational needs and ever-changing custodial population in a cost-effective manner. By contrast, requiring the Department to maintain a minimum level of staffing and restricting contracting rights will continue to drive up the cost of government at taxpayers' expense. House Bill 5104 is another special interest giveaway.

We should all acknowledge the circumstances under which INA pushed for this bill. During recent collective bargaining, representatives of INA and the State reached a tentative agreement, which included the provisions described above. Almost immediately after signing the tentative agreement, INA reneged on the deal and proceeded instead to lobby the General Assembly to take away the Department's ability to consider outside vendors. Like AFSCME's compulsory arbitration bill that I vetoed, House Bill 5104 is an unaffordable and dangerous end run around the collective bargaining process. Neither INA, AFSCME, nor any other union should be permitted to circumvent good faith collective bargaining negotiations.

My Administration stands by the subcontracting provisions negotiated with INA. The changes recommended below would codify the basic provisions, while more detailed provisions would be included in the collective bargaining agreement. Because subcontracting is one of the subjects of collective bargaining, the union retains its ability to advocate for further protections through the collective bargaining process.

Therefore, pursuant to Section 9(e) of Article IV of the Illinois Constitution of 1970, I hereby return House Bill 5104, entitled "AN ACT concerning State government", with the following specific recommendation for change:

> On page 13, by replacing lines 8 through 14 with "<u>Act of the 99th General Assembly, before letting bids for contracts that would have the effect of reducing the number of</u>

Department employees whose employment is related to the provision of medical or mental health services, the Department shall prepare a cost comparison between the projected expenses if the work continued to be performed by Department employees and the projected expenses if a third party provided such services and shall allow for a reasonable time to meet with the affected employees or their labor organization representatives and discuss alternatives.".

With this change, House Bill 5104 will have my approval. I respectfully request your concurrence.

Sincerely,

Bruce Rauner
GOVERNOR