



SENATE JOURNAL

STATE OF ILLINOIS

NINETY-SEVENTH GENERAL ASSEMBLY

31ST LEGISLATIVE DAY

THURSDAY, APRIL 14, 2011

8:34 O'CLOCK A.M.

SENATE
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31st Legislative Day

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The Senate met pursuant to adjournment.
Senator John M. Sullivan, Rushville, Illinois, presiding.
Prayer by Pastor Shaun Lewis, Capitol Commission, Springfield, Illinois.
Senator Jacobs led the Senate in the Pledge of Allegiance.

Senator Jacobs moved that reading and approval of the Journal of Wednesday, April 13, 2011, be postponed, pending arrival of the printed Journal.
The motion prevailed.

REPORT RECEIVED

The Secretary placed before the Senate the following report:

Law Enforcement Camera Grant Act Report, submitted by the Kewanee Police Department.

The foregoing report was ordered received and placed on file in the Secretary's Office.

LEGISLATIVE MEASURES FILED

The following Floor amendments to the Senate Bills listed below have been filed with the Secretary and referred to the Committee on Assignments:

Senate Floor Amendment No. 1 to Senate Bill 7
Senate Floor Amendment No. 1 to Senate Bill 666

COMMUNICATION FROM THE MINORITY LEADER

CHRISTINE RADOGNO
SENATE REPUBLICAN LEADER · 41st DISTRICT

April 13, 2011

Ms. Jillayne Rock
Secretary of the Senate
401 State House
Springfield, Illinois 62706

Dear Madam Secretary:

Pursuant to Rule 3-2(b), I am making the following temporary appointments to the Senate Redistricting Committee.

Senator Darin LaHood shall replace Senator Kirk Dillard,
Senator Tim Bivins shall replace Senator Matt Murphy and
Senator Sue Rezin shall replace Senator Dan Duffy.

Sincerely,
s/Christine Radogno
Christine Radogno
Senate Republican Leader

cc: Senate President John Cullerton
Assistant Secretary of the Senate Scott Kaiser

[April 14, 2011]

PRESENTATION OF RESOLUTIONS

Senator J. Jones offered the following Senate Resolution, which was referred to the Committee on Assignments:

SENATE RESOLUTION NO. 175

WHEREAS, The Department of the Interior's Office of Surface Mining, Reclamation, and Enforcement (OSMRE) is considering new sweeping regulations that would cut surface mining production and jobs by 21-30%, cut underground coal mining jobs up to 50%, and risk eliminating over 66,000 direct and indirect jobs nationwide; and

WHEREAS, Beginning in 2003, OSMRE conducted a 5-year process, including public hearings, the submission of thousands of public comments, and preparation of an environmental impact statement, that culminated in final regulations adding significant new environmental protections regarding the placement of excess spoil and clarifying its regulations relating to stream buffer zones pursuant to the Surface Mining Control and Reclamation Act (SMCRA); and

WHEREAS, The Secretary of the Interior attempted to avoid a public rulemaking process by asking a court to vacate the 2008 OSMRE stream buffer zone rule without public comment as required under the Administrative Procedure Act, but was rebuked by a federal court which ruled that the Secretary may not repeal the stream buffer zone rule without going through a rulemaking process that includes public notice and comment; and

WHEREAS, OSMRE, in its own words, admitted that before any public comments were even received on its proposals, it had "already decided to change the (stream buffer zone) rule following the change in administrations on January 20, 2009"; the Office is calling the new rule the "stream protection rule", and it is much broader in scope than the 2008 stream buffer zone rule; and

WHEREAS, OSMRE has failed to justify why a new stream protection rule is necessary or to explain the problem that the Office is attempting to fix, and such concerns have been echoed by the Interstate Mining Compact Commission, an organization representing state mining regulators with substantial expertise in SMCRA regulation; and

WHEREAS, OSMRE is inappropriately rushing to complete the rulemaking because of a unilateral settlement agreement with environmental groups, and is committing such flagrant violations of the required National Environmental Policy Act process that 8 of the state cooperating agencies have written to the Office objecting to its quality, completeness and accuracy, as well as calling the document "nonsensical and difficult to follow", and ultimately threatening to pull out of the process; and

WHEREAS, The coal mining industry is critical to the economic and social well being of the citizens of Illinois, accounting for over 3,500 direct workers and another 24,500 indirect jobs that have an impact of over \$1 billion on the State's economy; therefore, be it

RESOLVED, BY THE SENATE OF THE NINETY-SEVENTH GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, that we express serious concern about the scope, justification, and substance of the OSMRE's stream protection rule, as well as about the procedure and process that have been used to adopt that rule; and be it further

RESOLVED, That we call upon OSMRE to immediately suspend work on the environmental impact statement and the stream protection rule until such time as the Office:

- (1) clearly and publicly articulates why the 2008 regulation has not been implemented and provides specific details regarding each of its provisions and why the Office believes that they are insufficient;
- (2) provides scientific data and other objective information to justify each and every provision of the new proposal;
- (3) explains why the Office is contradicting its own annual state inspection reports which indicate good environmental performance and refute the need for this new rule;

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(4) justifies why a more limited approach would not achieve the objectives of the Office; and

(5) surveys all of the state regulatory authorities to determine whether they agree that such significant regulatory changes are necessary; and be it further

RESOLVED, That we also urge Congress to oppose this unwarranted effort by the present Presidential Administration by withholding any further funding for OSMRE for the stream protection rule and environmental impact statement until such time as the Office justifies the need for new rules; and be it further

RESOLVED, That suitable copies of this resolution be sent to President Barack Obama, the President pro tempore of the United States Senate, the Speaker of the United States House of Representatives, the Secretary of the Department of the Interior, and each member of the Illinois congressional delegation.

Senator Lightford offered the following Senate Joint Resolution, which was referred to the Committee on Assignments:

SENATE JOINT RESOLUTION NO. 34

WHEREAS, It is the policy and intent of the State of Illinois that, in accord with the setting of performance standards, every student, regardless of the economic or social circumstances and regardless of the school to which the student is assigned, has the right to the same level of educational services as every other student in this State, to the extent allowed by State funds; and

WHEREAS, Every student should have a teacher assignment by no later than the tenth day of class following the opening of the school year, and every school district should complete student scheduling by 30 days prior to the first day of class at the opening of the school year; and

WHEREAS, Every school district should, by measures relative to its resources, provide its students with an education that promotes the personal development and civic responsibility of the student and that includes a meaningful opportunity for instruction in civics, history, art, music, and foreign languages; and

WHEREAS, In all instances, school districts should give due weight to the special problems of children living in districts with high concentrations of poverty when considering the method in which they will provide an education; therefore, be it

RESOLVED, BY THE SENATE OF THE NINETY-SEVENTH GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, THE HOUSE OF REPRESENTATIVES CONCURRING HEREIN, that a copy of this resolution be delivered to the State Superintendent of Education and disseminated by the State Superintendent of Education to all school districts in this State.

APPOINTMENT MESSAGE

Appointment Message No. 72

To the Honorable Members of the Senate, Ninety-Seventh General Assembly:

I, Pat Quinn, Governor, am nominating and, by and with the advice and consent of the Senate, appointing the following named individual to the office enumerated below. The advice and consent of this Honorable Body is respectfully requested.

Title of Office: Member

Agency or Other Body: Capital Development Board

[April 14, 2011]

Start Date: March 28, 2011

End Date: January 16, 2012

Name: Peter J. O'Brien, Sr.

Residence: 1526 N. Wieland St., Chicago, IL 60610

Annual Compensation: Expenses

Per diem: Not Applicable

Nominee's Senator: Senator Mattie Hunter

Most Recent Holder of Office: Stephen Toth

Superseded Appointment Message: Appointment Message 55 of the 97th General Assembly

Under the rules, the foregoing Appointment Message was referred to the Committee on Assignments.

MESSAGES FROM THE HOUSE

A message from the House by

Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has passed bills of the following titles, in the passage of which I am instructed to ask the concurrence of the Senate, to-wit:

HOUSE BILL NO. 212

A bill for AN ACT concerning local government.

HOUSE BILL NO. 2046

A bill for AN ACT concerning criminal law.

HOUSE BILL NO. 2267

A bill for AN ACT concerning transportation.

HOUSE BILL NO. 2842

A bill for AN ACT concerning transportation.

HOUSE BILL NO. 2972

A bill for AN ACT concerning State government.

HOUSE BILL NO. 3366

A bill for AN ACT concerning criminal law.

Passed the House, April 13, 2011.

MARK MAHONEY, Clerk of the House

The foregoing **House Bills Numbered 212, 2046, 2267, 2842, 2972 and 3366** were taken up, ordered printed and placed on first reading.

A message from the House by

Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has passed bills of the following titles, in the passage of which I am instructed to ask the concurrence of the Senate, to-wit:

HOUSE BILL NO. 224

A bill for AN ACT concerning insurance.

HOUSE BILL NO. 3283

A bill for AN ACT concerning criminal law.

HOUSE BILL NO. 3441

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A bill for AN ACT concerning insurance.

HOUSE BILL NO. 3449

A bill for AN ACT concerning State government.

Passed the House, April 13, 2011.

MARK MAHONEY, Clerk of the House

The foregoing **House Bills Numbered 224, 3283, 3441 and 3449** were taken up, ordered printed and placed on first reading.

A message from the House by

Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has passed bills of the following titles, in the passage of which I am instructed to ask the concurrence of the Senate, to-wit:

HOUSE BILL NO. 1307

A bill for AN ACT concerning transportation.

HOUSE BILL NO. 2397

A bill for AN ACT concerning education.

HOUSE BILL NO. 3012

A bill for AN ACT concerning civil law.

HOUSE BILL NO. 3182

A bill for AN ACT concerning State government.

HOUSE BILL NO. 3377

A bill for AN ACT concerning finance.

Passed the House, April 13, 2011.

MARK MAHONEY, Clerk of the House

The foregoing **House Bills Numbered 1307, 2397, 3012, 3182 and 3377** were taken up, ordered printed and placed on first reading.

A message from the House by

Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has passed bills of the following titles, in the passage of which I am instructed to ask the concurrence of the Senate, to-wit:

HOUSE BILL NO. 1353

A bill for AN ACT concerning education.

HOUSE BILL NO. 1651

A bill for AN ACT concerning regulation.

HOUSE BILL NO. 1973

A bill for AN ACT concerning State government.

HOUSE BILL NO. 2193

A bill for AN ACT concerning criminal law.

HOUSE BILL NO. 3292

A bill for AN ACT concerning criminal law.

Passed the House, April 13, 2011.

MARK MAHONEY, Clerk of the House

The foregoing **House Bills Numbered 1353, 1651, 1973, 2193 and 3292** were taken up, ordered printed and placed on first reading.

READING BILLS FROM THE HOUSE OF REPRESENTATIVES A FIRST TIME

House Bill No. 212, sponsored by Senator Hutchinson, was taken up, read by title a first time and referred to the Committee on Assignments.

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House Bill No. 991, sponsored by Senator Althoff, was taken up, read by title a first time and referred to the Committee on Assignments.

House Bill No. 1307, sponsored by Senator LaHood, was taken up, read by title a first time and referred to the Committee on Assignments.

House Bill No. 1600, sponsored by Senator Trotter, was taken up, read by title a first time and referred to the Committee on Assignments.

House Bill No. 1651, sponsored by Senator Mulroe, was taken up, read by title a first time and referred to the Committee on Assignments.

House Bill No. 2046, sponsored by Senator Rezin, was taken up, read by title a first time and referred to the Committee on Assignments.

House Bill No. 2193, sponsored by Senator Haine, was taken up, read by title a first time and referred to the Committee on Assignments.

House Bill No. 2267, sponsored by Senator LaHood, was taken up, read by title a first time and referred to the Committee on Assignments.

House Bill No. 2397, sponsored by Senator Steans, was taken up, read by title a first time and referred to the Committee on Assignments.

House Bill No. 2555, sponsored by Senator Wilhelmi, was taken up, read by title a first time and referred to the Committee on Assignments.

House Bill No. 2842, sponsored by Senator Raoul, was taken up, read by title a first time and referred to the Committee on Assignments.

House Bill No. 3012, sponsored by Senator Murphy, was taken up, read by title a first time and referred to the Committee on Assignments.

House Bill No. 3182, sponsored by Senator Koehler, was taken up, read by title a first time and referred to the Committee on Assignments.

House Bill No. 3377, sponsored by Senator Althoff, was taken up, read by title a first time and referred to the Committee on Assignments.

House Bill No. 3403, sponsored by Senator Wilhelmi, was taken up, read by title a first time and referred to the Committee on Assignments.

House Bill No. 3441, sponsored by Senator Haine, was taken up, read by title a first time and referred to the Committee on Assignments.

CONSIDERATION OF RESOLUTIONS ON SECRETARY'S DESK

Senator Hunter moved that **Senate Resolution No. 97**, on the Secretary's Desk, be taken up for immediate consideration.

The motion prevailed.

Senator Hunter moved that Senate Resolution No. 97 be adopted.

And on that motion, a call of the roll was had resulting as follows:

YEAS 46; NAYS None.

The following voted in the affirmative:

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Althoff	Harmon	Lightford	Raoul
Bivins	Holmes	Link	Sandack
Clayborne	Hunter	Maloney	Schmidt
Collins, A.	Hutchinson	Martinez	Schoenberg
Collins, J.	Jacobs	McCarter	Silverstein
Crotty	Johnson, C.	Millner	Steans
Delgado	Johnson, T.	Mulroe	Sullivan
Duffy	Jones, E.	Muñoz	Trotter
Forby	Koehler	Murphy	Wilhelmi
Frerichs	Kotowski	Noland	Mr. President
Garrett	Landek	Pankau	
Haine	Lauzen	Radogno	

The motion prevailed.
And the resolution was adopted.

Senator Holmes moved that **Senate Resolution No. 121**, on the Secretary's Desk, be taken up for immediate consideration.

The motion prevailed.
Senator Holmes moved that Senate Resolution No. 121 be adopted.
The motion prevailed.
And the resolution was adopted.

SENATE BILL RECALLED

On motion of Senator Koehler, **Senate Bill No. 1543** was recalled from the order of third reading to the order of second reading.

Senator Koehler offered the following amendment and moved its adoption:

AMENDMENT NO. 3 TO SENATE BILL 1543

AMENDMENT NO. 3. Amend Senate Bill 1543, AS AMENDED, with reference to page and line numbers of Senate Amendment No. 2, as follows:

on page 1, line 5, by replacing "Sections 3.160 and 22.54" with "Section 22.38"; and

by replacing page 1, line 6, through page 10, line 19, with the following:

"(415 ILCS 5/22.38)

Sec. 22.38. Facilities accepting exclusively general construction or demolition debris for transfer, storage, or treatment.

(a) Facilities accepting exclusively general construction or demolition debris for transfer, storage, or treatment shall be subject to local zoning, ordinance, and land use requirements. Those facilities shall be located in accordance with local zoning requirements or, in the absence of local zoning requirements, shall be located so that no part of the facility boundary is closer than 1,320 feet from the nearest property zoned for primarily residential use.

(b) An owner or operator of a facility accepting exclusively general construction or demolition debris for transfer, storage, or treatment shall:

(1) Within 48 hours of receipt of the general construction or demolition debris at the facility, sort the general construction or demolition debris to separate the recyclable general construction or demolition debris and recovered wood that is processed for use as fuel from non-recyclable general construction or demolition debris to be disposed of or discarded.

(2) Transport off site for disposal all non-recyclable general construction or demolition debris that is neither recyclable general construction or demolition debris nor recovered wood that is processed for use as fuel in accordance with all applicable federal, State, and local requirements within 72 hours of its receipt at the facility.

(3) Limit the percentage of incoming non-recyclable general construction or demolition debris to 25% or less of the total incoming general construction or demolition debris, as calculated on a daily basis, so that 75% or more of the general construction or demolition debris accepted on a daily

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basis consists of recyclable general construction or demolition debris, recovered wood that is processed for use as fuel, or both.

(4) Transport all non-putrescible recyclable general construction or demolition debris for recycling or disposal within 6 months of its receipt at the facility.

(5) Within 45 days of its receipt at the facility, transport (i) all putrescible or combustible recyclable general construction or demolition debris (excluding recovered wood that is processed for use as fuel) for recycling or disposal and (ii) all recovered wood that is processed for use as fuel to an intermediate processing facility for sizing, to a combustion facility for use as fuel, or to a disposal facility.

(6) Employ tagging and recordkeeping procedures to (i) demonstrate compliance with this Section and (ii) identify the source and transporter of material accepted by the facility.

(7) Control odor, noise, combustion of materials, disease vectors, dust, and litter.

(8) Control, manage, and dispose of any storm water runoff and leachate generated at the facility in accordance with applicable federal, State, and local requirements.

(9) Control access to the facility.

(10) Comply with all applicable federal, State, or local requirements for the handling, storage, transportation, or disposal of asbestos-containing material or other material accepted at the facility that is not general construction or demolition debris.

(11) Prior to August 24, 2009 (the effective date of Public Act 96-611), submit to the Agency at least 30 days prior to the initial acceptance of general construction or demolition debris at the facility, on forms provided by the Agency, the following information:

(A) the name, address, and telephone number of both the facility owner and operator;

(B) the street address and location of the facility;

(C) a description of facility operations;

(D) a description of the tagging and recordkeeping procedures the facility will employ to (i) demonstrate compliance with this Section and (ii) identify the source and transporter of any material accepted by the facility;

(E) the name and location of the disposal sites to be used for the disposal of any general construction or demolition debris received at the facility that must be disposed of;

(F) the name and location of an individual, facility, or business to which recyclable materials will be transported;

(G) the name and location of intermediate processing facilities or combustion facilities to which recovered wood that is processed for use as fuel will be transported; and

(H) other information as specified on the form provided by the Agency.

(12) On or after August 24, 2009 (the effective date of Public Act 96-611), obtain a permit issued by the Agency prior to the initial acceptance of general construction or demolition debris at the facility.

When any of the information contained or processes described in the initial notification form submitted to the Agency changes, the owner and operator shall submit an updated form within 14 days of the change.

(c) For purposes of this Section, the term "recyclable general construction or demolition debris" means general construction or demolition debris that has been rendered reusable and is reused or that would otherwise be disposed of or discarded but is collected, separated, or processed and returned to the economic mainstream in the form of raw materials or products. "Recyclable general construction or demolition debris" does not include general construction or demolition debris processed for use as fuel, incinerated, burned, buried, or otherwise used as fill material.

(d) For purposes of this Section, "treatment" means processing designed to alter the physical nature of the general construction or demolition debris, including but not limited to size reduction, crushing, grinding, or homogenization, but does not include processing designed to change the chemical nature of the general construction or demolition debris.

(e) For purposes of this Section, "recovered wood that is processed for use as fuel" means wood that has been salvaged from general construction or demolition debris and processed for use as fuel, as authorized by the applicable state or federal environmental regulatory authority, and supplied only to intermediate processing facilities for sizing, or to combustion facilities for use as fuel, that have obtained all necessary waste management and air permits for handling and combustion of the fuel.

(f) For purposes of this Section, "non-recyclable general construction or demolition debris" does not include "recovered wood that is processed for use as fuel".

(g) Recyclable general construction or demolition debris or recovered wood that is processed for use as fuel that is sent for disposal at the end of the applicable retention period shall not be considered as

meeting the 75% diversion requirement for purposes of subdivision (b)(3) of this Section.

(h) For purposes of the 75% diversion requirement under subdivision (b)(3) of this Section, owners and operators of facilities accepting exclusively general construction or demolition debris for transfer, storage, or treatment may multiply by 2 the amount of accepted asphalt roofing shingles that are transferred to a facility for recycling in accordance with a beneficial use determination issued under Section 22.54 of this Act. The owner or operator of the facility accepting exclusively general construction or demolition debris for transfer, storage, or treatment must maintain receipts from the shingle recycling facility that document the amounts of asphalt roofing shingles transferred for recycling in accordance with the beneficial use determination. All receipts must be maintained for a minimum of 3 years and must be made available to the Agency for inspection and copying during normal business hours.

(Source: P.A. 96-235, eff. 8-11-09; 96-611, eff. 8-24-09; 96-1000, eff. 7-2-10.); and

on page 11, line 11, immediately after "other", by inserting "lowest-cost"; and

on page 11, line 11, immediately after "mix", by inserting "so long as there is no detrimental impact on life-cycle costs"; and

on page 12, line 13, by replacing "subsection (d) of Section 21" with "Section 39".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 3 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING BILLS OF THE SENATE A THIRD TIME

On motion of Senator Koehler, **Senate Bill No. 1543**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 53; NAYS None.

The following voted in the affirmative:

Althoff	Harmon	Maloney	Sandack
Bivins	Holmes	Martinez	Sandoval
Bomke	Hunter	McCann	Schmidt
Brady	Hutchinson	McCarter	Schoenberg
Clayborne	Johnson, C.	Millner	Silverstein
Collins, J.	Jones, E.	Mulroe	Steans
Crotty	Jones, J.	Muñoz	Sullivan
Cultra	Koehler	Murphy	Syverson
Dillard	Kotowski	Noland	Trotter
Duffy	LaHood	Pankau	Wilhelmi
Forby	Lauzen	Radogno	Mr. President
Frerichs	Lightford	Raoul	
Garrett	Link	Rezin	
Haine	Luechtefeld	Righter	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

[April 14, 2011]

On motion of Senator Haine, **Senate Bill No. 1544**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 55; NAYS None.

The following voted in the affirmative:

Althoff	Harmon	Link	Rezin
Bivins	Holmes	Luechtefeld	Righter
Bomke	Hunter	Maloney	Sandack
Brady	Hutchinson	Martinez	Sandoval
Clayborne	Jacobs	McCann	Schmidt
Collins, J.	Johnson, C.	McCarter	Schoenberg
Crotty	Johnson, T.	Millner	Silverstein
Cultra	Jones, E.	Mulroe	Steans
Delgado	Jones, J.	Muñoz	Sullivan
Dillard	Koehler	Murphy	Syverson
Forby	Kotowski	Noland	Trotter
Frerichs	LaHood	Pankau	Wilhelmi
Garrett	Lauzen	Radogno	Mr. President
Haine	Lightford	Raoul	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

SENATE BILL RECALLED

On motion of Senator Haine, **Senate Bill No. 1554** was recalled from the order of third reading to the order of second reading.

Senator Haine offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO SENATE BILL 1554

AMENDMENT NO. 1. Amend Senate Bill 1554 on page 5, by replacing lines 11 through 20 with the following:

"(i) This Section does not apply to the following persons while serving process:

- (1) a person authorized to serve process under Section 2-202 of the Code of Civil Procedure; or
(2) a special process server appointed by the circuit court."

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING BILLS OF THE SENATE A THIRD TIME

On motion of Senator Haine, **Senate Bill No. 1554**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 55; NAYS None.

The following voted in the affirmative:

[April 14, 2011]

Althoff	Harmon	Link	Rezin
Bivins	Holmes	Luechtefeld	Righter
Bomke	Hunter	Maloney	Sandack
Brady	Hutchinson	Martinez	Sandoval
Clayborne	Jacobs	McCann	Schmidt
Collins, J.	Johnson, C.	McCarter	Schoenberg
Crotty	Johnson, T.	Millner	Silverstein
Cultra	Jones, E.	Mulroe	Steans
Delgado	Jones, J.	Muñoz	Sullivan
Dillard	Koehler	Murphy	Syverson
Forby	Kotowski	Noland	Trotter
Frerichs	LaHood	Pankau	Wilhelmi
Garrett	Laufen	Radogno	Mr. President
Haine	Lightford	Raoul	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

On motion of Senator Haine, **Senate Bill No. 1555**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 52; NAYS None.

The following voted in the affirmative:

Althoff	Hunter	Maloney	Sandack
Bivins	Hutchinson	Martinez	Sandoval
Bomke	Jacobs	McCann	Schmidt
Clayborne	Johnson, C.	McCarter	Silverstein
Collins, J.	Johnson, T.	Millner	Steans
Crotty	Jones, J.	Mulroe	Sullivan
Cultra	Koehler	Muñoz	Syverson
Delgado	Kotowski	Murphy	Trotter
Dillard	LaHood	Noland	Wilhelmi
Forby	Landek	Pankau	Mr. President
Frerichs	Laufen	Radogno	
Haine	Lightford	Raoul	
Harmon	Link	Rezin	
Holmes	Luechtefeld	Righter	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

On motion of Senator Haine, **Senate Bill No. 1556**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 56; NAYS None.

[April 14, 2011]

The following voted in the affirmative:

Althoff	Harmon	Luechtefeld	Sandack
Bivins	Holmes	Maloney	Sandoval
Bomke	Hunter	Martinez	Schmidt
Brady	Hutchinson	McCann	Schoenberg
Clayborne	Jacobs	McCarter	Silverstein
Collins, J.	Johnson, C.	Millner	Steans
Crotty	Johnson, T.	Mulroe	Sullivan
Cultra	Jones, J.	Muñoz	Syverson
Delgado	Koehler	Murphy	Trotter
Dillard	Kotowski	Noland	Wilhelmi
Duffy	LaHood	Pankau	Mr. President
Forby	Landek	Radogno	
Frerichs	Lauzen	Raoul	
Garrett	Lightford	Rezin	
Haine	Link	Righter	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

On motion of Senator Haine, **Senate Bill No. 1557**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, “Shall this bill pass?” it was decided in the affirmative by the following vote:

YEAS 55; NAYS None.

The following voted in the affirmative:

Althoff	Haine	Link	Rezin
Bivins	Harmon	Luechtefeld	Righter
Bomke	Holmes	Maloney	Sandack
Brady	Hunter	Martinez	Sandoval
Clayborne	Hutchinson	McCann	Schmidt
Collins, J.	Jacobs	McCarter	Schoenberg
Crotty	Johnson, C.	Millner	Silverstein
Cultra	Johnson, T.	Mulroe	Steans
Delgado	Jones, J.	Muñoz	Sullivan
Dillard	Koehler	Murphy	Syverson
Duffy	Kotowski	Noland	Trotter
Forby	LaHood	Pankau	Wilhelmi
Frerichs	Landek	Radogno	Mr. President
Garrett	Lauzen	Raoul	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

On motion of Senator Dillard, **Senate Bill No. 1560**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, “Shall this bill pass?” it was decided in the affirmative by the following vote:

[April 14, 2011]

YEAS 55; NAYS None.

The following voted in the affirmative:

Althoff	Harmon	Link	Rezin
Bivins	Holmes	Luechtefeld	Righter
Bomke	Hunter	Maloney	Sandack
Clayborne	Hutchinson	Martinez	Sandoval
Collins, J.	Jacobs	McCann	Schmidt
Crotty	Johnson, C.	McCarter	Schoenberg
Cultra	Johnson, T.	Millner	Silverstein
Delgado	Jones, J.	Mulroe	Steans
Dillard	Koehler	Muñoz	Sullivan
Duffy	Kotowski	Murphy	Syverson
Forby	LaHood	Noland	Trotter
Frerichs	Landek	Pankau	Wilhelmi
Garrett	Lauzen	Radogno	Mr. President
Haine	Lightford	Raoul	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

SENATE BILL RECALLED

On motion of Senator Dillard, **Senate Bill No. 1562** was recalled from the order of third reading to the order of second reading.

Senator Dillard offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO SENATE BILL 1562

AMENDMENT NO. 1. Amend Senate Bill 1562 on page 10, by replacing lines 10 through 12 with the following:

"meritorious service: (2) the average amount of good conduct"; and

on page 10, line 13, by replacing "(4)" with "(3)"; and

on page 10, line 15, by replacing "(5)" with "(4)".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING BILLS OF THE SENATE A THIRD TIME

On motion of Senator Dillard, **Senate Bill No. 1562**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 53; NAYS None.

The following voted in the affirmative:

Althoff	Harmon	Link	Righter
Bivins	Holmes	Luechtefeld	Sandack

[April 14, 2011]

Bomke	Hunter	Maloney	Schmidt
Brady	Hutchinson	Martinez	Schoenberg
Clayborne	Jacobs	McCann	Silverstein
Collins, J.	Johnson, C.	McCarter	Steans
Crotty	Johnson, T.	Millner	Sullivan
Cultra	Jones, J.	Mulroe	Syerson
Dillard	Koehler	Murphy	Trotter
Duffy	Kotowski	Noland	Wilhelmi
Forby	LaHood	Pankau	Mr. President
Frerichs	Landek	Radogno	
Garrett	Lauzen	Raoul	
Haine	Lightford	Rezin	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

On motion of Senator Clayborne, **Senate Bill No. 1566**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 56; NAYS None.

The following voted in the affirmative:

Althoff	Harmon	Luechtefeld	Sandack
Bivins	Holmes	Maloney	Sandoval
Bomke	Hunter	Martinez	Schmidt
Brady	Hutchinson	McCann	Schoenberg
Clayborne	Jacobs	McCarter	Silverstein
Collins, J.	Johnson, C.	Millner	Steans
Crotty	Johnson, T.	Mulroe	Sullivan
Cultra	Jones, J.	Muñoz	Syerson
Delgado	Koehler	Murphy	Trotter
Dillard	Kotowski	Noland	Wilhelmi
Duffy	LaHood	Pankau	Mr. President
Forby	Landek	Radogno	
Frerichs	Lauzen	Raoul	
Garrett	Lightford	Rezin	
Haine	Link	Righter	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

SENATE BILL RECALLED

On motion of Senator Clayborne, **Senate Bill No. 1567** was recalled from the order of third reading to the order of second reading.

Senator Clayborne offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO SENATE BILL 1567

AMENDMENT NO. 1. Amend Senate Bill 1567 by replacing everything after the enacting clause with the following:

[April 14, 2011]

"Section 1. Short title. This Act may be cited as the Carbon Capture and Sequestration Legislation Commission Act.

Section 5. Definitions. As used in this Act:

"CO₂" means carbon dioxide.

"Commission" means the Carbon Capture and Sequestration Legislation Commission.

"Director" means the Executive Director of the Illinois Commerce Commission.

Section 10. Creation of the Carbon Capture and Sequestration Legislation Commission.

(a) The Carbon Capture and Sequestration Legislation Commission is created and shall consist of 11 members, including the Director, who shall serve as the ex-officio chairperson of the Commission.

(b) The remaining 10 members of the Commission shall be appointed as follows:

- (1) one member shall be appointed by the Speaker of the House of Representatives;
- (2) one member shall be appointed by the President of the Senate;
- (3) one member shall be appointed by the Minority Leader of the House of Representatives;
- (4) one member shall be appointed by the Minority Leader of the Senate;
- (5) one member shall be the Director of the Illinois Power Agency, or his or her designee; and

(6) 5 members shall be appointed by the Governor.

(c) The appointments made by the Governor shall include one member with legal expertise, one member with engineering expertise, one member with financial expertise, one member representing the employer community, and one member representing the environmental community.

(d) The Director may retain services from outside parties with legal, engineering, and financial expertise to assist the Commission in carrying out its duties.

(e) The Illinois Power Agency may assist the Director in staffing and administering the Commission.

(f) Commission members are not eligible to receive compensation or reimbursement of expenses.

Section 15. Report on carbon capture and sequestration legislation.(a) The Commission shall file a report no later than December 31, 2012 with the General Assembly on all issues deemed appropriate to carbon capture and sequestration legislation, including, but not limited to, the following:

- (1) Ownership of the CO₂.
- (2) Liability for release of CO₂.
- (3) Acquisition and ownership of pore space.
- (4) Procedures and safeguards for the transportation and sequestration of CO₂.
- (5) Methodology to establish any necessary fees, costs, or offsets.
- (6) Potential use of CO₂.
- (7) Construction of pipelines.
- (8) Coordination with applicable federal law or regulatory commissions.

(b) The Commission shall be abolished upon filing its report with the General Assembly.

Section 20. Repealer. This Act is repealed on January 1, 2013.

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

The motion prevailed.

And the amendment was adopted and ordered printed.

Senator Clayborne offered the following amendment and moved its adoption:

AMENDMENT NO. 2 TO SENATE BILL 1567

AMENDMENT NO. 2. Amend Senate Bill 1567, AS AMENDED, with reference to page and line numbers of Senate Amendment No. 1, as follows:

on page 2, line 15, by replacing "5" with "6"; and

on page 2, line 19, immediately after "employer community," by inserting "one member representing production agriculture land owners,"; and

on page 3, by replacing lines 2 and 3 with the following:

[April 14, 2011]

"Section 15. Report on carbon capture and sequestration legislation.

(a) The Commission shall file a report no later"; and

on page 3, by replacing lines 16 and 17 with the following:

"(8) Coordination with federal and state laws and regulations.

(9) Coordination with the Illinois Department of Natural Resources, the Illinois Environmental Protection Agency, the United States Environmental Protection Agency, and other applicable regulatory agencies and commissions."

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendments numbered 1 and 2 were ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING BILL OF THE SENATE A THIRD TIME

On motion of Senator Clayborne, **Senate Bill No. 1567**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 52; NAYS 3.

The following voted in the affirmative:

Althoff	Hunter	Martinez	Sandoval
Bivins	Hutchinson	McCann	Schmidt
Bomke	Jacobs	McCarter	Schoenberg
Clayborne	Johnson, C.	Millner	Silverstein
Collins, J.	Jones, J.	Mulroe	Steans
Crotty	Koehler	Muñoz	Sullivan
Delgado	Kotowski	Murphy	Syverson
Dillard	LaHood	Noland	Trotter
Forby	Landek	Pankau	Wilhelmi
Frerichs	Lauzen	Radogno	Mr. President
Garrett	Lightford	Raoul	
Haine	Link	Rezin	
Harmon	Luechtefeld	Righter	
Holmes	Maloney	Sandack	

The following voted in the negative:

Cultra
Duffy
Johnson, T.

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

SENATE BILL RECALLED

On motion of Senator Holmes, **Senate Bill No. 1577** was recalled from the order of third reading to the order of second reading.

[April 14, 2011]

Senator Holmes offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO SENATE BILL 1577

AMENDMENT NO. 1. Amend Senate Bill 1577 by replacing everything after the enacting clause with the following:

"Section 5. The Hospital Licensing Act is amended by changing Section 6.25 as follows:
(210 ILCS 85/6.25)

Sec. 6.25. Safe patient handling policy.

(a) In this Section:

"Health care worker" means an individual providing direct patient care services who may be required to lift, transfer, reposition, or move a patient.

"Nurse" means an advanced practice nurse, a registered nurse, or a licensed practical nurse licensed under the Nurse Practice Act.

"Safe lifting equipment and accessories" means mechanical equipment designed to lift, move, reposition, and transfer patients, including, but not limited to, fixed and portable ceiling lifts, sit-to-stand lifts, slide sheets and boards, slings, and repositioning and turning sheets.

"Safe lifting team" means at least 2 individuals who are trained in the use of both safe lifting techniques and safe lifting equipment and accessories, including the responsibility for knowing the location and condition of such equipment and accessories.

(b) A hospital must adopt and ensure implementation of a policy to identify, assess, and develop strategies to control risk of injury to patients and nurses and other health care workers associated with the lifting, transferring, repositioning, or movement of a patient. The policy shall establish a process that, at a minimum, includes all of the following:

(1) Analysis of the risk of injury to patients and nurses and other health care workers

posted by the patient handling needs of the patient populations served by the hospital and the physical environment in which the patient handling and movement occurs.

(2) Education and training of nurses and other direct patient care providers in the identification, assessment, and control of risks of injury to patients and nurses and other health care workers during patient handling and on safe lifting policies and techniques and current lifting equipment.

(3) Evaluation of alternative ways to reduce risks associated with patient handling, including evaluation of equipment and the environment.

(4) Restriction, to the extent feasible with existing equipment and aids, of manual patient handling or movement of all or most of a patient's weight except for emergency, life-threatening, or otherwise exceptional circumstances.

(5) Collaboration with and an annual report to the nurse staffing committee.

(6) Procedures for a nurse to refuse to perform or be involved in patient handling or movement that the nurse in good faith believes will expose a patient or nurse or other health care worker to an unacceptable risk of injury.

(7) Submission of an annual report to the hospital's governing body or quality assurance committee on activities related to the identification, assessment, and development of strategies to control risk of injury to patients and nurses and other health care workers associated with the lifting, transferring, repositioning, or movement of a patient.

(8) In developing architectural plans for construction or remodeling of a hospital or unit of a hospital in which patient handling and movement occurs, consideration of the feasibility of incorporating patient handling equipment or the physical space and construction design needed to incorporate that equipment.

(9) Fostering and maintaining patient safety, dignity, self-determination, and choice, including the following policies, strategies, and procedures:

(A) the existence and availability of a trained safe lifting team;

(B) a policy of advising patients of a range of transfer and lift options, including adjustable diagnostic and treatment equipment, mechanical lifts, and provision of a trained safe lifting team;

(C) the right of a competent patient, or guardian of a patient adjudicated incompetent, to choose among the range of transfer and lift options, subject to the provisions of subparagraph (E) of this paragraph (9);

(D) procedures for documenting, upon admission and as status changes, a mobility assessment and plan for lifting, transferring, repositioning, or movement of a patient, including the choice of the patient or patient's guardian among the range of transfer and lift options; and

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(E) incorporation of such safe lifting procedures, techniques, and equipment as are consistent with applicable federal law.

(Source: P.A. 96-389, eff. 1-1-10; 96-1000, eff. 7-2-10)."

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING BILLS OF THE SENATE A THIRD TIME

On motion of Senator Holmes, **Senate Bill No. 1577**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 54; NAYS None.

The following voted in the affirmative:

Althoff	Haine	Lightford	Raoul
Bivins	Harmon	Link	Rezin
Bomke	Holmes	Luechtefeld	Righter
Brady	Hunter	Maloney	Sandack
Clayborne	Hutchinson	Martinez	Schmidt
Collins, J.	Jacobs	McCann	Schoenberg
Crotty	Johnson, C.	McCarter	Silverstein
Cultra	Johnson, T.	Millner	Sullivan
Delgado	Jones, J.	Mulroe	Syverson
Dillard	Koehler	Muñoz	Trotter
Duffy	Kotowski	Murphy	Wilhelmi
Forby	LaHood	Noland	Mr. President
Frerichs	Landek	Pankau	
Garrett	Lauzen	Radogno	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

On motion of Senator Holmes, **Senate Bill No. 1578**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 55; NAYS None.

The following voted in the affirmative:

Althoff	Haine	Lightford	Rezin
Bivins	Harmon	Link	Righter
Bomke	Holmes	Luechtefeld	Sandack
Brady	Hunter	Maloney	Sandoval
Clayborne	Hutchinson	Martinez	Schmidt
Collins, J.	Jacobs	McCann	Schoenberg
Crotty	Johnson, C.	McCarter	Silverstein
Cultra	Johnson, T.	Millner	Steans

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Delgado	Jones, J.	Mulroe	Sullivan
Dillard	Koehler	Muñoz	Syverson
Duffy	Kotowski	Noland	Trotter
Forby	LaHood	Pankau	Wilhelmi
Frerichs	Landek	Radogno	Mr. President
Garrett	Lauzen	Raoul	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

On motion of Senator Crotty, **Senate Bill No. 1586**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, “Shall this bill pass?” it was decided in the affirmative by the following vote:

YEAS 55; NAYS None.

The following voted in the affirmative:

Althoff	Harmon	Link	Rezin
Bivins	Holmes	Luechtefeld	Righter
Bomke	Hunter	Maloney	Sandack
Brady	Hutchinson	Martinez	Sandoval
Clayborne	Jacobs	McCann	Schmidt
Collins, J.	Johnson, C.	McCarter	Schoenberg
Crotty	Johnson, T.	Millner	Silverstein
Cultra	Jones, J.	Mulroe	Steans
Delgado	Koehler	Muñoz	Sullivan
Dillard	Kotowski	Murphy	Syverson
Duffy	LaHood	Noland	Trotter
Forby	Landek	Pankau	Wilhelmi
Frerichs	Lauzen	Radogno	Mr. President
Haine	Lightford	Raoul	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

On motion of Senator Frerichs, **Senate Bill No. 1602**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, “Shall this bill pass?” it was decided in the affirmative by the following vote:

YEAS 56; NAYS None.

The following voted in the affirmative:

Althoff	Harmon	Luechtefeld	Sandack
Bivins	Holmes	Maloney	Sandoval
Bomke	Hunter	Martinez	Schmidt
Brady	Hutchinson	McCann	Schoenberg
Clayborne	Jacobs	McCarter	Silverstein
Collins, J.	Johnson, C.	Millner	Steans
Crotty	Johnson, T.	Mulroe	Sullivan

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Cultra	Jones, J.	Muñoz	Syverson
Delgado	Koehler	Murphy	Trotter
Dillard	Kotowski	Noland	Wilhelmi
Duffy	LaHood	Pankau	Mr. President
Forby	Landek	Radogno	
Frerichs	Lauzen	Raoul	
Garrett	Lightford	Rezin	
Haine	Link	Righter	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

On motion of Senator Frerichs, **Senate Bill No. 1603**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, “Shall this bill pass?” it was decided in the affirmative by the following vote:

YEAS 55; NAYS None.

The following voted in the affirmative:

Althoff	Harmon	Link	Rezin
Bivins	Holmes	Luechtefeld	Righter
Bomke	Hunter	Maloney	Sandack
Brady	Hutchinson	Martinez	Sandoval
Clayborne	Jacobs	McCann	Schmidt
Collins, J.	Johnson, C.	McCarter	Schoenberg
Crotty	Johnson, T.	Millner	Silverstein
Cultra	Jones, J.	Mulroe	Steans
Delgado	Koehler	Muñoz	Sullivan
Dillard	Kotowski	Murphy	Syverson
Duffy	LaHood	Noland	Trotter
Forby	Landek	Pankau	Wilhelmi
Frerichs	Lauzen	Radogno	Mr. President
Haine	Lightford	Raoul	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

On motion of Senator Jacobs, **Senate Bill No. 1607**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, “Shall this bill pass?” it was decided in the affirmative by the following vote:

YEAS 56; NAYS None.

The following voted in the affirmative:

Althoff	Harmon	Luechtefeld	Sandack
Bivins	Holmes	Maloney	Sandoval
Bomke	Hunter	Martinez	Schmidt
Brady	Hutchinson	McCann	Schoenberg
Clayborne	Jacobs	McCarter	Silverstein

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Collins, J.	Johnson, C.	Millner	Steans
Crotty	Johnson, T.	Mulroe	Sullivan
Cultra	Jones, J.	Muñoz	Syverson
Delgado	Koehler	Murphy	Trotter
Dillard	Kotowski	Noland	Wilhelmi
Duffy	LaHood	Pankau	Mr. President
Forby	Landek	Radogno	
Frerichs	Laufen	Raoul	
Garrett	Lightford	Rezin	
Haine	Link	Righter	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

On motion of Senator Jacobs, **Senate Bill No. 1608**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 55; NAYS None.

The following voted in the affirmative:

Althoff	Haine	Lightford	Raoul
Bivins	Harmon	Link	Rezin
Bomke	Holmes	Luechtefeld	Righter
Brady	Hunter	Maloney	Sandack
Clayborne	Hutchinson	Martinez	Sandoval
Collins, J.	Jacobs	McCann	Schmidt
Crotty	Johnson, C.	McCarter	Schoenberg
Cultra	Johnson, T.	Millner	Silverstein
Delgado	Jones, J.	Mulroe	Steans
Dillard	Koehler	Muñoz	Sullivan
Duffy	Kotowski	Murphy	Trotter
Forby	LaHood	Noland	Wilhelmi
Frerichs	Landek	Pankau	Mr. President
Garrett	Laufen	Radogno	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

On motion of Senator Jacobs, **Senate Bill No. 1609**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 42; NAYS 12.

The following voted in the affirmative:

Bivins	Harmon	Luechtefeld	Sandack
Bomke	Holmes	Maloney	Sandoval
Brady	Hunter	Martinez	Schmidt

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Clayborne	Hutchinson	McCarter	Silverstein
Collins, J.	Jacobs	Mulroe	Steans
Crotty	Johnson, C.	Murphy	Sullivan
Delgado	Jones, J.	Noland	Trotter
Dillard	Koehler	Radogno	Wilhelmi
Forby	Kotowski	Raoul	Mr. President
Frerichs	Lightford	Rezin	
Haine	Link	Righter	

The following voted in the negative:

Althoff	Johnson, T.	McCann
Cultra	LaHood	Millner
Duffy	Landek	Pankau
Garrett	Lauzen	Syverson

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

SENATE BILL RECALLED

On motion of Senator J. Jones, **Senate Bill No. 1610** was recalled from the order of third reading to the order of second reading.

Senator J. Jones offered the following amendment and moved its adoption:

AMENDMENT NO. 2 TO SENATE BILL 1610

AMENDMENT NO. 2. Amend Senate Bill 1610, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 5. The State Records Act is amended by changing Section 16 as follows:
(5 ILCS 160/16) (from Ch. 116, par. 43.19)

Sec. 16. There is created the State Records Commission. The Commission shall consist of the following State officials or their authorized representatives: the Secretary of State, who shall act as chairman; the State Historian, who shall serve as secretary; the State Treasurer; the Director of Central Management Services; the Attorney General; and the State Comptroller. The Commission shall meet whenever called by the chairman, who shall have no vote on matters considered by the Commission. It shall be the duty of the Commission to determine what records no longer have any administrative, fiscal, legal, research, or historical value and should be destroyed or disposed of otherwise. The Commission may make recommendations to the Secretary of State concerning policies, guidelines, and best practices for addressing electronic records management issues as authorized under Section 37 of the Government Electronic Records Act.

(Source: P.A. 92-866, eff. 1-3-03.)

Section 10. The Government Electronic Records Act is amended by changing Section 10 and adding Section 37 as follows:

(20 ILCS 35/10)

Sec. 10. Definitions.

"Commission" means the State Records Commission created under Section 16 of the State Records Act.

~~"Board" means the Electronic Records Advisory Board.~~

"Electronic transfer" means transfer of documents or reports by electronic means. Appropriate electronic transfer includes, but is not limited to, transfer by electronic mail, facsimile transmission, or posting downloadable versions on an Internet website, with electronic notice of the posting.

"Government agency" means all parts, boards, and commissions of the executive branch of the State government including, but not limited to, State colleges and universities and their governing boards and all departments established by the Civil Administrative Code of Illinois.

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"Record" has the meaning ascribed to it in the Illinois State Records Act (5 ILCS 160/).
(Source: P.A. 96-1363, eff. 7-28-10.)

(20 ILCS 35/37 new)

Sec. 37. Recommendations concerning electronic records management issues. The State Records Commission may make recommendations to the Secretary of State concerning policies, guidelines, and best practices for addressing electronic records management issues. After receiving recommendations from the Commission, the Secretary of State shall, as soon as practical, post the Commission's recommendations on its official Internet website and distribute those recommendations to all government agencies.

(20 ILCS 35/30 rep.) (20 ILCS 35/40 rep.)

Section 15. The Government Electronic Records Act is amended by repealing Sections 30 and 40.

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

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 2 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING BILL OF THE SENATE A THIRD TIME

On motion of Senator J. Jones, **Senate Bill No. 1610**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 55; NAYS None.

The following voted in the affirmative:

Althoff	Garrett	Link	Rezin
Bivins	Haine	Luechtefeld	Righter
Bomke	Harmon	Maloney	Sandack
Brady	Holmes	Martinez	Sandoval
Clayborne	Hunter	McCann	Schmidt
Collins, A.	Jacobs	McCarter	Schoenberg
Collins, J.	Johnson, C.	Millner	Silverstein
Crotty	Johnson, T.	Mulroe	Steans
Cultra	Jones, J.	Muñoz	Sullivan
Delgado	Kotowski	Murphy	Syverson
Dillard	LaHood	Noland	Trotter
Duffy	Landek	Pankau	Wilhelmi
Forby	Lauzen	Radogno	Mr. President
Frerichs	Lightford	Raoul	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

SENATE BILL RECALLED

On motion of Senator Martinez, **Senate Bill No. 1613** was recalled from the order of third reading to the order of second reading.

Senator Martinez offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO SENATE BILL 1613

[April 14, 2011]

AMENDMENT NO. 1. Amend Senate Bill 1613 on page 2, immediately below line 5, by inserting the following:

"Notwithstanding any other provision of this subsection (a), trustees and board members shall not be indemnified for willful misconduct and gross negligence."

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING BILLS OF THE SENATE A THIRD TIME

On motion of Senator Martinez, **Senate Bill No. 1613**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 56; NAYS None.

The following voted in the affirmative:

Althoff	Haine	Luechtefeld	Sandack
Bivins	Holmes	Maloney	Sandoval
Bomke	Hunter	Martinez	Schmidt
Brady	Hutchinson	McCann	Schoenberg
Clayborne	Jacobs	McCarter	Silverstein
Collins, A.	Johnson, C.	Millner	Steans
Collins, J.	Johnson, T.	Mulroe	Sullivan
Crotty	Jones, J.	Muñoz	Syverson
Cultra	Koehler	Murphy	Trotter
Delgado	Kotowski	Noland	Wilhelmi
Dillard	LaHood	Pankau	Mr. President
Duffy	Landek	Radogno	
Forby	Lauzen	Raoul	
Frerichs	Lightford	Rezin	
Garrett	Link	Righter	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

On motion of Senator Mulroe, **Senate Bill No. 1631**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 58; NAYS None.

The following voted in the affirmative:

Althoff	Haine	Link	Rezin
Bivins	Harmon	Luechtefeld	Righter
Bomke	Holmes	Maloney	Sandack
Brady	Hunter	Martinez	Sandoval
Clayborne	Hutchinson	McCann	Schmidt
Collins, A.	Jacobs	McCarter	Schoenberg

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Collins, J.	Johnson, C.	Meeks	Silverstein
Crotty	Johnson, T.	Millner	Steans
Cultra	Jones, J.	Mulroe	Sullivan
Delgado	Koehler	Muñoz	Syverson
Dillard	Kotowski	Murphy	Trotter
Duffy	LaHood	Noland	Wilhelmi
Forby	Landek	Pankau	Mr. President
Frerichs	Lauzen	Radogno	
Garrett	Lightford	Raoul	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

On motion of Senator Althoff, **Senate Bill No. 1637**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 57; NAYS None.

The following voted in the affirmative:

Althoff	Haine	Luechtefeld	Righter
Bivins	Harmon	Maloney	Sandack
Bomke	Holmes	Martinez	Sandoval
Brady	Hunter	McCann	Schmidt
Clayborne	Hutchinson	McCarter	Schoenberg
Collins, A.	Jacobs	Meeks	Silverstein
Collins, J.	Johnson, C.	Millner	Steans
Crotty	Johnson, T.	Mulroe	Sullivan
Cultra	Jones, J.	Muñoz	Syverson
Delgado	Koehler	Murphy	Trotter
Dillard	Kotowski	Noland	Wilhelmi
Duffy	Landek	Pankau	Mr. President
Forby	Lauzen	Radogno	
Frerichs	Lightford	Raoul	
Garrett	Link	Rezin	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

SENATE BILL RECALLED

On motion of Senator Wilhelmi, **Senate Bill No. 1651** was recalled from the order of third reading to the order of second reading.

Senator Wilhelmi offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO SENATE BILL 1651

AMENDMENT NO. 1. Amend Senate Bill 1651 by replacing everything after the enacting clause with the following:

"Section 5. The Common Interest Community Association Act is amended by changing Sections 1-5, 1-15, 1-20, 1-25, 1-30, 1-35, 1-40, 1-45, 1-55, 1-60, and 1-75 and by adding Section 1-80 as follows:

[April 14, 2011]

(765 ILCS 160/1-5)

Sec. 1-5. Definitions. As used in this Act, unless the context otherwise requires:

"Association" or "common interest community association" means the association of all the unit owners of a common interest community, acting pursuant to bylaws through its duly elected board of managers or board of directors.

"Board" means a common interest community association's board of managers or board of directors, whichever is applicable.

"Board member" or "member of the board" means a member of the board of managers or the board of directors, whichever is applicable.

"Board of directors" means, for a common interest community that has been incorporated as an Illinois not-for-profit corporation, the group of people elected by the unit owners of a common interest community as the governing body to exercise for the unit owners of the common interest community association all powers, duties, and authority vested in the board of directors under this Act and the common interest community association's declaration and bylaws.

"Board of managers" means, for a common interest community that is an unincorporated association, the group of people elected by the unit owners of a common interest community as the governing body to exercise for the unit owners of the common interest community association all powers, duties, and authority vested in the board of managers under this Act and the common interest community association's declaration and bylaws.

"Building" means all structures, attached or unattached, containing one or more units.

"Common areas" means the portion of the property other than a unit.

"Common expenses" means the proposed or actual expenses affecting the property, including reserves, if any, lawfully assessed by the common interest community association.

"Common interest community" means real estate other than a condominium or cooperative with respect to which any person by virtue of his or her ownership of a partial interest or a unit therein is obligated to pay for the maintenance, improvement, insurance premiums or real estate taxes of common areas described in a declaration which is administered by an association. "Common interest community" may include, but not be limited to, an attached or detached townhome, villa, or single-family home, ~~or master association.~~ A "common interest community" does not include a master association.

"Community instruments" means all documents and authorized amendments thereto recorded by a developer or common interest community association, including, but not limited to, the declaration, bylaws, plat of survey, and rules and regulations.

"Declaration" means any duly recorded instruments, however designated, that have created a common interest community and any duly recorded amendments to those instruments.

"Developer" means any person who submits property legally or equitably owned in fee simple by the person to the provisions of this Act, or any person who offers units legally or equitably owned in fee simple by the person for sale in the ordinary course of such person's business, including any successor to such person's entire interest in the property other than the purchaser of an individual unit.

"Developer control" means such control at a time prior to the election of the board of the common interest community association by a majority of the unit owners other than the developer.

"Majority" or "majority of the unit owners" means the owners of more than 50% in the aggregate in interest of the undivided ownership of the common elements. Any specified percentage of the unit owners means such percentage in the aggregate in interest of such undivided ownership. "Majority" or "majority of the members of the board of the common interest community association" means more than 50% of the total number of persons constituting such board pursuant to the bylaws. Any specified percentage of the members of the common interest community association means that percentage of the total number of persons constituting such board pursuant to the bylaws.

"Management company" or "community association manager" means a person, partnership, corporation, or other legal entity entitled to transact business on behalf of others, acting on behalf of or as an agent for an association for the purpose of carrying out the duties, responsibilities, and other obligations necessary for the day to day operation and management of any property subject to this Act.

"Master association" means ~~an a common interest community~~ association that exercises its powers on behalf of one or more condominium or other common interest community associations ~~or both,~~ ~~or~~ for the benefit of unit owners in such associations.

"Meeting of the board" or "board meeting" means any gathering of a quorum of the members of the board of the common interest community association held for the purpose of conducting board business.

"Member" means the person or entity entitled to one vote as defined by the community instruments.

"Membership" means the collective group of members entitled to vote as defined by the community instruments.

"Parcel" means the lot or lots or tract or tracts of land described in the declaration as part of a common interest community.

"Person" means a natural individual, corporation, partnership, trustee, or other legal entity capable of holding title to real property.

"Plat" means a plat or plats of survey of the parcel and of all units in the common interest community, which may consist of a three-dimensional horizontal and vertical delineation of all such units, structures, easements, and common areas on the property.

"Prescribed delivery method" means mailing, delivering, posting in an association publication that is routinely mailed to all unit owners, or any other delivery method that is approved in writing by the unit owner.

"Property" means all the land, property, and space comprising the parcel, all improvements and structures erected, constructed or contained therein or thereon, including any building and all easements, rights, and appurtenances belonging thereto, and all fixtures and equipment intended for the mutual use, benefit, or enjoyment of the unit owners, under the authority or control of a common interest community association.

"Purchaser" means any person or persons, other than the developer, who purchase a unit in a bona fide transaction for value.

"Record" means to record in the office of the recorder of the county wherein the property is located.

"Reserves" means those sums paid by unit owners which are separately maintained by the common interest community association for purposes specified by the declaration and bylaws of the common interest community association.

"Unit" means a part of the property designed and intended for any type of independent use.

"Unit owner" means the person or persons whose estates or interests, individually or collectively, aggregate fee simple absolute ownership of a unit.

(Source: P.A. 96-1400, eff. 7-29-10.)

(765 ILCS 160/1-15)

Sec. 1-15. Construction, interpretation, and validity of community instruments.

(a) Except to the extent otherwise provided by the declaration or other community instruments, the terms defined in Section 1-5 of this Act shall be deemed to have the meaning specified therein unless the context otherwise requires.

(b) All provisions of the declaration, bylaws, and other community instruments are severable.

(c) A provision in the declaration limiting ownership, rental, or occupancy of a unit to a person 55 years of age or older shall be valid and deemed not to be in violation of Article 3 of the Illinois Human Rights Act provided that the person or the immediate family of a person owning, renting, or lawfully occupying such unit prior to the recording of the initial declaration shall not be deemed to be in violation of such age restriction so long as they continue to own or reside in such unit.

(d) Every common interest community association shall define a member and its relationship to the units or unit owners in its community instruments.

(Source: P.A. 96-1400, eff. 7-29-10.)

(765 ILCS 160/1-20)

Sec. 1-20. Amendments to the declaration or bylaws.

(a) The administration of every property shall be governed by the declaration and bylaws, which may either be embodied in the declaration or in a separate instrument, a true copy of which shall be appended to and recorded with the declaration. No modification or amendment of the declaration or bylaws shall be valid unless the same is set forth in an amendment thereof and such amendment is duly recorded. An amendment of the declaration or bylaws shall be deemed effective upon recordation, unless the amendment sets forth a different effective date.

(b) Unless otherwise provided by this Act, amendments to community instruments authorized to be recorded shall be executed and recorded by the president of the board or such other officer authorized by the common interest community association or the community instruments declaration.

(c) If an association that currently permits leasing amends its declaration, bylaws, or rules and regulations to prohibit leasing, nothing in this Act or the declarations, bylaws, rules and regulations of an association shall prohibit a unit owner incorporated under 26 USC 501(c)(3) which is leasing a unit at the time of the prohibition from continuing to do so until such time that the unit owner voluntarily sells the unit; and no special fine, fee, dues, or penalty shall be assessed against the unit owner for leasing its unit.

(Source: P.A. 96-1400, eff. 7-29-10.)

(765 ILCS 160/1-25)

Sec. 1-25. Board of managers, board of directors, duties, elections, and voting.

[April 14, 2011]

(a) There shall be an annual election of the board of managers or board of directors from among the membership unit owners of a common interest community association.

(b) ~~(Blank). The terms of at least one third of the members of the board shall expire annually and all members of the board shall be elected at large.~~

(c) The members of the board shall serve without compensation, unless the community instruments indicate otherwise.

(d) No member of the board or officer shall be elected for a term of more than 3 years, but officers and board members may succeed themselves.

(e) If there is a vacancy on the board, the remaining members of the board may fill the vacancy by a two-thirds vote of the remaining board members until the next annual meeting of the membership unit owners or until members unit owners holding 20% of the votes of the association request a meeting of the members unit owners to fill the vacancy for the balance of the term. A meeting of the members unit owners shall be called for purposes of filling a vacancy on the board no later than 30 days following the filing of a petition signed by membership unit owners holding 20% of the votes of the association requesting such a meeting.

(f) There shall be an election of a:

(1) president from among the members of the board, who shall preside over the meetings of the board and of the membership unit owners;

(2) secretary from among the members of the board, who shall keep the minutes of all meetings of the board and of the membership unit owners and who shall, in general, perform all the duties incident to the office of secretary; and

(3) treasurer from among the members of the board, who shall keep the financial records and books of account.

(g) If no election is held to elect board members within the time period specified in the bylaws, or within a reasonable amount of time thereafter not to exceed 90 days, then 20% of the members unit owners may bring an action to compel compliance with the election requirements specified in the bylaws. If the court finds that an election was not held to elect members of the board within the required period due to the bad faith acts or omissions of the board of managers or the board of directors, the unit owners shall be entitled to recover their reasonable attorney's fees and costs from the association. If the relevant notice requirements have been met and an election is not held solely due to a lack of a quorum, then this subsection (g) does not apply.

(h) Where there is more than one owner of a unit and there is only one member vote associated with that unit, if only one of the multiple owners is present at a meeting of the membership association, he or she is entitled to cast the member vote associated with that unit ~~all the votes allocated to that unit~~.

(h-5) A member unit owner may vote:

(1) by proxy executed in writing by the member unit owner or by his or her duly authorized attorney in

fact, provided, however, that the proxy bears the date of execution. Unless the community instruments or the written proxy itself provide otherwise, proxies will not be valid for more than 11 months after the date of its execution; or

(2) by submitting an association-issued ballot in person at the election meeting; or

(3) by submitting an association-issued ballot to the association or its designated agent by mail or other means of delivery specified in the declaration or bylaws.

(i) The association may, upon adoption of the appropriate rules by the board, conduct elections by secret ballot, distributed by the association, whereby the voting ballot is marked only with the voting interest for the member unit and the vote itself, provided that the association shall further adopt rules to verify the status of the member unit owner issuing a proxy or casting a ballot. A candidate for election to the board or such candidate's representative shall have the right to be present at the counting of ballots at such election.

(j) Upon proof of purchase, the ~~The~~ purchaser of a unit from a seller other than the developer pursuant to an installment contract for purchase shall, during such times as he or she resides in the unit, be counted toward a quorum for purposes of election of members of the board at any meeting of the membership unit owners called for purposes of electing members of the board, shall have the right to vote for the ~~election of members of the board~~ of the common interest community association and to be elected to and serve on the board unless the seller expressly retains in writing any or all of such rights.

(Source: P.A. 96-1400, eff. 7-29-10.)

(765 ILCS 160/1-30)

Sec. 1-30. Board duties and obligations; records.

(a) The board shall meet at least 4 times annually.

(b) A member of the board of the common interest community association may not enter into a contract with a current board member, or with a corporation or partnership in which a board member or a member of his or her immediate family has 25% or more interest, unless notice of intent to enter into the contract is given to unit owners within 20 days after a decision is made to enter into the contract and the unit owners are afforded an opportunity by filing a petition, signed by 20% of the ~~membership unit owners~~, for an election to approve or disapprove the contract; such petition shall be filed within 20 days after such notice and such election shall be held within 30 days after filing the petition. For purposes of this subsection, a board member's immediate family means the board member's spouse, parents, and children.

(c) The bylaws shall provide for the maintenance, repair, and replacement of the common areas and payments therefor, including the method of approving payment vouchers.

(d) (Blank).

(e) The association may engage the services of a manager or management company.

(f) The association shall have one class of membership unless the declaration or bylaws provide otherwise; however, this subsection (f) shall not be construed to limit the operation of subsection (c) of Section 1-20 of this Act.

(g) The board shall have the power, after notice and an opportunity to be heard, to levy and collect reasonable fines from unit owners for violations of the declaration, bylaws, and rules and regulations of the common interest community association.

(h) Other than attorney's fees and court costs, no fees pertaining to the collection of a unit owner's financial obligation to the association, including fees charged by a manager or managing agent, shall be added to and deemed a part of a unit owner's respective share of the common expenses unless: (i) the managing agent fees relate to the costs to collect common expenses for the association; (ii) the fees are set forth in a contract between the managing agent and the association; and (iii) the authority to add the management fees to a unit owner's respective share of the common expenses is specifically stated in the declaration or bylaws of the association.

(i) Board records.

(1) The board shall maintain the following records of the association and make them available for examination and copying at convenient hours of weekdays by any unit owner in a common interest community subject to the authority of the board, their mortgagees, and their duly authorized agents or attorneys:

(i) Copies of the recorded declaration, other community instruments, other duly recorded covenants and bylaws and any amendments, articles of incorporation, annual reports, and any rules and regulations adopted by the board shall be available. Prior to the organization of the board, the developer shall maintain and make available the records set forth in this paragraph (i) for examination and copying.

(ii) Detailed and accurate records in chronological order of the receipts and expenditures affecting the common areas, specifying and itemizing the maintenance and repair expenses of the common areas and any other expenses incurred, and copies of all contracts, leases, or other agreements entered into by the board shall be maintained.

(iii) The minutes of all meetings of the board which shall be maintained for not less than 7 years.

(iv) With a written statement of a proper purpose, ballots and proxies related thereto, if any, for any election held for the board and for any other matters voted on by the unit owners, which shall be maintained for not less than one year.

(v) With a written statement of a proper purpose, such other records of the board as are available for inspection by members of a not-for-profit corporation pursuant to Section 107.75 of the General Not For Profit Corporation Act of 1986 shall be maintained.

(vi) With respect to units owned by a land trust, a living trust, or other legal entity, the trustee, officer, or manager of the entity may designate, in writing, a person to cast votes on behalf of the unit owner and a designation shall remain in effect until a subsequent document is filed with the association.

(2) Where a request for records under this subsection is made in writing to the board or its agent, failure to provide the requested record or to respond within 30 days shall be deemed a denial by the board.

(3) A reasonable fee may be charged by the board for the cost of retrieving and copying records properly requested.

(4) If the board fails to provide records properly requested under paragraph (1) of this subsection (i) within the time period provided in that paragraph (1), the unit owner may seek

appropriate relief and shall be entitled to an award of reasonable attorney's fees and costs if the unit owner prevails and the court finds that such failure is due to the acts or omissions of the board of managers or the board of directors.

(j) The board shall have standing and capacity to act in a representative capacity in relation to matters involving the common areas or more than one unit, on behalf of the unit owners as their interests may appear.

(Source: P.A. 96-1400, eff. 7-29-10.)

(765 ILCS 160/1-35)

Sec. 1-35. Unit owner powers, duties, and obligations.

(a) The provisions of this Act, the declaration, bylaws, other community instruments, and rules and regulations that relate to the use of an individual unit or the common areas shall be applicable to any person leasing a unit and shall be deemed to be incorporated in any lease executed or renewed on or after the effective date of this Act. With regard to any lease entered into subsequent to the effective date of this Act, the unit owner leasing the unit shall deliver a copy of the signed lease to the association or if the lease is oral, a memorandum of the lease, not later than the date of occupancy or 10 days after the lease is signed, whichever occurs first.

(b) If there are multiple owners of a single unit, only one of the multiple owners shall be eligible to serve as a member of the board at any one time.

(c) Two-thirds of the ~~membership unit owners~~ may remove a board member as a director at a duly ~~duty~~ called special meeting ~~of the unit owners~~.

(d) In the event of any resale of a unit in a common interest community association by a unit owner other than the developer, the board shall make available for inspection to the prospective purchaser, upon demand, the following:

(1) A copy of the declaration, other instruments, and any rules and regulations.

(2) A statement of any liens, including a statement of the account of the unit setting forth the amounts of unpaid assessments and other charges due and owing.

(3) A statement of any capital expenditures anticipated by the association within the current or succeeding 2 fiscal years.

(4) A statement of the status and amount of any reserve ~~or for~~ replacement fund and any other fund ~~specifically designated for association projects~~ ~~portion of such fund earmarked for any specified project by the board~~.

(5) A copy of the statement of financial condition of the association for the last fiscal year for which such a statement is available.

(6) A statement of the status of any pending suits or judgments in which the association is a party.

(7) A statement setting forth what insurance coverage is provided for all unit owners by the association.

~~(8) A statement that any improvements or alterations made to the unit, or any part of the common areas assigned thereto, by the prior unit owner are in good faith believed to be in compliance with the declaration of the association.~~

The principal officer of the board or such other officer as is specifically designated shall furnish the above information within 30 days after receiving a written request for such information.

A reasonable fee covering the direct out-of-pocket cost of copying and providing such information may be charged by the association or the board to the unit seller for providing the information.

(Source: P.A. 96-1400, eff. 7-29-10.)

(765 ILCS 160/1-40)

Sec. 1-40. Meetings.

(a) ~~Notice~~ Written notice of any membership meeting shall be given detailing the time, place, and purpose of such meeting mailed or delivered giving members no less than 10 and no more than 30 days prior to the meeting through a prescribed delivery method ~~notice of the time, place, and purpose of such meeting~~.

(b) Meetings.

(1) Twenty percent of the ~~membership unit owners~~ shall constitute a quorum, unless the community instruments indicate a lesser amount otherwise.

(2) The ~~membership unit owners~~ shall hold an annual meeting, ~~one of the purposes of which shall be to elect members of the board of managers or board of directors of the common interest community association~~. The board of directors may be elected at the annual meeting.

(3) Special meetings of the board may be called by the president, ~~by~~ or 25% of the members of

the board, ~~or by any other method that is prescribed in the community instruments.~~ Special meetings of the membership unit owners may be called by the president, the board, ~~or by 20% of the membership, or any other method that is prescribed in the community instruments~~ unit owners.

(4) Except to the extent otherwise provided by this Act, the board shall give the unit owners notice of all board meetings at least 48 hours prior to the meeting by sending notice by using a prescribed delivery method ~~mail, personal delivery~~, or by posting copies of notices of meetings in entranceways, elevators, or other conspicuous places in the common areas of the common interest community at least 48 hours prior to the meeting except where there is no common entranceway for 7 or more units, the board may designate one or more locations in the proximity of these units where the notices of meetings shall be posted. The board shall give unit owners ~~by mail or personal delivery~~, notice of any board meeting through a prescribed delivery method, concerning the adoption of (i) the proposed annual budget, (ii) regular assessments, or (iii) a separate or special assessment within 10 to ~~60~~ 30 days prior to the meeting, unless otherwise provided in Section 1-45 (a) or any other provision of this Act.

(5) Meetings of the board shall be open to any unit owner, except for the portion of any meeting held (i) to discuss litigation when an action against or on behalf of the particular association has been filed and is pending in a court or administrative tribunal, or when the common interest community association finds that such an action is probable or imminent, (ii) to consider third party contracts or information regarding appointment, employment, or dismissal of an employee, or (iii) to discuss violations of rules and regulations of the association or a unit owner's unpaid share of common expenses. Any vote on these matters shall be taken at a meeting or portion thereof open to any unit owner.

(6) The board must reserve a portion of the meeting of the board for comments by unit owners; provided, however, the duration and meeting order for the unit owner comment period is within the sole discretion of the board.

(Source: P.A. 96-1400, eff. 7-29-10.)

(765 ILCS 160/1-45)

Sec. 1-45. Finances.

(a) Each unit owner shall receive through a prescribed delivery method, at least 30 days but not more than 60 days prior to the adoption thereof by the

board, a copy of the proposed annual budget together with an indication of which portions are intended for reserves, capital expenditures or repairs or payment of real estate taxes.

(b) The board shall provide all unit owners with a reasonably detailed summary of the receipts, common expenses, and reserves for the preceding budget year. The board shall (i) make available for review annually ~~supply~~ to all unit owners an itemized accounting of the common expenses for the preceding year actually incurred or paid, together with an indication of which portions were for reserves, capital expenditures or repairs or payment of real estate taxes and with a tabulation of the amounts collected pursuant to the budget or assessment, and showing the net excess or deficit of income over expenditures plus reserves or (ii) provide a consolidated annual independent audit report of the financial status of all fund accounts within the association.

(c) If an adopted budget or any separate assessment adopted by the board would result in the sum of all regular and separate assessments payable in the current fiscal year exceeding 115% of the sum of all regular and separate assessments payable during the preceding fiscal year, the common interest community association, upon written petition by unit owners with 20% of the votes of the association delivered to the board within 14 days of the board action, shall call a meeting of the unit owners within 30 days of the date of delivery of the petition to consider the budget or separate assessment; unless a majority of the total votes of the unit owners are cast at the meeting to reject the budget or separate assessment, it shall be deemed ratified.

(d) Any common expense not set forth in the budget or any increase in assessments over the amount adopted in the budget shall be separately assessed against all unit owners.

(e) Separate assessments for expenditures relating to emergencies or mandated by law may be adopted by the board without being subject to unit owner approval or the provisions of subsection (c) or (f) of this Section. As used herein, "emergency" means an immediate danger to the structural integrity of the common areas or to the life, health, safety, or property of the unit owners.

(f) Assessments for additions and alterations to the common areas or to association-owned property not included in the adopted annual budget, shall be separately assessed and are subject to approval of two-thirds of the total members at a meeting called for that purpose ~~votes of all unit owners~~.

(g) The board may adopt separate assessments payable over more than one fiscal year. With

respect to multi-year assessments not governed by subsections (e) and (f) of this Section, the entire amount of the multi-year assessment shall be deemed considered and authorized in the first fiscal year in which the assessment is approved.

(h) The board of a common interest community association shall have the authority to establish and maintain a system of master metering of public utility services to collect payments in conjunction therewith, subject to the requirements of the Tenant Utility Payment Disclosure Act.

(Source: P.A. 96-1400, eff. 7-29-10.)

(765 ILCS 160/1-55)

Sec. 1-55. Fidelity insurance. An association with 30 or more units shall obtain and maintain fidelity insurance covering persons who control or disburse funds of the association for the maximum amount of coverage ~~that is commercially or reasonably required available~~ to protect funds in the custody or control of the association ~~plus the association reserve fund~~. All management companies which are responsible for the funds held or administered by the association shall maintain and furnish to the association a fidelity bond for the maximum amount of coverage ~~that is commercially or reasonably required available~~ to protect funds in the custody of the management company at any time. The association shall bear the cost of the fidelity insurance and fidelity bond, unless otherwise provided by contract between the association and a management company.

(Source: P.A. 96-1400, eff. 7-29-10.)

(765 ILCS 160/1-60)

Sec. 1-60. Errors and omissions.

(a) If there is an omission or error in the declaration or other instrument of the association, the association may correct the error or omission by an amendment to the declaration or other instrument, as may be required to conform it to this Act, to any other applicable statute, or to the declaration. The amendment shall be adopted by vote of two-thirds of the members of the board of directors or by a majority vote of the ~~members unit owners~~ at a meeting called for that purpose, unless the Act or the declaration of the association specifically provides for greater percentages or different procedures.

(b) If, through a scrivener's error, a unit has not been designated as owning an appropriate undivided share of the common areas or does not bear an appropriate share of the common expenses, or if all of the common expenses or all of the common elements have not been distributed in the declaration, so that the sum total of the shares of common areas which have been distributed or the sum total of the shares of the common expenses fail to equal 100%, or if it appears that more than 100% of the common elements or common expenses have been distributed, the error may be corrected by operation of law by filing an amendment to the declaration, approved by vote of two-thirds of the members of the board or a majority vote of the ~~members unit owners~~ at a meeting called for that purpose, which proportionately adjusts all percentage interests so that the total is equal to 100%, unless the declaration specifically provides for a different procedure or different percentage vote by the owners of the units and the owners of mortgages thereon affected by modification being made in the undivided interest in the common areas, the number of votes in the association or the liability for common expenses appertaining to the unit.

(c) If a scrivener's error in the declaration or other instrument is corrected by vote of two-thirds of the members of the board pursuant to the authority established in subsection (a) or subsection (b), the board, upon written petition by ~~members unit owners~~ with 20% of the votes of the association received within 30 days of the board action, shall call a meeting of the ~~members unit owners~~ within 30 days of the filing of the petition to consider the board action. Unless a majority of the votes of the ~~members unit owners~~ of the association are cast at the meeting to reject the action, it is ratified whether or not a quorum is present.

(d) Nothing contained in this Section shall be construed to invalidate any provision of a declaration authorizing the developer to amend an instrument prior to the latest date on which the initial membership meeting of the unit owners must be held, whether or not it has actually been held, to bring the instrument into compliance with the legal requirements of the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal Housing Administration, the United States Department of Veterans Affairs, or their respective successors and assigns.

(Source: P.A. 96-1400, eff. 7-29-10.)

(765 ILCS 160/1-75)

Sec. 1-75. Exemptions for small community interest communities.

(a) A common interest community association organized under the General Not for Profit Corporation Act of 1986 and having either (i) 10 units or less or (ii) annual budgeted assessments of \$100,000 or less shall be exempt from this Act unless the association affirmatively elects to be covered by this Act by a majority of its directors ~~or members and unit owners~~.

(b) Common interest community associations which in their declaration, bylaws, or other governing

documents provide that the association may not use the courts or an arbitration process to collect or enforce assessments, fines, or similar levies and common interest community associations (i) of 10 units or less or (ii) having annual budgeted assessments of \$50,000 or less shall be exempt from subsection (a) of Section 1-30, subsections (a) and (b) of Section 1-40, and Section 1-55 but shall be required to provide notice of meetings to unit owners in a manner and at a time that will allow unit owners to participate in those meetings.

(Source: P.A. 96-1400, eff. 7-29-10.)

(765 ILCS 160/1-80 new)

Sec. 1-80. Compliance. A common interest community association shall be in full compliance with the provisions of this Act no later than January 1, 2012.

Section 10. The Condominium Property Act is amended by changing Section 18.5 as follows:

(765 ILCS 605/18.5) (from Ch. 30, par. 318.5)

Sec. 18.5. Master Associations.

(a) If the declaration, other condominium instrument, or other duly recorded covenants provide that any of the powers of the unit owners associations are to be exercised by or may be delegated to a nonprofit corporation or unincorporated association that exercises those or other powers on behalf of one or more condominiums, or for the benefit of the unit owners of one or more condominiums, such corporation or association shall be a master association.

(b) There shall be included in the declaration, other condominium instruments, or other duly recorded covenants establishing the powers and duties of the master association the provisions set forth in subsections (c) through (h).

In interpreting subsections (c) through (h), the courts should interpret these provisions so that they are interpreted consistently with the similar parallel provisions found in other parts of this Act.

(c) Meetings and finances.

(1) Each unit owner of a condominium subject to the authority of the board of the master association shall receive, at least 30 days prior to the adoption thereof by the board of the master association, a copy of the proposed annual budget.

(2) The board of the master association shall annually supply to all unit owners of condominiums subject to the authority of the board of the master association an itemized accounting of the common expenses for the preceding year actually incurred or paid, together with a tabulation of the amounts collected pursuant to the budget or assessment, and showing the net excess or deficit of income over expenditures plus reserves.

(3) Each unit owner of a condominium subject to the authority of the board of the master association shall receive written notice mailed or delivered no less than 10 and no more than 30 days prior to any meeting of the board of the master association concerning the adoption of the proposed annual budget or any increase in the budget, or establishment of an assessment.

(4) Meetings of the board of the master association shall be open to any unit owner in a condominium subject to the authority of the board of the master association, except for the portion of any meeting held:

(A) to discuss litigation when an action against or on behalf of the particular master association has been filed and is pending in a court or administrative tribunal, or when the board of the master association finds that such an action is probable or imminent,

(B) to consider information regarding appointment, employment or dismissal of an employee, or

(C) to discuss violations of rules and regulations of the master association or unpaid common expenses owed to the master association.

Any vote on these matters shall be taken at a meeting or portion thereof open to any unit owner of a condominium subject to the authority of the master association.

Any unit owner may record the proceedings at meetings required to be open by this Act by tape, film or other means; the board may prescribe reasonable rules and regulations to govern the right to make such recordings. Notice of meetings shall be mailed or delivered at least 48 hours prior thereto, unless a written waiver of such notice is signed by the persons entitled to notice before the meeting is convened. Copies of notices of meetings of the board of the master association shall be posted in entranceways, elevators, or other conspicuous places in the condominium at least 48 hours prior to the meeting of the board of the master association. Where there is no common entranceway for 7 or more units, the board of the master association may designate one or more locations in the proximity of these units where the notices of meetings shall be posted.

(5) If the declaration provides for election by unit owners of members of the board of

directors in the event of a resale of a unit in the master association, the purchaser of a unit from a seller other than the developer pursuant to an installment contract for purchase shall, during such times as he or she resides in the unit, be counted toward a quorum for purposes of election of members of the board of directors at any meeting of the unit owners called for purposes of electing members of the board, and shall have the right to vote for the election of members of the board of directors and to be elected to and serve on the board of directors unless the seller expressly retains in writing any or all of those rights. In no event may the seller and purchaser both be counted toward a quorum, be permitted to vote for a particular office, or be elected and serve on the board. Satisfactory evidence of the installment contract shall be made available to the association or its agents. For purposes of this subsection, "installment contract" shall have the same meaning as set forth in subsection (e) of Section 1 of the Dwelling Unit Installment Contract Act.

(6) The board of the master association shall have the authority to establish and maintain a system of master metering of public utility services and to collect payments in connection therewith, subject to the requirements of the Tenant Utility Payment Disclosure Act.

(7) The board of the master association or a common interest community association shall have the power, after notice and an opportunity to be heard, to levy and collect reasonable fines from members for violations of the declaration, bylaws, and rules and regulations of the master association or the common interest community association. Nothing contained in this subdivision (7) shall give rise to a statutory lien for unpaid fines.

(8) Other than attorney's fees, no fees pertaining to the collection of a unit owner's financial obligation to the Association, including fees charged by a manager or managing agent, shall be added to and deemed a part of an owner's respective share of the common expenses unless: (i) the managing agent fees relate to the costs to collect common expenses for the Association; (ii) the fees are set forth in a contract between the managing agent and the Association; and (iii) the authority to add the management fees to an owner's respective share of the common expenses is specifically stated in the declaration or bylaws of the Association.

(d) Records.

(1) The board of the master association shall maintain the following records of the association and make them available for examination and copying at convenient hours of weekdays by any unit owners in a condominium subject to the authority of the board or their mortgagees and their duly authorized agents or attorneys:

(i) Copies of the recorded declaration, other condominium instruments, other duly recorded covenants and bylaws and any amendments, articles of incorporation of the master association, annual reports and any rules and regulations adopted by the master association or its board shall be available. Prior to the organization of the master association, the developer shall maintain and make available the records set forth in this subdivision (d)(1) for examination and copying.

(ii) Detailed and accurate records in chronological order of the receipts and expenditures affecting the common areas, specifying and itemizing the maintenance and repair expenses of the common areas and any other expenses incurred, and copies of all contracts, leases, or other agreements entered into by the master association, shall be maintained.

(iii) The minutes of all meetings of the master association and the board of the master association shall be maintained for not less than 7 years.

(iv) Ballots and proxies related thereto, if any, for any election held for the board of the master association and for any other matters voted on by the unit owners shall be maintained for not less than one year.

(v) Such other records of the master association as are available for inspection by members of a not-for-profit corporation pursuant to Section 107.75 of the General Not For Profit Corporation Act of 1986 shall be maintained.

(vi) With respect to units owned by a land trust, if a trustee designates in writing a person to cast votes on behalf of the unit owner, the designation shall remain in effect until a subsequent document is filed with the association.

(2) Where a request for records under this subsection is made in writing to the board of managers or its agent, failure to provide the requested record or to respond within 30 days shall be deemed a denial by the board of directors.

(3) A reasonable fee may be charged by the master association or its board for the cost of copying.

(4) If the board of directors fails to provide records properly requested under subdivision (d)(1) within the time period provided in subdivision (d)(2), the unit owner may seek

appropriate relief, including an award of attorney's fees and costs.

(e) The board of directors shall have standing and capacity to act in a representative capacity in relation to matters involving the common areas of the master association or more than one unit, on behalf of the unit owners as their interests may appear.

(f) Administration of property prior to election of the initial board of directors.

(1) Until the election, by the unit owners or the boards of managers of the underlying condominium associations, of the initial board of directors of a master association whose declaration is recorded on or after August 10, 1990, the same rights, titles, powers, privileges, trusts, duties and obligations that are vested in or imposed upon the board of directors by this Act or in the declaration or other duly recorded covenant shall be held and performed by the developer.

(2) The election of the initial board of directors of a master association whose declaration is recorded on or after August 10, 1990, by the unit owners or the boards of managers of the underlying condominium associations, shall be held not later than 60 days after the conveyance by the developer of 75% of the units, or 3 years after the recording of the declaration, whichever is earlier. The developer shall give at least 21 days notice of the meeting to elect the initial board of directors and shall upon request provide to any unit owner, within 3 working days of the request, the names, addresses, and weighted vote of each unit owner entitled to vote at the meeting. Any unit owner shall upon receipt of the request be provided with the same information, within 10 days of the request, with respect to each subsequent meeting to elect members of the board of directors.

(3) If the initial board of directors of a master association whose declaration is recorded on or after August 10, 1990 is not elected by the unit owners or the members of the underlying condominium association board of managers at the time established in subdivision (f)(2), the developer shall continue in office for a period of 30 days, whereupon written notice of his resignation shall be sent to all of the unit owners or members of the underlying condominium board of managers entitled to vote at an election for members of the board of directors.

(4) Within 60 days following the election of a majority of the board of directors, other than the developer, by unit owners, the developer shall deliver to the board of directors:

(i) All original documents as recorded or filed pertaining to the property, its administration, and the association, such as the declaration, articles of incorporation, other instruments, annual reports, minutes, rules and regulations, and contracts, leases, or other agreements entered into by the association. If any original documents are unavailable, a copy may be provided if certified by affidavit of the developer, or an officer or agent of the developer, as being a complete copy of the actual document recorded or filed.

(ii) A detailed accounting by the developer, setting forth the source and nature of receipts and expenditures in connection with the management, maintenance and operation of the property, copies of all insurance policies, and a list of any loans or advances to the association which are outstanding.

(iii) Association funds, which shall have been at all times segregated from any other moneys of the developer.

(iv) A schedule of all real or personal property, equipment and fixtures belonging to the association, including documents transferring the property, warranties, if any, for all real and personal property and equipment, deeds, title insurance policies, and all tax bills.

(v) A list of all litigation, administrative action and arbitrations involving the association, any notices of governmental bodies involving actions taken or which may be taken concerning the association, engineering and architectural drawings and specifications as approved by any governmental authority, all other documents filed with any other governmental authority, all governmental certificates, correspondence involving enforcement of any association requirements, copies of any documents relating to disputes involving unit owners, and originals of all documents relating to everything listed in this subparagraph.

(vi) If the developer fails to fully comply with this paragraph (4) within the 60 days provided and fails to fully comply within 10 days of written demand mailed by registered or certified mail to his or her last known address, the board may bring an action to compel compliance with this paragraph (4). If the court finds that any of the required deliveries were not made within the required period, the board shall be entitled to recover its reasonable attorneys' fees and costs incurred from and after the date of expiration of the 10 day demand.

(5) With respect to any master association whose declaration is recorded on or after August 10, 1990, any contract, lease, or other agreement made prior to the election of a majority of the board of directors other than the developer by or on behalf of unit owners or underlying condominium associations, the association or the board of directors, which extends for a period of more than 2 years

from the recording of the declaration, shall be subject to cancellation by more than 1/2 of the votes of the unit owners, other than the developer, cast at a special meeting of members called for that purpose during a period of 90 days prior to the expiration of the 2 year period if the board of managers is elected by the unit owners, otherwise by more than 1/2 of the underlying condominium board of managers. At least 60 days prior to the expiration of the 2 year period, the board of directors, or, if the board is still under developer control, then the board of managers or the developer shall send notice to every unit owner or underlying condominium board of managers, notifying them of this provision, of what contracts, leases and other agreements are affected, and of the procedure for calling a meeting of the unit owners or for action by the underlying condominium board of managers for the purpose of acting to terminate such contracts, leases or other agreements. During the 90 day period the other party to the contract, lease, or other agreement shall also have the right of cancellation.

(6) The statute of limitations for any actions in law or equity which the master association may bring shall not begin to run until the unit owners or underlying condominium board of managers have elected a majority of the members of the board of directors.

(g) In the event of any resale of a unit in a master association by a unit owner other than the developer, the owner shall obtain from the board of directors and shall make available for inspection to the prospective purchaser, upon demand, the following:

(1) A copy of the declaration, other instruments and any rules and regulations.

(2) A statement of any liens, including a statement of the account of the unit setting forth the amounts of unpaid assessments and other charges due and owing.

(3) A statement of any capital expenditures anticipated by the association within the current or succeeding 2 fiscal years.

(4) A statement of the status and amount of any reserve for replacement fund and any portion of such fund earmarked for any specified project by the board of directors.

(5) A copy of the statement of financial condition of the association for the last fiscal year for which such a statement is available.

(6) A statement of the status of any pending suits or judgments in which the association is a party.

(7) A statement setting forth what insurance coverage is provided for all unit owners by the association.

(8) A statement that any improvements or alterations made to the unit, or any part of the common areas assigned thereto, by the prior unit owner are in good faith believed to be in compliance with the declaration of the master association.

The principal officer of the unit owner's association or such other officer as is specifically designated shall furnish the above information when requested to do so in writing, within 30 days of receiving the request.

A reasonable fee covering the direct out-of-pocket cost of copying and providing such information may be charged by the association or its board of directors to the unit seller for providing the information.

(g-1) The purchaser of a unit of a common interest community at a judicial foreclosure sale, other than a mortgagee, who takes possession of a unit of a common interest community pursuant to a court order or a purchaser who acquires title from a mortgagee shall have the duty to pay the proportionate share, if any, of the common expenses for the unit that would have become due in the absence of any assessment acceleration during the 6 months immediately preceding institution of an action to enforce the collection of assessments, and that remain unpaid by the owner during whose possession the assessments accrued. If the outstanding assessments are paid at any time during any action to enforce the collection of assessments, the purchaser shall have no obligation to pay any assessments that accrued before he or she acquired title. The notice of sale of a unit of a common interest community under subsection (c) of Section 15-1507 of the Code of Civil Procedure shall state that the purchaser of the unit other than a mortgagee shall pay the assessments required by this subsection (g-1).

(h) Errors and omissions.

(1) If there is an omission or error in the declaration or other instrument of the master association, the master association may correct the error or omission by an amendment to the declaration or other instrument, as may be required to conform it to this Act, to any other applicable statute, or to the declaration. The amendment shall be adopted by vote of two-thirds of the members of the board of directors or by a majority vote of the unit owners at a meeting called for that purpose, unless the Act or the declaration of the master association specifically provides for greater percentages or different procedures.

(2) If, through a scrivener's error, a unit has not been designated as owning an

appropriate undivided share of the common areas or does not bear an appropriate share of the common expenses, or if all of the common expenses or all of the common elements in the condominium have not been distributed in the declaration, so that the sum total of the shares of common areas which have been distributed or the sum total of the shares of the common expenses fail to equal 100%, or if it appears that more than 100% of the common elements or common expenses have been distributed, the error may be corrected by operation of law by filing an amendment to the declaration, approved by vote of two-thirds of the members of the board of directors or a majority vote of the unit owners at a meeting called for that purpose, which proportionately adjusts all percentage interests so that the total is equal to 100%, unless the declaration specifically provides for a different procedure or different percentage vote by the owners of the units and the owners of mortgages thereon affected by modification being made in the undivided interest in the common areas, the number of votes in the unit owners association or the liability for common expenses appertaining to the unit.

(3) If an omission or error or a scrivener's error in the declaration or other instrument is corrected by vote of two-thirds of the members of the board of directors pursuant to the authority established in subdivisions (h)(1) or (h)(2) of this Section, the board, upon written petition by unit owners with 20% of the votes of the association or resolutions adopted by the board of managers or board of directors of the condominium and common interest community associations which select 20% of the members of the board of directors of the master association, whichever is applicable, received within 30 days of the board action, shall call a meeting of the unit owners or the boards of the condominium and common interest community associations which select members of the board of directors of the master association within 30 days of the filing of the petition or receipt of the condominium and common interest community association resolution to consider the board action. Unless a majority of the votes of the unit owners of the association are cast at the meeting to reject the action, or board of managers or board of directors of condominium and common interest community associations which select over 50% of the members of the board of the master association adopt resolutions prior to the meeting rejecting the action of the board of directors of the master association, it is ratified whether or not a quorum is present.

(4) The procedures for amendments set forth in this subsection (h) cannot be used if such an amendment would materially or adversely affect property rights of the unit owners unless the affected unit owners consent in writing. This Section does not restrict the powers of the association to otherwise amend the declaration, bylaws, or other condominium instruments, but authorizes a simple process of amendment requiring a lesser vote for the purpose of correcting defects, errors, or omissions when the property rights of the unit owners are not materially or adversely affected.

(5) If there is an omission or error in the declaration or other instruments that may not be corrected by an amendment procedure set forth in subdivision (h)(1) or (h)(2) of this Section, then the circuit court in the county in which the master association is located shall have jurisdiction to hear a petition of one or more of the unit owners thereon or of the association, to correct the error or omission, and the action may be a class action. The court may require that one or more methods of correcting the error or omission be submitted to the unit owners to determine the most acceptable correction. All unit owners in the association must be joined as parties to the action. Service of process on owners may be by publication, but the plaintiff shall furnish all unit owners not personally served with process with copies of the petition and final judgment of the court by certified mail, return receipt requested, at their last known address.

(6) Nothing contained in this Section shall be construed to invalidate any provision of a declaration authorizing the developer to amend an instrument prior to the latest date on which the initial membership meeting of the unit owners must be held, whether or not it has actually been held, to bring the instrument into compliance with the legal requirements of the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal Housing Administration, the United States Veterans Administration or their respective successors and assigns.

(i) The provisions of subsections (c) through (h) are applicable to all declarations, other condominium instruments, and other duly recorded covenants establishing the powers and duties of the master association recorded under this Act. Any portion of a declaration, other condominium instrument, or other duly recorded covenant establishing the powers and duties of a master association which contains provisions contrary to the provisions of subsection (c) through (h) shall be void as against public policy and ineffective. Any declaration, other condominium instrument, or other duly recorded covenant establishing the powers and duties of the master association which fails to contain the provisions required by subsections (c) through (h) shall be deemed to incorporate such provisions by operation of law.

(j) ~~(Blank). The provisions of subsections (c) through (h) are applicable to all common interest~~

~~community associations and their unit owners for common interest community associations which are subject to the provisions of Section 9-102(a)(8) of the Code of Civil Procedure. For purposes of this subsection, the terms "common interest community" and "unit owners" shall have the same meaning as set forth in Section 9-102(e) of the Code of Civil Procedure.~~
(Source: P.A. 96-1045, eff. 7-14-10.)

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

The motion prevailed.

And the amendment was adopted and ordered printed.

Senator Wilhelmi offered the following amendment and moved its adoption:

AMENDMENT NO. 2 TO SENATE BILL 1651

AMENDMENT NO. 2. Amend Senate Bill 1651, AS AMENDED, with reference to the page and line numbers of Senate Amendment No. 1, on page 4, by replacing lines 22 through 26 with the following:

~~"Master association" means a common interest community association that exercises its powers on behalf of one or more condominium or other common interest community associations or for the benefit of unit owners in such associations"; and~~

on page 5, line 5, after "entity", by inserting "designated as an owner and"; and

on page 5, line 23, after "owner" by inserting "and authorized by the community instruments"; and

on page 23, line 10, after "commercially" by inserting "available"; and

on page 23, line 16, after "commercially" by inserting "available".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendments numbered 1 and 2 were ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING BILLS OF THE SENATE A THIRD TIME

On motion of Senator Wilhelmi, **Senate Bill No. 1651**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 57; NAYS None.

The following voted in the affirmative:

Bivins	Harmon	Luechtefeld	Righter
Bomke	Holmes	Maloney	Sandack
Brady	Hunter	Martinez	Sandoval
Clayborne	Hutchinson	McCann	Schmidt
Collins, A.	Jacobs	McCarter	Schoenberg
Collins, J.	Johnson, C.	Meeks	Silverstein
Crotty	Johnson, T.	Millner	Steans
Cultra	Jones, J.	Mulroe	Sullivan
Delgado	Koehler	Muñoz	Syverson
Dillard	Kotowski	Murphy	Trotter
Duffy	LaHood	Noland	Wilhelmi
Forby	Landek	Pankau	Mr. President
Frerichs	Lauzen	Radogno	

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Garrett	Lightford	Raoul
Haine	Link	Rezin

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

On motion of Senator Frerichs, **Senate Bill No. 1656**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 56; NAYS None.

The following voted in the affirmative:

Althoff	Harmon	Luechtefeld	Sandack
Bivins	Holmes	Maloney	Sandoval
Bomke	Hunter	Martinez	Schmidt
Brady	Hutchinson	McCann	Schoenberg
Clayborne	Jacobs	McCarter	Silverstein
Collins, A.	Johnson, C.	Millner	Steans
Crotty	Johnson, T.	Mulroe	Sullivan
Cultra	Jones, J.	Muñoz	Syverson
Delgado	Koehler	Murphy	Trotter
Dillard	Kotowski	Noland	Wilhelmi
Duffy	LaHood	Pankau	Mr. President
Forby	Landek	Radogno	
Frerichs	Lauzen	Raoul	
Garrett	Lightford	Rezin	
Haine	Link	Righter	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

On motion of Senator Raoul, **Senate Bill No. 1672**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 57; NAYS None.

The following voted in the affirmative:

Althoff	Haine	Luechtefeld	Righter
Bivins	Holmes	Maloney	Sandack
Bomke	Hunter	Martinez	Sandoval
Brady	Hutchinson	McCann	Schmidt
Clayborne	Jacobs	McCarter	Schoenberg
Collins, A.	Johnson, C.	Meeks	Silverstein
Collins, J.	Johnson, T.	Millner	Steans
Crotty	Jones, J.	Mulroe	Sullivan
Cultra	Koehler	Muñoz	Syverson
Delgado	Kotowski	Murphy	Trotter

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Dillard	LaHood	Noland	Wilhelmi
Duffy	Landek	Pankau	Mr. President
Forby	Lauzen	Radogno	
Frerichs	Lightford	Raoul	
Garrett	Link	Rezin	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

On motion of Senator Schoenberg, **Senate Bill No. 1680**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 56; NAYS None.

The following voted in the affirmative:

Althoff	Harmon	Luechtefeld	Righter
Bivins	Holmes	Maloney	Sandack
Bomke	Hunter	Martinez	Sandoval
Brady	Hutchinson	McCann	Schmidt
Clayborne	Jacobs	McCarter	Schoenberg
Collins, J.	Johnson, C.	Meeks	Silverstein
Crotty	Johnson, T.	Millner	Steans
Cultra	Jones, J.	Mulroe	Syverson
Delgado	Koehler	Muñoz	Trotter
Dillard	Kotowski	Murphy	Wilhelmi
Duffy	LaHood	Noland	Mr. President
Forby	Landek	Pankau	
Frerichs	Lauzen	Radogno	
Garrett	Lightford	Raoul	
Haine	Link	Rezin	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

SENATE BILL RECALLED

On motion of Senator Link, **Senate Bill No. 1682** was recalled from the order of third reading to the order of second reading.

Senator Link offered the following amendment and moved its adoption:

AMENDMENT NO. 2 TO SENATE BILL 1682

AMENDMENT NO. 2. Amend Senate Bill 1682, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 5. The Water Well and Pump Installation Contractor's License Act is amended by changing Sections 2, 6 and 13 as follows:

(225 ILCS 345/2) (from Ch. 111, par. 7103)

(Section scheduled to be repealed on January 1, 2012)

Sec. 2. As used in this Act, unless the context otherwise requires:

(1) "Water well" and "well" mean any excavation that is drilled, cored, bored, washed, driven, dug,

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jetted or otherwise constructed when the intended use of such excavation is for the location, diversion, artificial recharge, or acquisition of ground water, but such term does not include an excavation made for the purpose of obtaining or prospecting for oil, natural gas, minerals or products of mining or quarrying or for inserting media to repressure oil or natural gas bearing formation or for storing petroleum, natural gas or other products, or monitoring wells;

(2) "Ground water" means water of under-ground aquifers, streams, channels, artesian basins, reservoirs, lakes and other water under the surface of the ground whether percolating or otherwise;

(3) "Drill" and "drilling" mean all acts necessary to the construction of a water well including the sealing of unused water well holes;

(4) "Water Well Contractor" and "Contractor" mean any person who contracts to drill, alter or repair any water well;

(5) "Water Well Pump Installation" means the selection of and the procedure employed in the placement and preparation for operation of equipment and materials utilized in withdrawing or obtaining water from a well for any use, including all construction involved in making entrance to the well and establishing such seals and safeguards as may be necessary to protect such water from contamination and all construction involved in connecting such wells and pumping units or pressure tanks in the water supply systems of buildings served by such well, including repair to any existing installation;

(6) "Water Well Pump Installation Contractor" means any person engaged in the business of installing or repairing pumps and pumping equipment owned by others;

(7) "Water Well and Pump Installation Contractor" means any person engaged in both businesses described in subsections 4, 5, and 6 above;

(8) "Department" means the Department of Public Health of this State;

(9) "Director" means the Director of the Department of Public Health;

(10) "Board" means the Water Well and Pump Installation Contractors Licensing Board created by Section 6 of this Act;

(11) "Person" includes any natural person, partnership, association, trust and public or private corporation;

(12) "Monitoring well" means a water well intended for the purpose of determining groundwater quality or quantity;

(13) "Closed loop well" means a sealed, watertight loop of pipe buried outside of a building foundation intended to recirculate a liquid solution through a heat exchanger but is limited to the construction of the bore hole and the grouting of the bore hole and does not include the piping and appurtenances used in any other capacity. "Closed loop well" does not include any horizontal closed loop well systems where grouting is not necessary by law or standard industry practice;

(14) "Closed loop well contractor" means any person who installs closed loop wells for another person. "Closed loop well contractor" does not include the employee of a closed loop contractor.

(Source: P.A. 86-843.)

(225 ILCS 345/6) (from Ch. 111, par. 7107)

(Section scheduled to be repealed on January 1, 2012)

Sec. 6. Water Well and Pump Installation Contractors Licensing Board; Closed Loop Well Contractors Certification Board.

(a) There is created in the Department the Water Well and Pump Installation Contractors Licensing Board which shall exercise its duties provided in this Act under the supervision of the Department. The Water Well and Pump Installation Contractors Licensing Board shall consist of 6 members, designated from time to time by the Director. Two members shall be licensed water well contractors, 2 ~~two~~ members shall be licensed water well pump installation contractors, and 2 ~~two~~ members shall be licensed water well and pump installation contractors. In making the appointments to the Water Well and Pump Installation Contractors Licensing Board, the Director shall consider the recommendation of the Illinois Association of Groundwater Professionals or its successor organization.

The members of the Water Well and Pump Installation Contractors Licensing Board shall be reimbursed for necessary traveling expenses in accordance with travel regulations prescribed by the Department of Finance.

The Water Well and Pump Installation Contractors Licensing Board shall advise and aid the Director in:

(1) ~~(a)~~ preparing subject matter for continuing education sessions and examinations to test the knowledge and skills of applicants for license in the construction, installation and repair of water wells, well pumps, water pressure storage tanks, connecting piping and related appurtenances, including proper sealing of abandoned water wells, and the rules and regulations of the Department promulgated pursuant to the Illinois Pump Installation Code Law and the Illinois Water Well

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Construction Code Law;

(2) ~~(b)~~ promulgating rules to govern the number of hours of continuing education required for a continuing education session, examinations, hearings for suspension or revocation of or refusal to issue or renew a license, clarifying the law as it relates to water well and pump installation contracting;

(3) ~~(c)~~ holding examinations of applicants for license at least once a year prior to November 1st in each year;

(4) ~~(d)~~ holding hearings for the revocation or suspension of, or refusal to issue, renew or reinstate licenses;

(5) ~~(e)~~ submitting recommendations to the Director from time to time for the efficient administration of this Act;

(6) ~~(f)~~ grading all tests and examinations for licenses and promptly reporting the results to the Director; ~~and~~

(7) ~~(g)~~ performing such other duties from time to time prescribed by the Director ; and -

(8) ~~consulting and agreeing with the Closed Loop Well Contractors Certification Board regarding:~~

~~(i) the registering and certification of closed loop well contractors; and~~

~~(ii) the installation of closed loop wells.~~

For purposes of this item (8), the term "closed loop well" shall be limited to the construction, installation, repair, and abandonment of the bore hole and the grouting of the bore hole.

(b) There is created in the Department the Closed Loop Well Contractors Certification Board, which shall exercise its duties provided in this Act under the supervision of the Department. The Closed Loop Well Contractors Certification Board shall consist of 6 members, designated from time to time by the Director. A temporary board shall be appointed by the Department for the sole purpose of assisting with the process of initial certification and registration of closed loop well contractors and shall remain in place until 2 years after the effective date of this amendatory Act of the 97th General Assembly. On the dissolution of the temporary board, the 6 members must be closed loop well contractors who are registered and certified under this Act. In making appointments to the Closed Loop Well Contractors Certification Board, the Director shall consider the recommendations of organizations that are representative of the closed loop well industry in Illinois. Recommendations shall include consideration of statewide geographical representation.

The Closed Loop Well Contractors Certification Board shall advise and aid the Director in:

(1) preparing subject matter for continuing education sessions relating to closed loop wells and preparing examinations to test the knowledge and skills of applicants for certification relating to the construction, installation, repair, and abandonment of closed loop wells and the rules of the Department adopted under this Act for closed loop wells;

(2) adopting rules relating to (i) closed loop wells, (ii) continuing education requirements, (iii) examinations, (iv) hearings for suspension or revocation of or refusal to issue or renew a certification, and (v) the construction, installation, repair, and abandonment of closed loop wells;

(3) holding examinations of applicants for certification at least once a year prior to November 1st in each year;

(4) holding hearings for the revocation or suspension of, or refusal to issue, renew, or reinstate, certifications;

(5) submitting recommendations to the Director from time to time for the efficient administration of this Act;

(6) grading all tests and examinations for certifications, and promptly reporting the results to the Director;

(7) performing such other duties as may be from time to time prescribed by the Director; and

(8) conferring with the Water Well and Pump Installation Contractors Licensing Board regarding the construction, installation, repair, and abandonment of closed loop wells.

(Source: P.A. 90-692, eff. 1-1-99.)

(225 ILCS 345/13) (from Ch. 111, par. 7114)

(Section scheduled to be repealed on January 1, 2012)

Sec. 13. The fee to be paid by an applicant for an examination to determine his fitness to receive a license as a water well contractor is \$50.

The fee to be paid by an applicant for an examination to determine his fitness to receive a license as a water well pump installation contractor is \$50.

The fee to be paid by an applicant for an examination to determine his fitness to receive a license as a water well and pump installation contractor is \$80.

The fee to be paid by an applicant for the annual renewal of a license as a water well contractor or

water well pump installation contractor is \$25.

The fee to be paid by an applicant for the annual renewal of a license as a water well and pump installation contractor is \$35.

The fee to be paid by an applicant for the reinstatement of a water well contractor license or a water well pump installation contractor license which has lapsed less than 3 years is \$10, plus all lapsed renewal fees.

The fee to be paid by an applicant for restoration of a water well contractor's license or water well pump installation contractor's license which has lapsed more than three years is \$150.

The fee to be paid by an applicant for the reinstatement of a water well and pump installation contractor license which has lapsed less than 3 years is \$15, plus all lapsed renewal fees.

The fee to be paid by an applicant for the restoration of a license as a water well and pump installation contractor which has lapsed more than 3 years is \$175.

There shall be no reduction in such fees because a license when issued may be valid for less time than a full license year.

(Source: P.A. 77-1626.)

Section 10. The Illinois Water Well Construction Code is amended by changing Sections 3, 5, and 6 and by adding Sections 9.1 and 9.2 as follows:

(415 ILCS 30/3) (from Ch. 111 1/2, par. 116.113)

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

(a) "Construction" means all acts necessary to obtaining ground water by any method, including without limitation the location of and the excavation for the well, but not including prospecting, surveying or other acts preparatory thereto, nor the installation of pumps and pumping equipment.

(b) "Department" means the Department of Public Health.

(c) "Director" means the Director of Public Health.

(d) "Modification" means any change, replacement or other alteration of any water well which shall be contrary to the rules and regulations regarding the construction of a well.

(e) "Water well" means any excavation that is drilled, cored, bored, washed, driven, dug, jetted or otherwise constructed when the intended use of such excavation is for the location, diversion, artificial recharge, or acquisition of ground water, but such term does not include an excavation made for the purpose of obtaining or prospecting for oil, natural gas, minerals or products of mining or quarrying or for inserting media to repressure oil or natural gas bearing formation or for storing petroleum, natural gas or other products or for observation or any other purpose in connection with the development or operation of a gas storage project.

(f) "Public water system", "community water system", "non-community water system", "semi-private water system" and "private water system" have the meanings ascribed to them in the Illinois Groundwater Protection Act.

(g) "Potential route", "potential primary source" and "potential secondary source" have the meanings ascribed to them in the Environmental Protection Act.

(h) "Closed loop well" means a sealed, watertight loop of pipe buried outside of a building foundation intended to recirculate a liquid solution through a heat exchanger but is limited to the construction of the bore hole and the grouting of the bore hole and does not include the piping and appurtenances used in any other capacity. "Closed loop well" does not include any horizontal closed loop well systems where grouting is not necessary by law or standard industry practice.

(i) "Monitoring well" means a water well intended for the purpose of determining groundwater quality or quantity.

(j) "Closed loop well contractor" means any person who installs closed loop wells for another person. "Closed loop well contractor" does not include the employee of a closed loop contractor.

(Source: P.A. 86-843.)

(415 ILCS 30/5) (from Ch. 111 1/2, par. 116.115)

Sec. 5. Department powers and duties.

The Department has general supervision and authority over the location, construction and modification of water wells, closed loop wells and monitoring wells and for the administration of this Act. With respect thereto it shall:

(a) Adopt and publish, and from time to time amend rules and regulations as hereinafter provided;

(b) Commencing no later than January 1, 1988, issue permits for the construction or change in depth of any water well other than community public water systems and monitoring wells; ~~and~~

(b-5) Commencing no later than one year after the effective date of this amendatory Act of the 97th General Assembly, issue permits for the construction, modification, and abandonment of closed loop

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wells; and

(c) Exercise such other powers as are practical and reasonably necessary to carry out and enforce the provisions of this Act.

(Source: P.A. 86-843.)

(415 ILCS 30/6) (from Ch. 111 1/2, par. 116.116)

Sec. 6. Rules and regulations. The Department shall adopt and amend rules and regulations reasonably necessary to effectuate the policy declared by this Act. Such rules and regulations shall provide criteria for the proper location and construction of any water well, closed loop well or monitoring well and shall, no later than January 1, 1988, provide for the issuance of permits for the construction and operation of water wells other than community public water systems, ~~closed loop wells~~ and monitoring wells. The Department shall by regulation require a one time fee, not to exceed \$100, for permits for construction, modification, or abandonment of water wells. ~~The Department shall by rule require a one-time fee for permits for the construction, modification, or abandonment of closed loop wells. issued under the authority of this Act.~~

(Source: P.A. 86-843.)

(415 ILCS 30/9.1 new)

Sec. 9.1. Closed loop well contractor certification.

(a) Within 2 years after the effective date of this amendatory Act of the 97th General Assembly, all closed loop contractors, shall be certified by the Department. The Department shall issue closed loop well contractor certificates to those applicants who are qualified and have successfully passed the Department's closed loop well contractor's certification exam. Application for certification as a closed loop well contractor must be made to the Department in writing and under oath or affirmation on forms prescribed and furnished by the Department. Applications may require any information the Department deems necessary in order to carry out the provisions of this Act. The Department shall collect a fee for the closed loop well contractor's qualification exam.

(b) Any person holding a valid water well contractor's license issued under the Water Well and Pump Installation Contractor's License Act may apply and receive, without examination or fee, a closed loop well contractor's certification, provided that all other requirements of this Act are met.

(c) Any person who only installs horizontal closed loop wells using the open trench method shall be exempt from certification under this Section.

(415 ILCS 30/9.2 new)

Sec. 9.2. Closed loop well contractor registration.

(a) Beginning one year after the effective date of this amendatory Act of the 97th General Assembly, no person may engage in the occupation of a closed loop well contractor unless he or she holds a valid certificate of registration as a closed loop well contractor issued by the Department.

(b) All closed loop well contractors doing business in this State must annually file an application for registration with the Department.

(c) One year after the effective date of this amendatory Act of the 97th General Assembly, all applications filed for registration under this Section must be accompanied by verification of the certification of the applicant by an organization approved by the Department for its appropriateness in determining the knowledge and expertise as a closed loop well contractor, and the applicant must submit proof of certification under Section 9.1 of this Act, unless specifically exempt from certification in subsection (c) of Section 9.1 of this Act.

(d) Certificates of registration issued under this Section shall expire and must be renewed on an annual basis.

(e) The Department shall collect an annual fee for registration of a closed loop well contractor.

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

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 2 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING BILLS OF THE SENATE A THIRD TIME

On motion of Senator Link, **Senate Bill No. 1682**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

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And the question being, “Shall this bill pass?” it was decided in the affirmative by the following vote:

YEAS 39; NAYS 16.

The following voted in the affirmative:

Althoff	Holmes	Martinez	Schmidt
Clayborne	Hunter	McCarter	Schoenberg
Collins, J.	Hutchinson	Meeks	Silverstein
Crotty	Jones, J.	Mulroe	Steans
Delgado	Koehler	Muñoz	Sullivan
Forby	Kotowski	Noland	Syverson
Frerichs	Landek	Radogno	Trotter
Garrett	Lightford	Raoul	Wilhelmi
Haine	Link	Sandack	Mr. President
Harmon	Maloney	Sandoval	

The following voted in the negative:

Bivins	Jacobs	Luechtefeld	Righter
Bomke	Johnson, C.	McCann	
Cultra	Johnson, T.	Murphy	
Dillard	LaHood	Pankau	
Duffy	Lauzen	Rezin	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

On motion of Senator Wilhelmi, **Senate Bill No. 1686**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, “Shall this bill pass?” it was decided in the affirmative by the following vote:

YEAS 55; NAYS None.

The following voted in the affirmative:

Althoff	Harmon	Link	Raoul
Bivins	Holmes	Luechtefeld	Rezin
Bomke	Hunter	Maloney	Righter
Brady	Hutchinson	Martinez	Sandack
Clayborne	Jacobs	McCann	Sandoval
Crotty	Johnson, C.	McCarter	Schmidt
Cultra	Johnson, T.	Meeks	Schoenberg
Delgado	Jones, E.	Millner	Silverstein
Dillard	Koehler	Mulroe	Steans
Duffy	Kotowski	Muñoz	Sullivan
Forby	LaHood	Murphy	Trotter
Frerichs	Landek	Noland	Wilhelmi
Garrett	Lauzen	Pankau	Mr. President
Haine	Lightford	Radogno	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

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Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

SENATE BILL RECALLED

On motion of Senator Wilhelm, **Senate Bill No. 1694** was recalled from the order of third reading to the order of second reading.

Senator Wilhelm offered the following amendment and moved its adoption:

AMENDMENT NO. 2 TO SENATE BILL 1694

AMENDMENT NO. 2. Amend Senate Bill 1694, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 5. The Code of Civil Procedure is amended by changing Sections 8-802 and 8-2001 and by adding Section 8-2001.5 as follows:

(735 ILCS 5/8-802) (from Ch. 110, par. 8-802)

Sec. 8-802. Physician and patient. No physician or surgeon shall be permitted to disclose any information he or she may have acquired in attending any patient in a professional character, necessary to enable him or her professionally to serve the patient, except only (1) in trials for homicide when the disclosure relates directly to the fact or immediate circumstances of the homicide, (2) in actions, civil or criminal, against the physician for malpractice, (3) with the expressed consent of the patient, or in case of his or her death or disability, of his or her personal representative or other person authorized to sue for personal injury or of the beneficiary of an insurance policy on his or her life, health, or physical condition, or as authorized by Section 8-2001.5, (4) in all actions brought by or against the patient, his or her personal representative, a beneficiary under a policy of insurance, or the executor or administrator of his or her estate wherein the patient's physical or mental condition is an issue, (5) upon an issue as to the validity of a document as a will of the patient, (6) in any criminal action where the charge is either first degree murder by abortion, attempted abortion or abortion, (7) in actions, civil or criminal, arising from the filing of a report in compliance with the Abused and Neglected Child Reporting Act, (8) to any department, agency, institution or facility which has custody of the patient pursuant to State statute or any court order of commitment, (9) in prosecutions where written results of blood alcohol tests are admissible pursuant to Section 11-501.4 of the Illinois Vehicle Code, (10) in prosecutions where written results of blood alcohol tests are admissible under Section 5-11a of the Boat Registration and Safety Act, (11) in criminal actions arising from the filing of a report of suspected terrorist offense in compliance with Section 29D-10(p)(7) of the Criminal Code of 1961, or (12) upon the issuance of a subpoena pursuant to Section 38 of the Medical Practice Act of 1987; the issuance of a subpoena pursuant to Section 25.1 of the Illinois Dental Practice Act; or the issuance of a subpoena pursuant to Section 22 of the Nursing Home Administrators Licensing and Disciplinary Act.

In the event of a conflict between the application of this Section and the Mental Health and Developmental Disabilities Confidentiality Act to a specific situation, the provisions of the Mental Health and Developmental Disabilities Confidentiality Act shall control.

(Source: P.A. 95-478, eff. 8-27-07.)

(735 ILCS 5/8-2001) (from Ch. 110, par. 8-2001)

Sec. 8-2001. Examination of health care records.

(a) In this Section:

"Health care facility" or "facility" means a public or private hospital, ambulatory surgical treatment center, nursing home, independent practice association, or physician hospital organization, or any other entity where health care services are provided to any person. The term does not include a health care practitioner.

"Health care practitioner" means any health care practitioner, including a physician, dentist, podiatrist, advanced practice nurse, physician assistant, clinical psychologist, or clinical social worker. The term includes a medical office, health care clinic, health department, group practice, and any other organizational structure for a licensed professional to provide health care services. The term does not include a health care facility.

(b) Every private and public health care facility shall, upon the request of any patient who has been treated in such health care facility, or any person, entity, or organization presenting a valid authorization for the release of records signed by the patient or the patient's legally authorized representative, or as

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authorized by Section 8-2001.5, permit the patient, his or her health care practitioner, authorized attorney, or any person, entity, or organization presenting a valid authorization for the release of records signed by the patient or the patient's legally authorized representative to examine the health care facility patient care records, including but not limited to the history, bedside notes, charts, pictures and plates, kept in connection with the treatment of such patient, and permit copies of such records to be made by him or her or his or her health care practitioner or authorized attorney.

(c) Every health care practitioner shall, upon the request of any patient who has been treated by the health care practitioner, or any person, entity, or organization presenting a valid authorization for the release of records signed by the patient or the patient's legally authorized representative, permit the patient and the patient's health care practitioner or authorized attorney, or any person, entity, or organization presenting a valid authorization for the release of records signed by the patient or the patient's legally authorized representative, to examine and copy the patient's records, including but not limited to those relating to the diagnosis, treatment, prognosis, history, charts, pictures and plates, kept in connection with the treatment of such patient.

(d) A request for copies of the records shall be in writing and shall be delivered to the administrator or manager of such health care facility or to the health care practitioner. The person (including patients, health care practitioners and attorneys) requesting copies of records shall reimburse the facility or the health care practitioner at the time of such copying for all reasonable expenses, including the costs of independent copy service companies, incurred in connection with such copying not to exceed a \$20 handling charge for processing the request and the actual postage or shipping charge, if any, plus: (1) for paper copies 75 cents per page for the first through 25th pages, 50 cents per page for the 26th through 50th pages, and 25 cents per page for all pages in excess of 50 (except that the charge shall not exceed \$1.25 per page for any copies made from microfiche or microfilm; records retrieved from scanning, digital imaging, electronic information or other digital format do not qualify as microfiche or microfilm retrieval for purposes of calculating charges); and (2) for electronic records, retrieved from a scanning, digital imaging, electronic information or other digital format in a electronic document, a charge of 50% of the per page charge for paper copies under subdivision (d)(1). This per page charge includes the cost of each CD Rom, DVD, or other storage media. Records already maintained in an electronic or digital format shall be provided in an electronic format when so requested. If the records system does not allow for the creation or transmission of an electronic or digital record, then the facility or practitioner shall inform the requester in writing of the reason the records can not be provided electronically. The written explanation may be included with the production of paper copies, if the requester chooses to order paper copies. These rates shall be automatically adjusted as set forth in Section 8-2006. The facility or health care practitioner may, however, charge for the reasonable cost of all duplication of record material or information that cannot routinely be copied or duplicated on a standard commercial photocopy machine such as x-ray films or pictures.

(e) The requirements of this Section shall be satisfied within 30 days of the receipt of a written request by a patient or by his or her legally authorized representative, health care practitioner, authorized attorney, or any person, entity, or organization presenting a valid authorization for the release of records signed by the patient or the patient's legally authorized representative. If the facility or health care practitioner needs more time to comply with the request, then within 30 days after receiving the request, the facility or health care practitioner must provide the requesting party with a written statement of the reasons for the delay and the date by which the requested information will be provided. In any event, the facility or health care practitioner must provide the requested information no later than 60 days after receiving the request.

(f) A health care facility or health care practitioner must provide the public with at least 30 days prior notice of the closure of the facility or the health care practitioner's practice. The notice must include an explanation of how copies of the facility's records may be accessed by patients. The notice may be given by publication in a newspaper of general circulation in the area in which the health care facility or health care practitioner is located.

(g) Failure to comply with the time limit requirement of this Section shall subject the denying party to expenses and reasonable attorneys' fees incurred in connection with any court ordered enforcement of the provisions of this Section.

(Source: P.A. 94-155, eff. 1-1-06; 95-478, eff. 1-1-08 (changed from 8-27-07 by P.A. 95-480); 95-480, eff. 1-1-08.)

(735 ILCS 5/8-2001.5 new)

Sec. 8-2001.5. Authorization for release of a deceased patient's records.

(a) In addition to disclosure allowed under Section 8-802, a deceased person's health care records may be released upon written request of the executor or administrator of the deceased person's estate or to an

agent appointed by the deceased under a power of attorney for health care. When no executor, administrator, or agent exists, and the person did not specifically object to disclosure of his or her records in writing, then a deceased person's health care records may be released upon the written request of:

(1) the deceased person's surviving spouse; or

(2) if there is no surviving spouse, any one or more of the following: (i) an adult son or daughter of the deceased, (ii) a parent of the deceased, or (iii) an adult brother or sister of the deceased.

(b) Health care facilities and practitioners are authorized to provide a copy of a deceased patient's records based upon a person's payment of the statutory fee and signed "Authorized Relative Certification", attesting to the fact that the person is authorized to receive such records under this Section.

(c) Any person who, in good faith, relies on a copy of an Authorized Relative Certification shall have the same immunities from criminal and civil liability as those who rely on a power of attorney for health care as provided by Illinois law.

(d) Upon request for records of a deceased patient, the named authorized relative shall provide the facility or practitioner with a certified copy of the death certificate and a certification in substantially the following form:

AUTHORIZED RELATIVE CERTIFICATION

I (insert name of authorized relative), certify that I am an authorized relative of the deceased (insert name of deceased). (A certified copy of the death certificate must be attached.)

I certify that to the best of my knowledge and belief that no executor or administrator has been appointed for the deceased's estate, that no agent was authorized to act for the deceased under a power of attorney for health care, and the deceased has not specifically objected to disclosure in writing.

I certify that I am the surviving spouse of the deceased; or

I certify that there is no surviving spouse and my relationship to the deceased is (circle one):

(1) An adult son or daughter of the deceased.

(2) Either parent of the deceased.

(3) An adult brother or sister of the deceased.

This certification is made under penalty of perjury.*

Dated: (insert date)

.....
(Print Authorized Relative's Name)

.....
(Authorized Relative's Signature)

.....
(Authorized Relative's Address)

*(Note: Perjury is defined in Section 32-2 of the Criminal Code of 1961, and is a Class 3 felony.)

Section 10. The Illinois Power of Attorney Act is amended by changing Section 4-3 as follows:

(755 ILCS 45/4-3) (from Ch. 110 1/2, par. 804-3)

Sec. 4-3. General principles. The health care powers that may be delegated to an agent include, without limitation, all powers an individual may have to be informed about and to consent to or refuse or withdraw any type of health care for the individual and all powers a parent may have to control or consent to health care for a minor child. A health care agency may extend beyond the principal's death if necessary to permit anatomical gift, autopsy, ~~or~~ disposition of remains, or access to medical records. Nothing in this Article shall impair or supersede any legal right or legal responsibility which any person may have to effect the withholding or withdrawal of life-sustaining or death-delaying procedures in any lawful manner, and the provisions of this Article are cumulative in such respect.
(Source: P.A. 85-701.)

Section 99. Effective date. This Act takes effect October 1, 2011."

[April 14, 2011]

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 2 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING BILLS OF THE SENATE A THIRD TIME

On motion of Senator Wilhelmi, **Senate Bill No. 1694**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 58; NAYS None.

The following voted in the affirmative:

Althoff	Haine	Lightford	Rezin
Bivins	Harmon	Link	Righter
Bomke	Holmes	Luechtefeld	Sandack
Brady	Hunter	Maloney	Sandoval
Clayborne	Hutchinson	Martinez	Schmidt
Collins, A.	Jacobs	McCann	Schoenberg
Collins, J.	Johnson, C.	McCarter	Silverstein
Crotty	Johnson, T.	Meeks	Steans
Cultra	Jones, E.	Millner	Sullivan
Delgado	Jones, J.	Mulroe	Syverson
Dillard	Koehler	Muñoz	Trotter
Duffy	Kotowski	Murphy	Wilhelmi
Forby	LaHood	Pankau	Mr. President
Frerichs	Landek	Radogno	
Garrett	Lauzen	Raoul	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

On motion of Senator Millner, **Senate Bill No. 1697**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 45; NAYS 10.

The following voted in the affirmative:

Althoff	Harmon	Link	Sandoval
Bomke	Holmes	Luechtefeld	Schmidt
Clayborne	Hunter	Maloney	Schoenberg
Collins, A.	Hutchinson	Martinez	Silverstein
Collins, J.	Jacobs	Meeks	Steans
Crotty	Johnson, T.	Millner	Sullivan
Cultra	Jones, E.	Mulroe	Trotter
Delgado	Jones, J.	Muñoz	Wilhelmi
Forby	Koehler	Noland	Mr. President
Frerichs	Kotowski	Radogno	

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Garrett
Haine

Landek
Lightford

Raoul
Sandack

The following voted in the negative:

Bivins
Brady
Dillard

Duffy
Johnson, C.
LaHood

Lauzen
McCann
McCarter

Rezin

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

SENATE BILL RECALLED

On motion of Senator Silverstein, **Senate Bill No. 1701** was recalled from the order of third reading to the order of second reading.

Senator Millner offered the following amendment and moved its adoption:

AMENDMENT NO. 2 TO SENATE BILL 1701

AMENDMENT NO. 2. Amend Senate Bill 1701 by replacing the title with the following:

"AN ACT concerning criminal law, which may be referred to as the Emergency Medical Services Access Law.

WHEREAS, Drug-overdose deaths are the second leading cause of accidental death in the nation and deaths have increased significantly in recent years, in both the Chicago Metropolitan Area and across Illinois; and

WHEREAS, The General Assembly finds that drug-overdose deaths could be substantially decreased if immunity from criminal prosecution for Class 4 felony violations of the Illinois Controlled Substances Act and Class 3 felony violations of the Methamphetamine Control and Community Protection Act were granted to a person possessing a small amount of the drug who, in good faith seeks emergency medical assistance for someone experiencing a drug-related overdose and if this immunity were granted for the same Class 4 felony violations of the Illinois Controlled Substances Act and the Class 3 felony violations of the Methamphetamine Control and Community Protection Act to a person who is experiencing a drug-related overdose; therefore"; and

by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Controlled Substances Act is amended by adding Section 414 as follows:
(720 ILCS 570/414 new)

Sec. 414. Overdose; limited immunity from prosecution.

(a) For the purposes of this Section, "overdose" means a controlled substance-induced physiological event that results in a life-threatening emergency to the individual who ingested, inhaled, injected or otherwise bodily absorbed a controlled, counterfeit, or look-alike substance or a controlled substance analog.

(b) A person who, in good faith, seeks or obtains emergency medical assistance for someone experiencing an overdose shall not be charged or prosecuted for Class 4 felony possession of a controlled, counterfeit, or look-alike substance or a controlled substance analog if evidence for the Class 4 felony possession charge was acquired as a result of the person seeking or obtaining emergency medical assistance and providing the amount of substance recovered is within the amount identified in subsection (d) of this Section.

(c) A person who is experiencing an overdose shall not be charged or prosecuted for Class 4 felony possession of a controlled, counterfeit, or look-alike substance or a controlled substance analog if evidence for the Class 4 felony possession charge was acquired as a result of the person seeking or obtaining emergency medical assistance and providing the amount of substance recovered is within the amount identified in subsection (d) of this Section.

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(d) For the purposes of subsections (b) and (c), the limited immunity shall only apply to a person possessing the following amount:

- (1) less than 3 grams of a substance containing heroin;
- (2) less than 3 grams of a substance containing cocaine;
- (3) less than 3 grams of a substance containing morphine;
- (4) less than 40 grams of a substance containing peyote;
- (5) less than 40 grams of a substance containing a derivative of barbituric acid or any of the salts of a derivative of barbituric acid;
- (6) less than 40 grams of a substance containing amphetamine or any salt of an optical isomer of amphetamine;
- (7) less than 3 grams of a substance containing lysergic acid diethylamide (LSD), or an analog thereof;
- (8) less than 6 grams of a substance containing pentazocine or any of the salts, isomers and salts of isomers of pentazocine, or an analog thereof;
- (9) less than 6 grams of a substance containing methaqualone or any of the salts, isomers and salts of isomers of methaqualone;
- (10) less than 6 grams of a substance containing phencyclidine or any of the salts, isomers and salts of isomers of phencyclidine (PCP);
- (11) less than 6 grams of a substance containing ketamine or any of the salts, isomers and salts of isomers of ketamine;
- (12) less than 40 grams of a substance containing a substance classified as a narcotic drug in Schedules I or II, or an analog thereof, which is not otherwise included in this subsection.

(e) The limited immunity described in subsections (b) and (c) of this Section shall not be extended if law enforcement has reasonable suspicion or probable cause to detain, arrest, or search the person described in subsection (b) or (c) of this Section for criminal activity and the reasonable suspicion or probable cause is based on information obtained prior to or independent of the individual described in subsection (b) or (c) taking action to seek or obtain emergency medical assistance and not obtained as a direct result of the action of seeking or obtaining emergency medical assistance. Nothing in this Section is intended to interfere with or prevent the investigation, arrest, or prosecution of any person for the delivery or distribution of cannabis, methamphetamine or other controlled substances, drug-induced homicide, or any other crime.

Section 10. The Methamphetamine Control and Community Protection Act is amended by adding Section 115 as follows:

(720 ILCS 646/115 new)

Sec. 115. Overdose; limited immunity from prosecution.

(a) For the purposes of this Section, "overdose" means a methamphetamine-induced physiological event that results in a life-threatening emergency to the individual who ingested, inhaled, injected, or otherwise bodily absorbed methamphetamine.

(b) A person who, in good faith, seeks emergency medical assistance for someone experiencing an overdose shall not be charged or prosecuted for Class 3 felony possession of methamphetamine if evidence for the Class 3 felony possession charge was acquired as a result of the person seeking or obtaining emergency medical assistance and providing the amount of substance recovered is less than one gram of methamphetamine or a substance containing methamphetamine.

(c) A person who is experiencing an overdose shall not be charged or prosecuted for Class 3 felony possession of methamphetamine if evidence for the Class 3 felony possession charge was acquired as a result of the person seeking or obtaining emergency medical assistance and providing the amount of substance recovered is less than one gram of methamphetamine or a substance containing methamphetamine.

(d) The limited immunity described in subsections (b) and (c) of this Section shall not be extended if law enforcement has reasonable suspicion or probable cause to detain, arrest, or search the person described in subsection (b) or (c) of this Section for criminal activity and the reasonable suspicion or probable cause is based on information obtained prior to or independent of the individual described in subsection (b) or (c) taking action to seek or obtain emergency medical assistance and not obtained as a direct result of the action of seeking or obtaining emergency medical assistance. Nothing in this Section is intended to interfere with or prevent the investigation, arrest, or prosecution of any person for the delivery or distribution of cannabis, methamphetamine or other controlled substances, drug-induced homicide, or any other crime.

Section 15. The Unified Code of Corrections is amended by changing Section 5-5-3.1 as follows:
(730 ILCS 5/5-5-3.1) (from Ch. 38, par. 1005-5-3.1)

Sec. 5-5-3.1. Factors in Mitigation.

(a) The following grounds shall be accorded weight in favor of withholding or minimizing a sentence of imprisonment:

- (1) The defendant's criminal conduct neither caused nor threatened serious physical harm to another.
- (2) The defendant did not contemplate that his criminal conduct would cause or threaten serious physical harm to another.
- (3) The defendant acted under a strong provocation.
- (4) There were substantial grounds tending to excuse or justify the defendant's criminal conduct, though failing to establish a defense.
- (5) The defendant's criminal conduct was induced or facilitated by someone other than the defendant.
- (6) The defendant has compensated or will compensate the victim of his criminal conduct for the damage or injury that he sustained.
- (7) The defendant has no history of prior delinquency or criminal activity or has led a law-abiding life for a substantial period of time before the commission of the present crime.
- (8) The defendant's criminal conduct was the result of circumstances unlikely to recur.
- (9) The character and attitudes of the defendant indicate that he is unlikely to commit another crime.
- (10) The defendant is particularly likely to comply with the terms of a period of probation.
- (11) The imprisonment of the defendant would entail excessive hardship to his dependents.
- (12) The imprisonment of the defendant would endanger his or her medical condition.
- (13) The defendant was mentally retarded as defined in Section 5-1-13 of this Code.
- (14) The defendant sought or obtained emergency medical assistance for an overdose and was convicted of a Class 3 felony or higher possession, manufacture, or delivery of a controlled, counterfeit, or look-alike substance or a controlled substance analog under the Illinois Controlled Substances Act or a Class 2 felony or higher possession, manufacture or delivery of methamphetamine under the Methamphetamine Control and Community Protection Act.

(b) If the court, having due regard for the character of the offender, the nature and circumstances of the offense and the public interest finds that a sentence of imprisonment is the most appropriate disposition of the offender, or where other provisions of this Code mandate the imprisonment of the offender, the grounds listed in paragraph (a) of this subsection shall be considered as factors in mitigation of the term imposed.

(Source: P.A. 91-357, eff. 7-29-99.)

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

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 2 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING BILL OF THE SENATE A THIRD TIME

On motion of Senator Silverstein, **Senate Bill No. 1701**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 57; NAYS None.

The following voted in the affirmative:

Allthoff

Haine

Luechtefeld

Richter

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Bivins	Holmes	Maloney	Sandack
Bomke	Hunter	Martinez	Sandoval
Brady	Hutchinson	McCann	Schmidt
Clayborne	Johnson, C.	McCarter	Schoenberg
Collins, A.	Johnson, T.	Meeks	Silverstein
Collins, J.	Jones, E.	Millner	Steans
Crotty	Jones, J.	Mulroe	Sullivan
Cultra	Koehler	Muñoz	Syverson
Delgado	Kotowski	Murphy	Trotter
Dillard	LaHood	Noland	Wilhelmi
Duffy	Landek	Pankau	Mr. President
Forby	Laufen	Radogno	
Frerichs	Lightford	Raoul	
Garrett	Link	Rezin	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

SENATE BILL RECALLED

On motion of Senator Millner, **Senate Bill No. 1702** was recalled from the order of third reading to the order of second reading.

Senator Millner offered the following amendment and moved its adoption:

AMENDMENT NO. 3 TO SENATE BILL 1702

AMENDMENT NO. 3. Amend Senate Bill 1702 on page 2, line 16, by inserting "except for willful or wanton misconduct" after "process".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 3 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING BILLS OF THE SENATE A THIRD TIME

On motion of Senator Millner, **Senate Bill No. 1702**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 59; NAYS None.

The following voted in the affirmative:

Althoff	Haine	Lightford	Raoul
Bivins	Harmon	Link	Rezin
Bomke	Holmes	Luechtefeld	Righter
Brady	Hunter	Maloney	Sandack
Clayborne	Hutchinson	Martinez	Sandoval
Collins, A.	Jacobs	McCann	Schmidt
Collins, J.	Johnson, C.	McCarter	Schoenberg
Crotty	Johnson, T.	Meeks	Silverstein
Cultra	Jones, E.	Millner	Steans
Delgado	Jones, J.	Mulroe	Sullivan
Dillard	Koehler	Muñoz	Syverson

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Duffy	Kotowski	Murphy	Trotter
Forby	LaHood	Noland	Wilhelmi
Frerichs	Landek	Pankau	Mr. President
Garrett	Lauzen	Radogno	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

On motion of Senator LaHood, **Senate Bill No. 1727**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 56; NAY 1.

The following voted in the affirmative:

Althoff	Haine	Lightford	Rezin
Bivins	Harmon	Link	Sandack
Bomke	Holmes	Luechtefeld	Sandoval
Brady	Hunter	Maloney	Schmidt
Clayborne	Hutchinson	Martinez	Schoenberg
Collins, A.	Jacobs	McCann	Silverstein
Collins, J.	Johnson, C.	McCarter	Steans
Crotty	Johnson, T.	Meeks	Sullivan
Cultra	Jones, E.	Millner	Trotter
Delgado	Jones, J.	Mulroe	Wilhelmi
Dillard	Koehler	Muñoz	Mr. President
Duffy	Kotowski	Murphy	
Forby	LaHood	Noland	
Frerichs	Landek	Pankau	
Garrett	Lauzen	Raoul	

The following voted in the negative:

Radogno

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

SENATE BILL RECALLED

On motion of Senator Bivins, **Senate Bill No. 1728** was recalled from the order of third reading to the order of second reading.

Senator Bivins offered the following amendment and moved its adoption:

AMENDMENT NO. 2 TO SENATE BILL 1728

AMENDMENT NO. 2. Amend Senate Bill 1728 by replacing everything after the enacting clause with the following:

"Section 5. The State Comptroller Act is amended by changing Section 9.03 as follows:
(15 ILCS 405/9.03) (from Ch. 15, par. 209.03)
Sec. 9.03. Direct deposit of State payments.

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(a) The Comptroller, with the approval of the State Treasurer, may provide by rule or regulation for the direct deposit of any payment lawfully payable from the State Treasury and in accordance with federal banking regulations including but not limited to payments to (i) persons paid from personal services, (ii) persons receiving benefit payments from the Comptroller ~~him~~ under the State pension systems, (iii) individuals who receive assistance under Articles III, IV, and VI of the Illinois Public Aid Code, (iv) providers of services under the Mental Health and Developmental Disabilities Administrative Act, (v) providers of community-based mental health services, and (vi) providers of services under programs administered by the State Board of Education, in the accounts of those persons or entities maintained at a bank, savings and loan association, or credit union, where authorized by the payee. The Comptroller also may deposit public aid payments for individuals who receive assistance under Articles III, IV, VI, and X of the Illinois Public Aid Code directly into an electronic benefits transfer account in a financial institution approved by the State Treasurer as prescribed by the Illinois Department of Human Services and in accordance with the rules and regulations of that Department and the rules and ~~regulations~~ ~~regulation~~ adopted by the Comptroller and the State Treasurer. The Comptroller, with the approval of the State Treasurer, may provide by rule for the electronic direct deposit of payments to public agencies and any other payee of the State. The electronic direct deposits may be made to the designated account in those financial institutions specified in this Section for the direct deposit of payments. Within 6 months after the effective date of this amendatory Act of 1994, the Comptroller shall establish a pilot program for the electronic direct deposit of payments to local school districts, municipalities, and units of local government. The payments may be made without the use of the voucher-warrant system, provided that documentation of approval by the Treasurer of each group of payments made by direct deposit shall be retained by the Comptroller. The form and method of the Treasurer's approval shall be established by the rules or regulations adopted by the Comptroller under this Section.

(b) All State payments for an employee's payroll or an employee's expense reimbursement must be made through direct deposit. It is the responsibility of the paying State agency to ensure compliance with this mandate. If a State agency pays an employee's payroll or an employee's expense reimbursement without using direct deposit, the Comptroller may charge that employee a processing fee of \$2.50 per paper warrant. The processing fee may be withheld from the employee's payment or reimbursement. The amount collected from the fee shall be deposited into the Comptroller's Administrative Fund.

(c) All State payments to a vendor that exceed the allowable limit of paper warrants in a fiscal year, by the same agency, must be made through direct deposit. It is the responsibility of the paying State agency to ensure compliance with this mandate. If a State agency pays a vendor more times than the allowable limit in a single fiscal year without using direct deposit, the Comptroller may charge the vendor a processing fee of \$2.50 per paper warrant. The processing fee may be withheld from the vendor's payment. The amount collected from the processing fee shall be deposited into the Comptroller's Administrative Fund. The Office of the Comptroller shall define "allowable limit" in the Comptroller's Statewide Accounting Management System (SAMS) manual, except that the allowable limit shall not be less than 30 paper warrants. The Office of the Comptroller shall also provide reasonable notice to all State agencies of the allowable limit of paper warrants.

(d) State employees covered by provisions in collective bargaining agreements that do not require direct deposit of paychecks are exempt from this mandate. No later than 60 days after the effective date of this amendatory Act of the 97th General Assembly, all State agencies must provide to the Office of the Comptroller a list of employees that are exempt under this subsection (d) from the direct deposit mandate. In addition, a State employee or vendor may file a hardship petition with the Office of the Comptroller requesting an exemption from the direct deposit mandate under this Section. A hardship petition shall be made available for download on the Comptroller's official Internet website.

(e) Notwithstanding any provision of law to the contrary, the direct deposit of State payments under this Section for an employee's payroll, an employee's expense reimbursement, or a State vendor's payment does not authorize the State to automatically withdraw funds from those accounts.

(f) For the purposes of this Section, "vendor" means a non-governmental entity with a taxpayer identification number issued by the Social Security Administration or Internal Revenue Service that receives payments through the Comptroller's commercial system. The term does not include State agencies.

(Source: P.A. 88-641, eff. 9-9-94; 88-643, eff. 1-1-95; 89-235, eff. 8-4-95; 89-507, eff. 7-1-97.)

Section 10. The State Prompt Payment Act is amended by changing Section 3-2 as follows:

(30 ILCS 540/3-2)

Sec. 3-2. Beginning July 1, 1993, in any instance where a State official or agency is late in payment of

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a vendor's bill or invoice for goods or services furnished to the State, as defined in Section 1, properly approved in accordance with rules promulgated under Section 3-3, the State official or agency shall pay interest to the vendor in accordance with the following:

(1) Any bill, except a bill submitted under Article V of the Illinois Public Aid Code, approved for payment under this Section must be paid or the payment issued to the payee within 60 days of receipt of a proper bill or invoice. If payment is not issued to the payee within this ~~60-day 60 day~~ period, an interest penalty of 1.0% of any amount approved and unpaid shall be added for each month or fraction thereof after the end of this ~~60-day 60 day~~ period, until final payment is made. Any bill, except a bill for pharmacy or nursing facility services or goods, submitted under Article V of the Illinois Public Aid Code approved for payment under this Section must be paid or the payment issued to the payee within 60 days after receipt of a proper bill or invoice, and, if payment is not issued to the payee within this 60-day period, an interest penalty of 2.0% of any amount approved and unpaid shall be added for each month or fraction thereof after the end of this 60-day period, until final payment is made. Any bill for pharmacy or nursing facility services or goods submitted under Article V of the Illinois Public Aid Code ~~and~~ approved for payment under this Section must be paid or the payment issued to the payee within 60 days of receipt of a proper bill or invoice. If payment is not issued to the payee within this 60-day ~~60 day~~ period, an interest penalty of 1.0% of any amount approved and unpaid shall be added for each month or fraction thereof after the end of this 60-day ~~60 day~~ period, until final payment is made.

(1.1) A State agency shall review in a timely manner each bill or invoice after its receipt. If the State agency determines that the bill or invoice contains a defect making it unable to process the payment request, the agency shall notify the vendor requesting payment as soon as possible after discovering the defect pursuant to rules promulgated under Section 3-3; provided, however, that the notice for construction related bills or invoices must be given not later than 30 days after the bill or invoice was first submitted. The notice shall identify the defect and any additional information necessary to correct the defect. If one or more items on a construction related bill or invoice are disapproved, but not the entire bill or invoice, then the portion that is not disapproved shall be paid.

(2) Where a State official or agency is late in payment of a vendor's bill or invoice properly approved in accordance with this Act, and different late payment terms are not reduced to writing as a contractual agreement, the State official or agency shall automatically pay interest penalties required by this Section amounting to \$50 or more to the appropriate vendor. Each agency shall be responsible for determining whether an interest penalty is owed and for paying the interest to the vendor. Except as provided in paragraph (4), an individual interest payment amounting to \$5 or less shall not be paid by the State. Interest due to a vendor that amounts to greater than \$5 and less than \$50 shall not be paid but shall be accrued until all interest due the vendor for all similar warrants exceeds \$50, at which time the accrued interest shall be payable and interest will begin accruing again, except that interest accrued as of the end of the fiscal year that does not exceed \$50 shall be payable at that time. In the event an individual has paid a vendor for services in advance, the provisions of this Section shall apply until payment is made to that individual.

(3) ~~The provisions of Public Act 96-1501 this amendatory Act of the 96th General Assembly~~ reducing the interest rate on pharmacy claims under Article V of the Illinois Public Aid Code to 1.0% per month shall apply to any pharmacy bills for services and goods under Article V of the Illinois Public Aid Code received on or after the date 60 days before January 25, 2011 (the effective date of Public Act 96-1501) ~~this amendatory Act of the 96th General Assembly.~~

(4) Interest amounting to less than \$5 shall not be paid by the State, except for claims for prescriptive services or any other services submitted by a federally qualified health center pursuant to Article V of the Illinois Public Aid Code, the Covering ALL KIDS Health Insurance Act, or the Children's Health Insurance Program Act to the Department of Healthcare and Family Services. (Source: P.A. 96-555, eff. 8-18-09; 96-802, eff. 1-1-10; 96-959, eff. 7-1-10; 96-1000, eff. 7-2-10; 96-1501, eff. 1-25-11; 96-1530, eff. 2-16-11; revised 2-22-11.)

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

The motion prevailed.

And the amendment was adopted and ordered printed.

Senate Floor Amendment No. 3 was held in the Committee on Assignments

[April 14, 2011]

There being no further amendments, the foregoing Amendment No. 2 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING BILLS OF THE SENATE A THIRD TIME

On motion of Senator Bivins, **Senate Bill No. 1728**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 59; NAYS None.

The following voted in the affirmative:

Althoff	Haine	Lightford	Raoul
Bivins	Harmon	Link	Rezin
Bomke	Holmes	Luechtefeld	Righter
Brady	Hunter	Maloney	Sandack
Clayborne	Hutchinson	Martinez	Sandoval
Collins, A.	Jacobs	McCann	Schmidt
Collins, J.	Johnson, C.	McCarter	Schoenberg
Crotty	Johnson, T.	Meeks	Silverstein
Cultra	Jones, E.	Millner	Steans
Delgado	Jones, J.	Mulroe	Sullivan
Dillard	Koehler	Muñoz	Syverson
Duffy	Kotowski	Murphy	Trotter
Forby	LaHood	Noland	Wilhelmi
Frerichs	Landek	Pankau	Mr. President
Garrett	Lauzen	Radogno	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

On motion of Senator Raoul, **Senate Bill No. 1739**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 58; NAYS None.

The following voted in the affirmative:

Althoff	Harmon	Link	Rezin
Bivins	Holmes	Luechtefeld	Righter
Bomke	Hunter	Maloney	Sandack
Clayborne	Hutchinson	Martinez	Sandoval
Collins, A.	Jacobs	McCann	Schmidt
Collins, J.	Johnson, C.	McCarter	Schoenberg
Crotty	Johnson, T.	Meeks	Silverstein
Cultra	Jones, E.	Millner	Steans
Delgado	Jones, J.	Mulroe	Sullivan
Dillard	Koehler	Muñoz	Syverson
Duffy	Kotowski	Murphy	Trotter
Forby	LaHood	Noland	Wilhelmi
Frerichs	Landek	Pankau	Mr. President

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Garrett	Lauzen	Radogno
Haine	Lightford	Raoul

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

On motion of Senator Raoul, **Senate Bill No. 1740**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 58; NAYS None.

The following voted in the affirmative:

Althoff	Haine	Link	Rezin
Bivins	Harmon	Luechtefeld	Righter
Bomke	Holmes	Maloney	Sandack
Brady	Hunter	Martinez	Sandoval
Clayborne	Hutchinson	McCann	Schmidt
Collins, A.	Jacobs	McCarter	Schoenberg
Collins, J.	Johnson, C.	Meeks	Silverstein
Crotty	Johnson, T.	Millner	Steans
Cultra	Jones, E.	Mulroe	Sullivan
Delgado	Jones, J.	Muñoz	Syverson
Dillard	Koehler	Murphy	Trotter
Duffy	Kotowski	Noland	Wilhelmi
Forby	LaHood	Pankau	Mr. President
Frerichs	Landek	Radogno	
Garrett	Lauzen	Raoul	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

On motion of Senator Luechtefeld, **Senate Bill No. 1741**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 57; NAYS None.

The following voted in the affirmative:

Althoff	Haine	Link	Rezin
Bivins	Harmon	Luechtefeld	Righter
Bomke	Holmes	Maloney	Sandack
Brady	Hunter	Martinez	Sandoval
Clayborne	Hutchinson	McCann	Schoenberg
Collins, A.	Jacobs	McCarter	Silverstein
Collins, J.	Johnson, C.	Meeks	Steans
Crotty	Johnson, T.	Millner	Sullivan
Cultra	Jones, E.	Mulroe	Syverson
Delgado	Koehler	Muñoz	Trotter

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Dillard	Kotowski	Murphy	Wilhelmi
Duffy	LaHood	Noland	Mr. President
Forby	Landek	Pankau	
Frerichs	Lauzen	Radogno	
Garrett	Lightford	Raoul	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

SENATE BILL RECALLED

On motion of Senator Althoff, **Senate Bill No. 1742** was recalled from the order of third reading to the order of second reading.

Senator Althoff offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO SENATE BILL 1742

AMENDMENT NO. 1. Amend Senate Bill 1742 by replacing everything after the enacting clause with the following:

"Section 5. The School Code is amended by changing Sections 1C-4 and 1D-1 as follows:
(105 ILCS 5/1C-4)

Sec. 1C-4. Reports. The State Superintendent of Education, in cooperation with the school districts participating under this Article, shall annually report to the leadership of the General Assembly on the progress made in implementing this Article. By February 1, 1997, the State Board of Education shall submit to the Governor and General Assembly a comprehensive plan for Illinois school districts, including the school district that has been organized under Article 34 and is under the jurisdiction of the Chicago Board of Education, to establish and implement a block grant funding system for educational programs that are currently funded through single-program grants. Before submitting its plan to establish and implement a block grant funding system to the Governor and General Assembly as required by this Section, the State Board of Education shall give appropriate notice of and hold statewide public hearings on the subject of funding educational programs through block grants. The plan shall be designed to relieve school districts of the administrative burdens that impede efficiency and accompany single-program funding.

A school district that receives an Early Childhood Education Block Grant shall report to the State Board of Education on its use of the block grant in such form and detail as the State Board of Education may specify. In addition, the report must include the following description for the district, which must also be reported to the General Assembly: block grant allocation and expenditures by program; population and service levels by program; and administrative expenditures by program. The State Board of Education shall ensure that the reporting requirements for a district organized under Article 34 of this Code are the same as for all other school districts in this State.

(Source: P.A. 88-555, eff. 7-27-94; 89-397, eff. 8-20-95; 89-610, eff. 8-6-96.)

(105 ILCS 5/1D-1)

Sec. 1D-1. Block grant funding.

(a) For fiscal year 1996 and each fiscal year thereafter, the State Board of Education shall award to a school district having a population exceeding 500,000 inhabitants a general education block grant and an educational services block grant, determined as provided in this Section, in lieu of distributing to the district separate State funding for the programs described in subsections (b) and (c). The provisions of this Section, however, do not apply to any federal funds that the district is entitled to receive. In accordance with Section 2-3.32, all block grants are subject to an audit. Therefore, block grant receipts and block grant expenditures shall be recorded to the appropriate fund code for the designated block grant.

(b) The general education block grant shall include the following programs: REI Initiative, Summer Bridges, Preschool At Risk, K-6 Comprehensive Arts, School Improvement Support, Urban Education, Scientific Literacy, Substance Abuse Prevention, Second Language Planning, Staff Development, Outcomes and Assessment, K-6 Reading Improvement, 7-12 Continued Reading Improvement, Truants' Optional Education, Hispanic Programs, Agriculture Education, Parental Education, Prevention

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Initiative, Report Cards, and Criminal Background Investigations. Notwithstanding any other provision of law, all amounts paid under the general education block grant from State appropriations to a school district in a city having a population exceeding 500,000 inhabitants shall be appropriated and expended by the board of that district for any of the programs included in the block grant or any of the board's lawful purposes.

(c) The educational services block grant shall include the following programs: Bilingual, Regular and Vocational Transportation, State Lunch and Free Breakfast Program, Special Education (Personnel, Transportation, Orphanage, Private Tuition), funding for children requiring special education services, Summer School, Educational Service Centers, and Administrator's Academy. This subsection (c) does not relieve the district of its obligation to provide the services required under a program that is included within the educational services block grant. It is the intention of the General Assembly in enacting the provisions of this subsection (c) to relieve the district of the administrative burdens that impede efficiency and accompany single-program funding. The General Assembly encourages the board to pursue mandate waivers pursuant to Section 2-3.25g.

The funding program included in the educational services block grant for funding for children requiring special education services in each fiscal year shall be treated in that fiscal year as a payment to the school district in respect of services provided or costs incurred in the prior fiscal year, calculated in each case as provided in this Section. Nothing in this Section shall change the nature of payments for any program that, apart from this Section, would be or, prior to adoption or amendment of this Section, was on the basis of a payment in a fiscal year in respect of services provided or costs incurred in the prior fiscal year, calculated in each case as provided in this Section.

(d) For fiscal year 1996 and each fiscal year thereafter, the amount of the district's block grants shall be determined as follows: (i) with respect to each program that is included within each block grant, the district shall receive an amount equal to the same percentage of the current fiscal year appropriation made for that program as the percentage of the appropriation received by the district from the 1995 fiscal year appropriation made for that program, and (ii) the total amount that is due the district under the block grant shall be the aggregate of the amounts that the district is entitled to receive for the fiscal year with respect to each program that is included within the block grant that the State Board of Education shall award the district under this Section for that fiscal year. In the case of the Summer Bridges program, the amount of the district's block grant shall be equal to 44% of the amount of the current fiscal year appropriation made for that program.

(e) The district is not required to file any application or other claim in order to receive the block grants to which it is entitled under this Section. The State Board of Education shall make payments to the district of amounts due under the district's block grants on a schedule determined by the State Board of Education.

(f) A school district to which this Section applies shall report to the State Board of Education on its use of the block grants in such form and detail as the State Board of Education may specify. In addition, the report must include the following description for the district, which must also be reported to the General Assembly: block grant allocation and expenditures by program; population and service levels by program; and administrative expenditures by program. The State Board of Education shall ensure that the reporting requirements for the district are the same as for all other school districts in this State.

(g) This paragraph provides for the treatment of block grants under Article 1C for purposes of calculating the amount of block grants for a district under this Section. Those block grants under Article 1C are, for this purpose, treated as included in the amount of appropriation for the various programs set forth in paragraph (b) above. The appropriation in each current fiscal year for each block grant under Article 1C shall be treated for these purposes as appropriations for the individual program included in that block grant. The proportion of each block grant so allocated to each such program included in it shall be the proportion which the appropriation for that program was of all appropriations for such purposes now in that block grant, in fiscal 1995.

Payments to the school district under this Section with respect to each program for which payments to school districts generally, as of the date of this amendatory Act of the 92nd General Assembly, are on a reimbursement basis shall continue to be made to the district on a reimbursement basis, pursuant to the provisions of this Code governing those programs.

(h) Notwithstanding any other provision of law, any school district receiving a block grant under this Section may classify all or a portion of the funds that it receives in a particular fiscal year from any block grant authorized under this Code or from general State aid pursuant to Section 18-8.05 of this Code (other than supplemental general State aid) as funds received in connection with any funding program for which it is entitled to receive funds from the State in that fiscal year (including, without limitation, any funding program referred to in subsection (c) of this Section), regardless of the source or timing of

the receipt. The district may not classify more funds as funds received in connection with the funding program than the district is entitled to receive in that fiscal year for that program. Any classification by a district must be made by a resolution of its board of education. The resolution must identify the amount of any block grant or general State aid to be classified under this subsection (h) and must specify the funding program to which the funds are to be treated as received in connection therewith. This resolution is controlling as to the classification of funds referenced therein. A certified copy of the resolution must be sent to the State Superintendent of Education. The resolution shall still take effect even though a copy of the resolution has not been sent to the State Superintendent of Education in a timely manner. No classification under this subsection (h) by a district shall affect the total amount or timing of money the district is entitled to receive under this Code. No classification under this subsection (h) by a district shall in any way relieve the district from or affect any requirements that otherwise would apply with respect to the block grant as provided in this Section, including any accounting of funds by source, reporting expenditures by original source and purpose, reporting requirements, or requirements of provision of services.

(Source: P.A. 92-568, eff. 6-26-02; 92-651, eff. 7-11-02; 93-21, eff. 7-1-03; 93-53, eff. 7-1-03; 93-1022, eff. 8-24-04.)

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

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING BILL OF THE SENATE A THIRD TIME

On motion of Senator Althoff, **Senate Bill No. 1742**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 56; NAYS None.

The following voted in the affirmative:

Althoff	Harmon	Luechtefeld	Righter
Bivins	Holmes	Maloney	Sandack
Bomke	Hunter	Martinez	Sandoval
Brady	Hutchinson	McCann	Schmidt
Clayborne	Jacobs	McCarter	Schoenberg
Collins, J.	Johnson, C.	Meeks	Silverstein
Crotty	Johnson, T.	Millner	Sullivan
Cultra	Jones, E.	Mulroe	Syverson
Delgado	Jones, J.	Muñoz	Trotter
Dillard	Koehler	Murphy	Wilhelmi
Duffy	Kotowski	Noland	Mr. President
Forby	LaHood	Pankau	
Frerichs	Lauzen	Radogno	
Garrett	Lightford	Raoul	
Haine	Link	Rezin	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

SENATE BILL RECALLED

[April 14, 2011]

On motion of Senator Jacobs, **Senate Bill No. 1755** was recalled from the order of third reading to the order of second reading.

Senator Bivins offered the following amendment and moved its adoption:

AMENDMENT NO. 2 TO SENATE BILL 1755

AMENDMENT NO. 2. Amend Senate Bill 1755 on page 1, line 13, after "Stephenson," by inserting "Lee"; and

on page 1, line 17, by replacing "15" with "16"; and

on page 2, by replacing line 10 with the following: "JoDavieess, Carroll, Whiteside, Stephenson, and Lee counties with"; and

on page 2, by replacing lines 13 through 14 with the following: "Assembly, one shall serve for a one-year term, 2 shall serve for 2-year terms, and 2 shall serve for 3-year terms, to be"; and

on page 2, line 17, by replacing "Eight" with "Nine"; and

on page 3, line 3, by replacing "8" with "9".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 2 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING BILL OF THE SENATE A THIRD TIME

On motion of Senator Jacobs, **Senate Bill No. 1755**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 59; NAYS None.

The following voted in the affirmative:

Althoff	Haine	Lightford	Raoul
Bivins	Harmon	Link	Rezin
Bomke	Holmes	Luechtefeld	Righter
Brady	Hunter	Maloney	Sandack
Clayborne	Hutchinson	Martinez	Sandoval
Collins, A.	Jacobs	McCann	Schmidt
Collins, J.	Johnson, C.	McCarter	Schoenberg
Crotty	Johnson, T.	Meeks	Silverstein
Cultra	Jones, E.	Millner	Steans
Delgado	Jones, J.	Mulroe	Sullivan
Dillard	Koehler	Muñoz	Syverson
Duffy	Kotowski	Murphy	Trotter
Forby	LaHood	Noland	Wilhelmi
Frerichs	Landek	Pankau	Mr. President
Garrett	Laufen	Radogno	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

[April 14, 2011]

SENATE BILL RECALLED

On motion of Senator Righter, **Senate Bill No. 1761** was recalled from the order of third reading to the order of second reading.

Senator Righter offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO SENATE BILL 1761

AMENDMENT NO. 1. Amend Senate Bill 1761 on page 3, line 12, by replacing "30" with "90".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING BILLS OF THE SENATE A THIRD TIME

On motion of Senator Righter, **Senate Bill No. 1761**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 58; NAYS None.

The following voted in the affirmative:

Althoff	Haine	Lightford	Rezin
Bivins	Harmon	Link	Righter
Bomke	Holmes	Maloney	Sandack
Brady	Hunter	Martinez	Sandoval
Clayborne	Hutchinson	McCann	Schmidt
Collins, A.	Jacobs	McCarter	Schoenberg
Collins, J.	Johnson, C.	Meeks	Silverstein
Crotty	Johnson, T.	Millner	Steans
Cultra	Jones, E.	Mulroe	Sullivan
Delgado	Jones, J.	Muñoz	Syverson
Dillard	Koehler	Murphy	Trotter
Duffy	Kotowski	Noland	Wilhelmi
Forby	LaHood	Pankau	Mr. President
Frerichs	Landek	Radogno	
Garrett	Lauzen	Raoul	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

On motion of Senator Dillard, **Senate Bill No. 1762**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 59; NAYS None.

The following voted in the affirmative:

Althoff	Haine	Lightford	Raoul
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Bivins	Harmon	Link	Rezin
Bomke	Holmes	Luechtefeld	Righter
Brady	Hunter	Maloney	Sandack
Clayborne	Hutchinson	Martinez	Sandoval
Collins, A.	Jacobs	McCann	Schmidt
Collins, J.	Johnson, C.	McCarter	Schoenberg
Crotty	Johnson, T.	Meeks	Silverstein
Cultra	Jones, E.	Millner	Steans
Delgado	Jones, J.	Mulroe	Sullivan
Dillard	Koehler	Muñoz	Syerson
Duffy	Kotowski	Murphy	Trotter
Forby	LaHood	Noland	Wilhelmi
Frerichs	Landek	Pankau	Mr. President
Garrett	Lauzen	Radogno	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

On motion of Senator Brady, **Senate Bill No. 1765**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, “Shall this bill pass?” it was decided in the affirmative by the following vote:

YEAS 58; NAY 1.

The following voted in the affirmative:

Althoff	Haine	Link	Rezin
Bivins	Harmon	Luechtefeld	Righter
Bomke	Holmes	Maloney	Sandack
Brady	Hunter	Martinez	Sandoval
Clayborne	Hutchinson	McCann	Schmidt
Collins, A.	Jacobs	McCarter	Schoenberg
Collins, J.	Johnson, C.	Meeks	Silverstein
Crotty	Johnson, T.	Millner	Steans
Cultra	Jones, E.	Mulroe	Sullivan
Delgado	Jones, J.	Muñoz	Syerson
Dillard	Koehler	Murphy	Trotter
Duffy	Kotowski	Noland	Wilhelmi
Forby	LaHood	Pankau	Mr. President
Frerichs	Landek	Radogno	
Garrett	Lightford	Raoul	

The following voted in the negative:

Lauzen

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

On motion of Senator Wilhelmi, **Senate Bill No. 1766**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

[April 14, 2011]

And the question being, “Shall this bill pass?” it was decided in the affirmative by the following vote:

YEAS 52; NAYS 4.

The following voted in the affirmative:

Althoff	Hunter	Martinez	Sandoval
Bomke	Hutchinson	McCann	Schmidt
Clayborne	Jacobs	Meeks	Schoenberg
Collins, A.	Johnson, T.	Millner	Silverstein
Collins, J.	Jones, E.	Mulroe	Steans
Crotty	Jones, J.	Muñoz	Sullivan
Delgado	Koehler	Murphy	Syverson
Dillard	Kotowski	Noland	Trotter
Duffy	Landek	Pankau	Wilhelmi
Frerichs	Lauzen	Radogno	Mr. President
Garrett	Lightford	Raoul	
Haine	Link	Rezin	
Harmon	Luechtefeld	Righter	
Holmes	Maloney	Sandack	

The following voted in the negative:

Bivins	Johnson, C.
Cultra	LaHood

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

On motion of Senator Maloney, **Senate Bill No. 1773**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, “Shall this bill pass?” it was decided in the affirmative by the following vote:

YEAS 59; NAYS None.

The following voted in the affirmative:

Althoff	Haine	Lightford	Raoul
Bivins	Harmon	Link	Rezin
Bomke	Holmes	Luechtefeld	Righter
Brady	Hunter	Maloney	Sandack
Clayborne	Hutchinson	Martinez	Sandoval
Collins, A.	Jacobs	McCann	Schmidt
Collins, J.	Johnson, C.	McCarter	Schoenberg
Crotty	Johnson, T.	Meeks	Silverstein
Cultra	Jones, E.	Millner	Steans
Delgado	Jones, J.	Mulroe	Sullivan
Dillard	Koehler	Muñoz	Syverson
Duffy	Kotowski	Murphy	Trotter
Forby	LaHood	Noland	Wilhelmi
Frerichs	Landek	Pankau	Mr. President
Garrett	Lauzen	Radogno	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

On motion of Senator Muñoz, **Senate Bill No. 1782**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, “Shall this bill pass?” it was decided in the affirmative by the following vote:

YEAS 57; NAYS None.

The following voted in the affirmative:

Althoff	Holmes	Luechtefeld	Righter
Bivins	Hunter	Maloney	Sandack
Bomke	Hutchinson	Martinez	Sandoval
Brady	Jacobs	McCann	Schmidt
Clayborne	Johnson, C.	McCarter	Schoenberg
Collins, A.	Johnson, T.	Meeks	Silverstein
Crotty	Jones, E.	Millner	Steans
Cultra	Jones, J.	Mulroe	Sullivan
Delgado	Koehler	Muñoz	Syverson
Dillard	Kotowski	Murphy	Trotter
Forby	LaHood	Noland	Wilhelmi
Frerichs	Landek	Pankau	Mr. President
Garrett	Lauzen	Radogno	
Haine	Lightford	Raoul	
Harmon	Link	Rezin	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

On motion of Senator Lightford, **Senate Bill No. 1794**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, “Shall this bill pass?” it was decided in the affirmative by the following vote:

YEAS 59; NAYS None.

The following voted in the affirmative:

Althoff	Haine	Lightford	Raoul
Bivins	Harmon	Link	Rezin
Bomke	Holmes	Luechtefeld	Righter
Brady	Hunter	Maloney	Sandack
Clayborne	Hutchinson	Martinez	Sandoval
Collins, A.	Jacobs	McCann	Schmidt
Collins, J.	Johnson, C.	McCarter	Schoenberg
Crotty	Johnson, T.	Meeks	Silverstein
Cultra	Jones, E.	Millner	Steans
Delgado	Jones, J.	Mulroe	Sullivan
Dillard	Koehler	Muñoz	Syverson
Duffy	Kotowski	Murphy	Trotter
Forby	LaHood	Noland	Wilhelmi

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Frerichs	Landek	Pankau	Mr. President
Garrett	Lauzen	Radogno	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

On motion of Senator Lightford, **Senate Bill No. 1795**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 58; NAYS None.

The following voted in the affirmative:

Althoff	Haine	Lightford	Rezin
Bivins	Harmon	Link	Righter
Bomke	Holmes	Luechtefeld	Sandack
Brady	Hunter	Maloney	Sandoval
Clayborne	Hutchinson	Martinez	Schmidt
Collins, A.	Jacobs	McCann	Schoenberg
Collins, J.	Johnson, C.	McCarter	Silverstein
Crotty	Johnson, T.	Meeks	Steans
Cultra	Jones, E.	Mulroe	Sullivan
Delgado	Jones, J.	Muñoz	Syverson
Dillard	Koehler	Murphy	Trotter
Duffy	Kotowski	Noland	Wilhelmi
Forby	LaHood	Pankau	Mr. President
Frerichs	Landek	Radogno	
Garrett	Lauzen	Raoul	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

READING BILL OF THE SENATE A SECOND TIME

On motion of Senator Lightford, **Senate Bill No. 7**, having been printed, was taken up, read by title a second time.

Senate Floor Amendment No. 1 was referred to the Committee on Assignments earlier today.

There being no further amendments, the bill was ordered to a third reading.

LEGISLATIVE MEASURES FILED

The following Floor amendments to the Senate Bills listed below have been filed with the Secretary and referred to the Committee on Assignments:

Senate Floor Amendment No. 2 to Senate Bill 7
 Senate Floor Amendment No. 1 to Senate Bill 630
 Senate Floor Amendment No. 2 to Senate Bill 630
 Senate Floor Amendment No. 1 to Senate Bill 675
 Senate Floor Amendment No. 1 to Senate Bill 2357
 Senate Floor Amendment No. 1 to Senate Bill 2378

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At the hour of 11:19 o'clock a.m., the Chair announced that the Senate stand at ease.

AT EASE

At the hour of 11:26 o'clock a.m. the Senate resumed consideration of business.
Senator Sullivan, presiding.

REPORT FROM COMMITTEE ON ASSIGNMENTS

Senator Clayborne, Chairperson of the Committee on Assignments, during its April 14, 2011 meeting, reported the following Legislative Measures have been assigned to the indicated Standing Committees of the Senate:

Appropriations I: **Senate Floor Amendment No. 1 to Senate Bill 2357; Senate Floor Amendment No. 1 to Senate Bill 2378.**

Education: **Senate Floor Amendment No. 1 to Senate Bill 630.**

Senator Clayborne, Chairperson of the Committee on Assignments, during its April 14, 2011 meeting, reported the following Senate Resolution has been assigned to the indicated Standing Committee of the Senate:

Education: **Senate Joint Resolution No. 34.**

COMMITTEE MEETING ANNOUNCEMENT

The Chair announced the following committee to meet at 12:30 o'clock p.m.:

Education in Room 409

POSTING NOTICE WAIVED

Senator Lightford moved to waive the six-day posting requirement on **Senate Joint Resolution No. 34** so that the resolution may be heard in the Committee on Education that is scheduled to meet this afternoon.

The motion prevailed.

READING BILLS OF THE SENATE A SECOND TIME

On motion of Senator Kotowski, **Senate Bill No. 540** having been printed, was taken up, read by title a second time.

The following amendment was offered in the Committee on Local Government, adopted and ordered printed:

AMENDMENT NO. 1 TO SENATE BILL 540

AMENDMENT NO. 1. Amend Senate Bill 540 by replacing everything after the enacting clause with the following:

"Section 5. The State Comptroller Act is amended by adding Section 30 as follows:
(15 ILCS 405/30 new)

Sec. 30. Tax Increment Finance administrator training. The Comptroller, in consultation with the State Comptroller Local Government Advisory Board, shall establish and conduct a training and certification

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program for Tax Increment Finance administrators. The Comptroller shall issue a certificate to each administrator who satisfactorily completes the training program. In the case of any administrator who fails to satisfactorily complete the training program, the Comptroller shall so notify the Mayor or other elected official in the municipality in which that administrator is employed. The Comptroller shall reimburse administrators for their reasonable expenses incurred in completing the training program subject to moneys appropriated to the Comptroller for that purpose.

Section 10. The Illinois Municipal Code is amended by changing Sections 8-8-3, 8-8-3.5, and 11-74.6-22 as follows:

(65 ILCS 5/8-8-3) (from Ch. 24, par. 8-8-3)

Sec. 8-8-3. Audit requirements.

(a) The corporate authorities of each municipality coming under the provisions of this Division 8 shall cause an audit of the funds and accounts of the municipality to be made by an accountant or accountants employed by such municipality or by an accountant or accountants retained by the Comptroller, as hereinafter provided.

(b) The accounts and funds of each municipality having a population of 800 or more or having a bonded debt or owning or operating any type of public utility shall be audited annually. The audit herein required shall include all of the accounts and funds of the municipality. Such audit shall be begun as soon as possible after the close of the fiscal year, and shall be completed and the report submitted within 6 months after the close of such fiscal year, unless an extension of time shall be granted by the Comptroller in writing. The accountant or accountants making the audit shall submit not less than 2 copies of the audit report to the corporate authorities of the municipality being audited. Municipalities not operating utilities may cause audits of the accounts of municipalities to be made more often than herein provided, by an accountant or accountants. The audit report of such audit when filed with the Comptroller together with an audit report covering the remainder of the period for which an audit is required to be filed hereunder shall satisfy the requirements of this section.

(c) Municipalities of less than 800 population which do not own or operate public utilities and do not have bonded debt, shall file annually with the Comptroller a financial report containing information required by the Comptroller. Such annual financial report shall be on forms devised by the Comptroller in such manner as to not require professional accounting services for its preparation.

(d) In addition to any audit report required, all municipalities, except municipalities of less than 800 population which do not own or operate public utilities and do not have bonded debt, shall file annually with the Comptroller a supplemental report on forms devised and approved by the Comptroller.

(e) Notwithstanding any provision of law to the contrary, if a municipality (i) has a population of less than 200, (ii) has bonded debt in the amount of \$50,000 or less, and (iii) owns or operates a public utility, then the municipality shall cause an audit of the funds and accounts of the municipality to be made by an accountant employed by the municipality or retained by the Comptroller for fiscal year 2011 and every fourth fiscal year thereafter or until the municipality has a population of 200 or more, has bonded debt in excess of \$50,000, or no longer owns or operates a public utility. Nothing in this subsection shall be construed as limiting the municipality's duty to file an annual financial report with the Comptroller or to comply with the filing requirements concerning the county clerk.

(f) On and after the effective date of this amendatory Act of the 97th General Assembly, the State Comptroller must post on the State Comptroller's official website the information submitted by a municipality pursuant to subsections (b) and (c) of this Section. The information must be posted no later than 45 days after the State Comptroller receives the information from the municipality. The State Comptroller must also post a list of municipalities that are not in compliance with the reporting requirements set forth in subsections (b) and (c) of this Section.

(g) The State Comptroller has the authority to grant extensions for delinquent audit reports. The Comptroller may charge a municipality a fee for a delinquent audit of \$5 per day for the first 15 days past due, \$10 per day for 16 through 30 days past due, \$15 per day for 31 through 45 days past due, and \$20 per day for the 46th day and every day thereafter.

(Source: P.A. 96-1309, eff. 7-27-10.)

(65 ILCS 5/8-8-3.5)

Sec. 8-8-3.5. Tax Increment Financing Report. The reports filed under subsection (d) of Section 11-74.4-5 of the Tax Increment Allocation Redevelopment Act and the reports filed under subsection (d) of Section 11-74.6-22 of the Industrial Jobs Recovery Law in the Illinois Municipal Code must be separate from any other annual report filed with the Comptroller. The Comptroller must, in cooperation with reporting municipalities, create a format for the reporting of information described in paragraphs (1.5) and (5) and in subparagraph (G) of paragraph (7) of subsection (d) of Section 11-74.4-5 of the Tax

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Increment Allocation Redevelopment Act and the information described in paragraphs (1.5) and (5) and in subparagraph (G) of paragraph (7) of subsection (d) of Section 11-74.6-22 of the Industrial Jobs Recovery Law that facilitates consistent reporting among the reporting municipalities. The Comptroller may allow these reports to be filed electronically and may display the report, or portions of the report, electronically via the Internet. All reports filed under this Section must be made available for examination and copying by the public at all reasonable times. A Tax Increment Financing Report must be filed with the Comptroller within 180 days after the close of the municipal fiscal year or as soon thereafter as the audit for the redevelopment project area for that fiscal year becomes available. If the Tax Increment Finance administrator provides the Comptroller's office with sufficient evidence that the report is in the process of being completed by an auditor, the Comptroller may grant an extension. If the required report is not filed within the time extended by the Comptroller, the Comptroller may charge a municipality a fee of \$5 per day for the first 15 days past due, \$10 per day for 16 through 30 days past due, \$15 per day for 31 through 45 days past due, and \$20 per day for the 46th day and every day thereafter.

(Source: P.A. 91-478, eff. 11-1-99; 91-900, eff. 7-6-00.)

(65 ILCS 5/11-74.6-22)

Sec. 11-74.6-22. Adoption of ordinance; requirements; changes.

(a) Before adoption of an ordinance proposing the designation of a redevelopment planning area or a redevelopment project area, or both, or approving a redevelopment plan or redevelopment project, the municipality or commission designated pursuant to subsection (l) of Section 11-74.6-15 shall fix by ordinance or resolution a time and place for public hearing. Prior to the adoption of the ordinance or resolution establishing the time and place for the public hearing, the municipality shall make available for public inspection a redevelopment plan or a report that provides in sufficient detail, the basis for the eligibility of the redevelopment project area. The report along with the name of a person to contact for further information shall be sent to the affected taxing district by certified mail within a reasonable time following the adoption of the ordinance or resolution establishing the time and place for the public hearing.

At the public hearing any interested person or affected taxing district may file with the municipal clerk written objections to the ordinance and may be heard orally on any issues that are the subject of the hearing. The municipality shall hear and determine all alternate proposals or bids for any proposed conveyance, lease, mortgage or other disposition of land and all protests and objections at the hearing and the hearing may be adjourned to another date without further notice other than a motion to be entered upon the minutes fixing the time and place of the later hearing. At the public hearing or at any time prior to the adoption by the municipality of an ordinance approving a redevelopment plan, the municipality may make changes in the redevelopment plan. Changes which (1) add additional parcels of property to the proposed redevelopment project area, (2) substantially affect the general land uses proposed in the redevelopment plan, or (3) substantially change the nature of or extend the life of the redevelopment project shall be made only after the municipality gives notice, convenes a joint review board, and conducts a public hearing pursuant to the procedures set forth in this Section and in Section 11-74.6-25. Changes which do not (1) add additional parcels of property to the proposed redevelopment project area, (2) substantially affect the general land uses proposed in the redevelopment plan, or (3) substantially change the nature of or extend the life of the redevelopment project may be made without further hearing, provided that the municipality shall give notice of any such changes by mail to each affected taxing district and by publication in a newspaper of general circulation within the affected taxing district. Such notice by mail and by publication shall each occur not later than 10 days following the adoption by ordinance of such changes.

(b) Before adoption of an ordinance proposing the designation of a redevelopment planning area or a redevelopment project area, or both, or amending the boundaries of an existing redevelopment project area or redevelopment planning area, or both, the municipality shall convene a joint review board to consider the proposal. The board shall consist of a representative selected by each taxing district that has authority to levy real property taxes on the property within the proposed redevelopment project area and that has at least 5% of its total equalized assessed value located within the proposed redevelopment project area, a representative selected by the municipality and a public member. The public member and the board's chairperson shall be selected by a majority of other board members.

All board members shall be appointed and the first board meeting held within 14 days following the notice by the municipality to all the taxing districts as required by subsection (c) of Section 11-74.6-25. The notice shall also advise the taxing bodies represented on the joint review board of the time and place of the first meeting of the board. Additional meetings of the board shall be held upon the call of any 2 members. The municipality seeking designation of the redevelopment project area may provide

administrative support to the board.

The board shall review the public record, planning documents and proposed ordinances approving the redevelopment plan and project to be adopted by the municipality. As part of its deliberations, the board may hold additional hearings on the proposal. A board's recommendation, if any, shall be a written recommendation adopted by a majority vote of the board and submitted to the municipality within 30 days after the board convenes. A board's recommendation shall be binding upon the municipality. Failure of the board to submit its recommendation on a timely basis shall not be cause to delay the public hearing or the process of establishing or amending the redevelopment project area. The board's recommendation on the proposal shall be based upon the area satisfying the applicable eligibility criteria defined in Section 11-74.6-10 and whether there is a basis for the municipal findings set forth in the redevelopment plan as required by this Act. If the board does not file a recommendation it shall be presumed that the board has found that the redevelopment project area satisfies the eligibility criteria.

(c) After a municipality has by ordinance approved a redevelopment plan and designated a redevelopment planning area or a redevelopment project area, or both, the plan may be amended and additional properties may be added to the redevelopment project area only as herein provided. Amendments which (1) add additional parcels of property to the proposed redevelopment project area, (2) substantially affect the general land uses proposed in the redevelopment plan, (3) substantially change the nature of the redevelopment project, (4) increase the total estimated redevelopment project costs set out in the redevelopment plan by more than 5% after adjustment for inflation from the date the plan was adopted, or (5) add additional redevelopment project costs to the itemized list of redevelopment project costs set out in the redevelopment plan shall be made only after the municipality gives notice, convenes a joint review board, and conducts a public hearing pursuant to the procedures set forth in this Section and in Section 11-74.6-25. Changes which do not (1) add additional parcels of property to the proposed redevelopment project area, (2) substantially affect the general land uses proposed in the redevelopment plan, (3) substantially change the nature of the redevelopment project, (4) increase the total estimated redevelopment project cost set out in the redevelopment plan by more than 5% after adjustment for inflation from the date the plan was adopted, or (5) add additional redevelopment project costs to the itemized list of redevelopment project costs set out in the redevelopment plan may be made without further hearing, provided that the municipality shall give notice of any such changes by mail to each affected taxing district and by publication in a newspaper of general circulation within the affected taxing district. Such notice by mail and by publication shall each occur not later than 10 days following the adoption by ordinance of such changes.

(d) After the effective date of this amendatory Act of the 91st General Assembly, a municipality shall submit in an electronic format the following information for each redevelopment project area (i) to the State Comptroller under Section 8-8-3.5 of the Illinois Municipal Code and (ii) to all taxing districts overlapping the redevelopment project area no later than 180 days after the close of each municipal fiscal year or as soon thereafter as the audited financial statements become available and, in any case, shall be submitted before the annual meeting of the joint review board to each of the taxing districts that overlap the redevelopment project area:

(1) Any amendments to the redevelopment plan, or the redevelopment project area.

(1.5) A list of the redevelopment project areas administered by the municipality and, if applicable, the date each redevelopment project area was designated or terminated by the municipality.

(2) Audited financial statements of the special tax allocation fund once a cumulative total of \$100,000 of tax increment revenues has been deposited in the fund.

(3) Certification of the Chief Executive Officer of the municipality that the municipality has complied with all of the requirements of this Act during the preceding fiscal year.

(4) An opinion of legal counsel that the municipality is in compliance with this Act.

(5) An analysis of the special tax allocation fund which sets forth:

(A) the balance in the special tax allocation fund at the beginning of the fiscal year;

(B) all amounts deposited in the special tax allocation fund by source;

(C) an itemized list of all expenditures from the special tax allocation fund by category of permissible redevelopment project cost; and

(D) the balance in the special tax allocation fund at the end of the fiscal year

including a breakdown of that balance by source and a breakdown of that balance identifying any portion of the balance that is required, pledged, earmarked, or otherwise designated for payment of or securing of obligations and anticipated redevelopment project costs. Any portion of such ending balance that has not been identified or is not identified as being required, pledged, earmarked, or

otherwise designated for payment of or securing of obligations or anticipated redevelopment project costs shall be designated as surplus as set forth in Section 11-74.6-30 hereof.

(6) A description of all property purchased by the municipality within the redevelopment project area including:

- (A) Street address.
- (B) Approximate size or description of property.
- (C) Purchase price.
- (D) Seller of property.

(7) A statement setting forth all activities undertaken in furtherance of the objectives of the redevelopment plan, including:

- (A) Any project implemented in the preceding fiscal year.
- (B) A description of the redevelopment activities undertaken.
- (C) A description of any agreements entered into by the municipality with regard to the disposition or redevelopment of any property within the redevelopment project area.
- (D) Additional information on the use of all funds received under this Division and steps taken by the municipality to achieve the objectives of the redevelopment plan.
- (E) Information regarding contracts that the municipality's tax increment advisors or consultants have entered into with entities or persons that have received, or are receiving, payments financed by tax increment revenues produced by the same redevelopment project area.

(F) Any reports submitted to the municipality by the joint review board.

(G) A review of public and, to the extent possible, private investment actually undertaken to date after the effective date of this amendatory Act of the 91st General Assembly and estimated to be undertaken during the following year. This review shall, on a project-by-project basis, set forth the estimated amounts of public and private investment incurred after the effective date of this amendatory Act of the 91st General Assembly and provide the ratio of private investment to public investment to the date of the report and as estimated to the completion of the redevelopment project.

(8) With regard to any obligations issued by the municipality:

- (A) copies of any official statements; and
- (B) an analysis prepared by financial advisor or underwriter setting forth: (i) nature and term of obligation; and (ii) projected debt service including required reserves and debt coverage.

(9) For special tax allocation funds that have received cumulative deposits of incremental tax revenues of \$100,000 or more, a certified audit report reviewing compliance with this Act performed by an independent public accountant certified and licensed by the authority of the State of Illinois. The financial portion of the audit must be conducted in accordance with Standards for Audits of Governmental Organizations, Programs, Activities, and Functions adopted by the Comptroller General of the United States (1981), as amended, or the standards specified by Section 8-8-5 of the Illinois Municipal Auditing Law of the Illinois Municipal Code. The audit report shall contain a letter from the independent certified public accountant indicating compliance or noncompliance with the requirements of subsection (o) of Section 11-74.6-10.

(10) A list of all intergovernmental agreements in effect during the fiscal year to which the municipality is a party and an accounting of any moneys transferred or received by the municipality during that fiscal year pursuant to those intergovernmental agreements.

(e) The joint review board shall meet annually 180 days after the close of the municipal fiscal year or as soon as the redevelopment project audit for that fiscal year becomes available to review the effectiveness and status of the redevelopment project area up to that date.

(f) On and after the effective date of this amendatory Act of the 97th General Assembly, the State Comptroller must post on the State Comptroller's official website the information submitted by a municipality pursuant to subsection (d) of this Section. The information must be posted no later than 45 days after the State Comptroller receives the information from the municipality. The State Comptroller must also post a list of the municipalities not in compliance with the reporting requirements set forth in subsection (d) of this Section.

(Source: P.A. 91-474, eff. 11-1-99; 91-900, eff. 7-6-00.)

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

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

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On motion of Senator Steans, **Senate Bill No. 2450**, having been printed, was taken up, read by title a second time and ordered to a third reading.

READING BILLS OF THE SENATE A THIRD TIME

On motion of Senator Muñoz, **Senate Bill No. 1587**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, “Shall this bill pass?” it was decided in the affirmative by the following vote:

YEAS 57; NAYS None.

The following voted in the affirmative:

Althoff	Haine	Link	Righter
Bivins	Harmon	Luechtefeld	Sandack
Bomke	Holmes	Maloney	Sandoval
Brady	Hunter	Martinez	Schmidt
Clayborne	Hutchinson	McCann	Schoenberg
Collins, A.	Jacobs	McCarter	Silverstein
Collins, J.	Johnson, C.	Millner	Steans
Crotty	Johnson, T.	Mulroe	Sullivan
Cultra	Jones, E.	Muñoz	Syverson
Delgado	Koehler	Murphy	Trotter
Dillard	Kotowski	Noland	Wilhelmi
Duffy	LaHood	Pankau	Mr. President
Forby	Landek	Radogno	
Frerichs	Lauzen	Raoul	
Garrett	Lightford	Rezin	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

On motion of Senator Muñoz, **Senate Bill No. 1589**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, “Shall this bill pass?” it was decided in the affirmative by the following vote:

YEAS 57; NAY 1.

The following voted in the affirmative:

Althoff	Harmon	Luechtefeld	Righter
Bivins	Holmes	Maloney	Sandack
Bomke	Hunter	Martinez	Sandoval
Brady	Hutchinson	McCann	Schmidt
Clayborne	Jacobs	McCarter	Schoenberg
Collins, J.	Johnson, C.	Meeks	Silverstein
Crotty	Johnson, T.	Millner	Steans
Cultra	Jones, E.	Mulroe	Sullivan
Delgado	Koehler	Muñoz	Syverson
Dillard	Kotowski	Murphy	Trotter
Duffy	LaHood	Noland	Wilhelmi
Forby	Landek	Pankau	Mr. President

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Frerichs	Lauzen	Radogno
Garrett	Lightford	Raoul
Haine	Link	Rezin

The following voted in the negative:

Collins, A.

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

On motion of Senator Maloney, **Senate Bill No. 1798**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 58; NAY 1.

The following voted in the affirmative:

Althoff	Haine	Lightford	Rezin
Bivins	Harmon	Link	Righter
Bomke	Holmes	Luechtefeld	Sandack
Brady	Hunter	Maloney	Sandoval
Clayborne	Hutchinson	Martinez	Schmidt
Collins, A.	Jacobs	McCann	Schoenberg
Collins, J.	Johnson, C.	McCarter	Silverstein
Crotty	Johnson, T.	Meeks	Steans
Cultra	Jones, E.	Millner	Sullivan
Delgado	Jones, J.	Mulroe	Syverson
Dillard	Koehler	Muñoz	Trotter
Duffy	Kotowski	Murphy	Wilhelmi
Forby	LaHood	Noland	Mr. President
Frerichs	Landek	Pankau	
Garrett	Lauzen	Raoul	

The following voted in the negative:

Radogno

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

On motion of Senator Steans, **Senate Bill No. 1799**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 59; NAYS None.

The following voted in the affirmative:

Althoff	Haine	Lightford	Raoul
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Bivins	Harmon	Link	Rezin
Bomke	Holmes	Luechtefeld	Righter
Brady	Hunter	Maloney	Sandack
Clayborne	Hutchinson	Martinez	Sandoval
Collins, A.	Jacobs	McCann	Schmidt
Collins, J.	Johnson, C.	McCarter	Schoenberg
Crotty	Johnson, T.	Meeks	Silverstein
Cultra	Jones, E.	Millner	Steans
Delgado	Jones, J.	Mulroe	Sullivan
Dillard	Koehler	Muñoz	Syverson
Duffy	Kotowski	Murphy	Trotter
Forby	LaHood	Noland	Wilhelmi
Frerichs	Landek	Pankau	Mr. President
Garrett	Laufen	Radogno	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

SENATE BILL RECALLED

On motion of Senator Koehler, **Senate Bill No. 1802** was recalled from the order of third reading to the order of second reading.

Senator Koehler offered the following amendment and moved its adoption:

AMENDMENT NO. 2 TO SENATE BILL 1802

AMENDMENT NO. 2. Amend Senate Bill 1802 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Power Agency Act is amended by changing Section 1-92 as follows:
(20 ILCS 3855/1-92)

Sec. 1-92. Aggregation of retail electrical load of residential and small commercial retail customers by municipalities and counties.

(a) The corporate authorities of a municipality or county board of a county may adopt an ordinance under which it may aggregate, in accordance with this Section, ~~residential and small commercial~~ retail electrical loads of applicable residential and small commercial retail customers located, respectively, within the municipality or the unincorporated areas of the county and, for that purpose, ~~shall~~ may solicit bids and enter into service agreements to facilitate for those loads the sale and purchase of electricity and related services and equipment through a competitive procurement process. For purposes of this Section, small commercial retail customers of an electric utility that on December 31, 2010 provided electric service to at least 2,000,000 customers in Illinois shall be those customers of the watt-hour only delivery service class. For purposes of this Section, small commercial retail customers of an electric utility that on December 31, 2010 provided electric service to 2,000,000 or fewer customers but more than 100,000 customers in Illinois shall be those customers of an electric utility consuming 15,000 kilowatt-hours or less of electricity annually in its service area. Applicable residential and small commercial retail customers in an aggregation program shall not include customers of an alternative retail electric supplier that is not the chosen supplier of the aggregation program or customers participating in a residential real-time pricing program or Percentage of Income Payment Plan (PIPP) unless those customers affirmatively choose to join the aggregation program.

If the corporate authorities or the county board seek to operate the aggregation program as an opt-out program, then the program applies solely to residential and small commercial retail customers that are taking service from the electric utility through fixed-price bundled service tariffs or taking electric supply service offered by an alternative retail electric supplier from an expiring or current aggregation program. The corporate authorities or the county board shall allow new residents outside of an opt-out period, and non-applicable residential and small commercial retail customers who were not eligible to receive the opt-out notice, to affirmatively commit to the terms and conditions of an opt-out program at any time during the length of the program under a process disclosed in the plan of operation and

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governance.

The corporate authorities or county board may also exercise such authority jointly with any other municipality or county. Two or more municipalities or counties, or a combination of both, may initiate a process jointly to authorize aggregation by a majority vote of each particular municipality or county as required by this Section.

If the corporate authorities or the county board seek to operate the aggregation program as an opt-out program for residential and small commercial retail customers, then prior to the adoption of an ordinance with respect to aggregation of residential and small commercial retail electric loads, the corporate authorities of a municipality or the county board of a county shall submit a referendum to its residents to determine whether or not the aggregation program shall operate as an opt-out program for residential and small commercial retail customers.

In addition to the notice and conduct requirements of the general election law, notice of the referendum shall state briefly the purpose of the referendum. The question of whether the corporate authorities or the county board shall adopt an opt-out aggregation program for residential and small commercial retail customers shall be submitted to the electors of the municipality or county board at a regular election and approved by a majority of the electors voting on the question. The corporate authorities or county board must certify to the proper election authority, which must submit the question at an election in accordance with the Election Code.

The election authority must submit the question in substantially the following form:

Shall the (municipality or county in which the question is being voted upon) have the authority to arrange for the supply of electricity for its residential and small commercial retail customers who have not opted out of such program?

The election authority must record the votes as "Yes" or "No".

If a majority of the electors voting on the question vote in the affirmative, then the corporate authorities or county board may implement an opt-out aggregation program for residential and small commercial retail customers.

A referendum must pass in each particular municipality or county that is engaged in the aggregation program. If the referendum fails, then the corporate authorities or county board shall operate the aggregation program as an opt-in program for residential and small commercial retail customers.

An ordinance under this Section shall specify whether the aggregation will occur only with the prior consent of each person owning, occupying, controlling, or using an electric load center proposed to be aggregated. Nothing in this Section, however, authorizes the aggregation of electric loads that are served or authorized to be served by an electric cooperative as defined by and pursuant to the Electric Supplier Act or loads served by a municipality that owns and operates its own electric distribution system. No aggregation shall take effect unless approved by a majority of the members of the corporate authority or county board voting upon the ordinance.

A governmental aggregator under this Section is not a public utility, agent, broker, consultant, or an alternative retail electric supplier. Nothing in this Section prohibits a governmental aggregator from retaining the services of an agent, broker, or consultant.

(a-5) A governmental aggregator must utilize the services of a qualified expert for the execution of a competitive procurement process to meet the supply needs of its aggregation. The qualified expert must be separate from, and maintain no business relationship with, any other consultant providing services to the governmental aggregator. A qualified expert, as evidenced by a certified affidavit, must have:

(1) direct previous experience administering large-scale competitive procurement processes;

(2) an advanced degree in economics, mathematics, engineering, or a related area of study;

(3) ten years of experience in the electricity sector, including risk management experience;

(4) expertise in credit and contract protocols;

(5) adequate resources to perform and fulfill the required functions and responsibilities, including a bidding and posting process that provides complete auditable communication and bidding recording functions; and

(6) the absence of a conflict of interest and inappropriate bias for or against potential bidders as evidenced by an affidavit certifying that the expert does not maintain compensation or agency agreements with any of the bidders participating in the procurement event.

(a-10) The Director of the Illinois Power Agency shall provide governmental aggregators and other interested parties with the names of experts deemed as qualified by the Agency to serve as the procurement administrators for the most recent Agency-administered procurement events.

(b) Upon the applicable requisite authority under this Section, the corporate authorities or the county board, with assistance from the Illinois Power Agency, shall develop a plan of operation and governance for the aggregation program so authorized.

For an opt-out program, the plan shall specify the process and associated timelines for applicable residential and small commercial retail customers choosing to opt out of the program as well as for non-applicable customers affirmatively choosing to join the aggregation program. The plan for an opt-out program shall ensure that applicable residential and small commercial retail customers are explicitly allowed through written or electronic notice the opportunity to opt out of the aggregation program at a minimum of once every 3 years with no penalty, with the right to opt out to either (i) the electric utility if bundled retail electric service is still offered to that customer class pursuant to Section 16-103 of the Public Utilities Act, (ii) an electric utility's residential real-time pricing rate, if available, or (iii) an electric supply service offered by an alternative retail electric supplier certified by the Commission. The plan for the aggregation program shall not conflict with or otherwise abrogate any existing contracts between an alternative retail electric supplier and residential and small commercial retail customers.

Before adopting a plan under this Section, the corporate authorities or county board shall hold at least 2 public hearings on the plan. Before the first hearing, the corporate authorities or county board shall publish notice of the hearings once a week for 2 consecutive weeks in a newspaper of general circulation in the jurisdiction. The notice shall summarize the plan and state the date, time, and location of each hearing. Any load aggregation plan established pursuant to this Section shall:

- (1) provide for universal access to all applicable residential customers and equitable treatment of applicable residential customers;
- (2) describe demand management and energy efficiency services to be provided ~~to each class of customers;~~ and
- (3) meet any requirements established by law concerning aggregated service offered pursuant to this Section.

(c) The process for soliciting bids for electricity and other related services and awarding proposed agreements for the purchase of electricity and other related services shall be conducted in the following order:

- (1) The corporate authorities or county board ~~shall may~~ solicit bids for electricity and other related services ~~through a competitive procurement process.~~

(2) Notwithstanding Section 16-122 of the Public Utilities Act and Section 2HH of the Consumer Fraud and Deceptive Business Practices Act, an electric utility that provides residential and small commercial retail electric service in the aggregate area must, upon request of the corporate authorities or the county board in the aggregate area, submit to the requesting party, in an electronic format, those account numbers, names, and addresses of applicable residential and small commercial retail customers in the aggregate area of the municipality or unincorporated areas of the county that are reflected in the electric utility's records at the time of the request. An electric utility shall exclude any customer already switched to an alternative retail electric supplier, any customer participating in a residential real-time pricing program, and any customer participating in a Percentage of Income Payment Plan from the information provided to the corporate authority or county board in the aggregate area. Upon receiving enrollments from an opt-out aggregation, an electric utility shall design system processes to reject any opt-out aggregation enrollment that would result in the switch of a customer already under service with an alternative retail electric supplier, participating in a residential real-time pricing program, or participating in a Percentage of Income Payment Plan. Any corporate authority or county board receiving customer information from an electric utility shall only disclose the information for the purpose of the opt-out aggregation of electric power supply and shall be subject to the limitations on the disclosure of the information described in Section 16-122 of the Public Utilities Act and Section 2HH of the Consumer Fraud and Deceptive Business Practices Act, and an electric utility shall not be held liable for any claims arising out of the provision of information pursuant to this item (2).

(d) If the corporate authorities or county board operate under an opt-in program for residential and small commercial retail customers, then the corporate authorities or county board shall comply with all of the following:

- (1) Within 60 days after receiving the bids, the corporate authorities or county board shall allow residential and small commercial retail customers to commit to the terms and conditions of a bid that has been selected by the corporate authorities or county board.

(2) If (A) the corporate authorities or county board award proposed agreements for the purchase of electricity and other related services and (B) an agreement is reached between the corporate authorities or county board for those services, then customers committed to the terms and conditions according to item (1) of this subsection (d) shall be committed to the agreement.

(e) If the corporate authorities or county board operate as an opt-out program for residential and small

commercial retail customers, then it shall be the duty of the aggregated entity to fully inform applicable residential and small commercial retail customers in advance that they have the right to opt out of the aggregation program. The disclosure shall prominently state all charges to be made and shall include full disclosure of the cost to obtain service pursuant to Section 16-103 of the Public Utilities Act, how to access it, and the fact that it is available to them without penalty, if they are currently receiving service under that Section.

The Illinois Commerce Commission shall adopt emergency rules to implement the provisions of this amendatory Act of the 97th General Assembly, including, but not limited to, protection of customers (i) already under contract with an alternative retail electric supplier, (ii) participating in a residential real-time pricing program, or (iii) participating in a Percentage of Income Payment Plan, utility processes for enrollment of opt-out customers, and minimum disclosure requirements for opt-out aggregation programs within 45 days after the effective date of this amendatory Act of the 97th General Assembly.

The Illinois Power Agency shall furnish, without charge, to any residential and small commercial retail customer ~~citizen~~ a list of all supply options available to them in a format that allows comparison of prices and products.

The Illinois Power Agency shall provide assistance to municipalities, counties, or associations working with municipalities to help complete the plan and bidding process.

This Section does not prohibit municipalities or counties from entering into an intergovernmental agreement to aggregate residential and small commercial retail electric loads.

Any aggregation program plan adopted prior to the effective date of this amendatory Act of the 97th General Assembly shall not be exempt from the provisions of this amendatory Act of the 97th General Assembly.

(Source: P.A. 96-176, eff. 1-1-10.)

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

The motion prevailed.

And the amendment was adopted and ordered printed.

Senate Floor Amendment No. 3 was tabled in the Committee on Energy.

There being no further amendments, the foregoing Amendment No. 2 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING BILLS OF THE SENATE A THIRD TIME

On motion of Senator Koehler, **Senate Bill No. 1802**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 59; NAYS None.

The following voted in the affirmative:

Althoff	Haine	Lightford	Raoul
Bivins	Harmon	Link	Rezin
Bomke	Holmes	Luechtefeld	Righter
Brady	Hunter	Maloney	Sandack
Clayborne	Hutchinson	Martinez	Sandoval
Collins, A.	Jacobs	McCann	Schmidt
Collins, J.	Johnson, C.	McCarter	Schoenberg
Crotty	Johnson, T.	Meeks	Silverstein
Cultra	Jones, E.	Millner	Steans
Delgado	Jones, J.	Mulroe	Sullivan
Dillard	Koehler	Muñoz	Syverson
Duffy	Kotowski	Murphy	Trotter
Forby	LaHood	Noland	Wilhelmi
Frerichs	Landek	Pankau	Mr. President

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Garrett

Lauzen

Radogno

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

On motion of Senator Althoff, **Senate Bill No. 1804**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 58; NAYS None.

The following voted in the affirmative:

Althoff	Haine	Lightford	Rezin
Bivins	Harmon	Link	Righter
Bomke	Holmes	Luechtefeld	Sandack
Brady	Hunter	Martinez	Sandoval
Clayborne	Hutchinson	McCann	Schmidt
Collins, A.	Jacobs	McCarter	Schoenberg
Collins, J.	Johnson, C.	Meeks	Silverstein
Crotty	Johnson, T.	Millner	Steans
Cultra	Jones, E.	Mulroe	Sullivan
Delgado	Jones, J.	Muñoz	Syverson
Dillard	Koehler	Murphy	Trotter
Duffy	Kotowski	Noland	Wilhelmi
Forby	LaHood	Pankau	Mr. President
Frerichs	Landek	Radogno	
Garrett	Lauzen	Raoul	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

Senator Maloney asked and obtained unanimous consent for the Journal to reflect his intention to have voted in the affirmative on **Senate Bill No. 1804**.

On motion of Senator Althoff, **Senate Bill No. 1805**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 59; NAYS None.

The following voted in the affirmative:

Althoff	Haine	Lightford	Raoul
Bivins	Harmon	Link	Rezin
Bomke	Holmes	Luechtefeld	Righter
Brady	Hunter	Maloney	Sandack
Clayborne	Hutchinson	Martinez	Sandoval
Collins, A.	Jacobs	McCann	Schmidt
Collins, J.	Johnson, C.	McCarter	Schoenberg
Crotty	Johnson, T.	Meeks	Silverstein
Cultra	Jones, E.	Millner	Steans

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Delgado	Jones, J.	Mulroe	Sullivan
Dillard	Koehler	Muñoz	Syverson
Duffy	Kotowski	Murphy	Trotter
Forby	LaHood	Noland	Wilhelmi
Frerichs	Landek	Pankau	Mr. President
Garrett	Lauzen	Radogno	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

SENATE BILL RECALLED

On motion of Senator Noland, **Senate Bill No. 1808** was recalled from the order of third reading to the order of second reading.

Senator Noland offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO SENATE BILL 1808

AMENDMENT NO. 1. Amend Senate Bill 1808 by replacing everything after the enacting clause with the following:

"Section 5. The Criminal Code of 1961 is amended by changing Section 32-8 as follows:

(720 ILCS 5/32-8) (from Ch. 38, par. 32-8)

(Text of Section before amendment by P.A. 96-1508)

Sec. 32-8. Tampering with public records.

(a) A person who knowingly and without lawful authority alters, destroys, defaces, removes or conceals any public record commits a Class 4 felony.

(b) "Public record" expressly includes, but is not limited to, court records pertaining to any civil or criminal proceeding in any court.

(c) Any judge, circuit clerk or clerk of court, public official or employee, court reporter, or other person who knowingly and without lawful authority alters, destroys, defaces, removes, ~~or~~ conceals or falsifies any public record received or held by any judge or by a clerk of any court commits a Class 3 felony.

(d) Any person convicted under subsection (c):

(1) shall forfeit his or her public office or public employment, if any, and shall thereafter be ineligible for both State and local public office and public employment in this State for a period of 5 years after completion of any term of probation, conditional discharge, or mandatory supervised release;

(2) shall forfeit all retirement, pension, and other benefits arising out of public office or public employment in accordance with the applicable provisions of the Illinois Pension Code;

(3) shall be subject to termination of any professional licensure or registration in this State in accordance with the provisions of the applicable professional licensing or registration laws;

(4) may be ordered by the court, after a hearing in accordance with applicable law and in addition to any other penalty or fine imposed by the court, to forfeit to the State an amount equal to any financial gain or the value of any advantage realized by the person as a result of the offense; and

(5) may be ordered by the court, after a hearing in accordance with applicable law and in addition to any other penalty or fine imposed by the court, to pay restitution to the victim in an amount equal to any financial loss or the value of any advantage lost by the victim as a result of the offense.

For the purposes of this subsection (d), an offense under subsection (c) committed by a person holding public office or public employment shall be rebuttably presumed to relate to or arise out of or in connection with that public office or public employment.

(e) Any party having an interest in the protection and integrity of any court record, whether such party be a public official or a private individual, shall have the right to request and, if necessary, to demand that an investigation be opened into the alteration, destruction, defacement, removal, ~~or~~ concealment or

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falsification of any public record. Such request may be made to any law enforcement agency, including, but not limited to, local law enforcement and the State Police.

(f) When the local law enforcement agency having jurisdiction declines to investigate, or inadequately investigates, a violation of subsection (c), the State Police shall have the authority to investigate, and shall investigate, the same, without regard to whether such local law enforcement agency has requested the State Police to do so.

(g) When the State's Attorney having jurisdiction declines to prosecute a violation of subsection (c), the Attorney General shall have the authority to prosecute the same, without regard to whether such State's Attorney has requested the Attorney General to do so.

(h) Prosecution of a violation of subsection (c) shall be commenced within 3 years after the act constituting the violation is discovered or reasonably should have been discovered.

(Source: P.A. 96-1217, eff. 1-1-11.)

(Text of Section after amendment by P.A. 96-1508)

Sec. 32-8. Tampering with public records.

(a) A person who knowingly, without lawful authority, and with the intent to defraud any party, public officer or entity, alters, destroys, defaces, removes or conceals any public record commits a Class 4 felony.

(b) "Public record" expressly includes, but is not limited to, court records, or documents, evidence, or exhibits filed with the clerk of the court and which have become a part of the official court record, pertaining to any civil or criminal proceeding in any court.

(c) Any judge, circuit clerk or clerk of court, public official or employee, court reporter, or other person who knowingly, without lawful authority, and with the intent to defraud any party, public officer or entity, alters, destroys, defaces, removes, ~~or~~ conceals or falsifies any public record received or held by any judge or by a clerk of any court commits a Class 3 felony.

(d) Any person convicted under subsection (c) who at the time of the violation was responsible for making, keeping, storing, or reporting the record for which the tampering occurred:

(1) shall forfeit his or her public office or public employment, if any, and shall thereafter be ineligible for both State and local public office and public employment in this State for a period of 5 years after completion of any term of probation, conditional discharge, or incarceration in a penitentiary including the period of mandatory supervised release;

(2) shall forfeit all retirement, pension, and other benefits arising out of public office or public employment as may be determined by the court in accordance with the applicable provisions of the Illinois Pension Code;

(3) shall be subject to termination of any professional licensure or registration in this State as may be determined by the court in accordance with the provisions of the applicable professional licensing or registration laws;

(4) may be ordered by the court, after a hearing in accordance with applicable law and in addition to any other penalty or fine imposed by the court, to forfeit to the State an amount equal to any financial gain or the value of any advantage realized by the person as a result of the offense; and

(5) may be ordered by the court, after a hearing in accordance with applicable law and in addition to any other penalty or fine imposed by the court, to pay restitution to the victim in an amount equal to any financial loss or the value of any advantage lost by the victim as a result of the offense.

For the purposes of this subsection (d), an offense under subsection (c) committed by a person holding public office or public employment shall be rebuttably presumed to relate to or arise out of or in connection with that public office or public employment.

(e) Any party litigant who believes a violation of this Section has occurred may seek the restoration of the court record as provided in the Court Records Restoration Act. Any order of the court denying the restoration of the court record may be appealed as any other civil judgment.

(f) When the sheriff or local law enforcement agency having jurisdiction declines to investigate, or inadequately investigates, the court or any interested party, shall notify the State Police of a suspected violation of subsection (a) or (c), who shall have the authority to investigate, and may investigate, the same, without regard to whether such local law enforcement agency has requested the State Police to do so.

(g) If the State's Attorney having jurisdiction declines to prosecute a violation of subsection (a) or (c), the court or interested party shall notify the Attorney General of such refusal. The Attorney General shall, thereafter, have the authority to prosecute, and may prosecute, the same, without a referral from such State's Attorney.

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(h) Prosecution of a violation of subsection (c) shall be commenced within 3 years after the act constituting the violation is discovered or reasonably should have been discovered.
(Source: P.A. 96-1217, eff. 1-1-11; 96-1508, eff. 6-1-11.)

Section 95. No acceleration or delay. Where this Act makes changes in a statute that is represented in this Act by text that is not yet or no longer in effect (for example, a Section represented by multiple versions), the use of that text does not accelerate or delay the taking effect of (i) the changes made by this Act or (ii) provisions derived from any other Public Act.

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

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING BILLS OF THE SENATE A THIRD TIME

On motion of Senator Noland, **Senate Bill No. 1808**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 59; NAYS None.

The following voted in the affirmative:

Althoff	Haine	Lightford	Raoul
Bivins	Harmon	Link	Rezin
Bomke	Holmes	Luechtefeld	Righter
Brady	Hunter	Maloney	Sandack
Clayborne	Hutchinson	Martinez	Sandoval
Collins, A.	Jacobs	McCann	Schmidt
Collins, J.	Johnson, C.	McCarter	Schoenberg
Crotty	Johnson, T.	Meeks	Silverstein
Cultra	Jones, E.	Millner	Steans
Delgado	Jones, J.	Mulroe	Sullivan
Dillard	Koehler	Muñoz	Syverson
Duffy	Kotowski	Murphy	Trotter
Forby	LaHood	Noland	Wilhelmi
Frerichs	Landek	Pankau	Mr. President
Garrett	Lauzen	Radogno	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

On motion of Senator Trotter, **Senate Bill No. 1746**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 58; NAYS None; Present 1.

The following voted in the affirmative:

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Althoff	Haine	Lightford	Raoul
Bivins	Harmon	Link	Rezin
Bomke	Holmes	Luechtefeld	Righter
Brady	Hunter	Maloney	Sandack
Clayborne	Hutchinson	Martinez	Sandoval
Collins, A.	Jacobs	McCann	Schmidt
Collins, J.	Johnson, C.	McCarter	Schoenberg
Crotty	Johnson, T.	Meeks	Silverstein
Cultra	Jones, E.	Millner	Steans
Delgado	Jones, J.	Mulroe	Sullivan
Dillard	Koehler	Muñoz	Syverson
Duffy	Kotowski	Murphy	Trotter
Forby	LaHood	Noland	Wilhelmi
Frerichs	Landek	Pankau	
Garrett	Lauzen	Radogno	

The following voted present:

Mr. President

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

SENATE BILL RECALLED

On motion of Senator Noland, **Senate Bill No. 1809** was recalled from the order of third reading to the order of second reading.

Senator Noland offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO SENATE BILL 1809

AMENDMENT NO. 1. Amend Senate Bill 1809 on page 4, line 25, by replacing "Section 12-16.2" with "Sections 12-5.01 and 12-16.2"; and

by replacing all of page 5 and lines 1 through 22 on page 6 with the following:

"(720 ILCS 5/12-5.01) (was 720 ILCS 5/12-16.2)

(This Section may contain text from a Public Act with a delayed effective date)

Sec. 12-5.01. Criminal transmission of HIV.

(a) A person commits criminal transmission of HIV when he or she, with the specific intent to commit the offense knowing that he or she is infected with HIV:

(1) engages in sexual activity with another without the use of a condom knowing that he or she is infected with HIV intimate contact with another;

(2) transfers, donates, or provides his or her blood, tissue, semen, organs, or other potentially infectious body fluids for transfusion, transplantation, insemination, or other administration to another knowing that he or she is infected with HIV; or

(3) dispenses, delivers, exchanges, sells, or in any other way transfers to another any nonsterile intravenous or intramuscular drug paraphernalia knowing that he or she is infected with HIV.

(b) For purposes of this Section:

"HIV" means the human immunodeficiency virus or any other identified causative agent of acquired immunodeficiency syndrome.

"Sexual activity" means the insertive vaginal or anal intercourse on the part of an infected male, receptive consensual vaginal intercourse on the part of an infected woman with a male partner, or receptive consensual anal intercourse on the part of an infected man or woman with a male partner.

~~"Intimate contact with another" means the exposure of the body of one person to a bodily fluid of another person in a manner that could result in the transmission of HIV.~~

"Intravenous or intramuscular drug paraphernalia" means any equipment, product, or material of any

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kind which is peculiar to and marketed for use in injecting a substance into the human body.

(c) Nothing in this Section shall be construed to require that an infection with HIV has occurred in order for a person to have committed criminal transmission of HIV.

(d) It shall be an affirmative defense that the person exposed knew that the infected person was infected with HIV, knew that the action could result in infection with HIV, and consented to the action with that knowledge.

(d-5) A court, upon a finding of reasonable suspicion that an individual has committed the crime of criminal transmission of HIV, shall order the production of records of a person accused of the offense of criminal transmission of HIV or the attendance of a person with relevant knowledge thereof so long as the return of the records or attendance of the person pursuant to the subpoena is submitted initially to the court for an in camera inspection. Only upon a finding by the court that the records or proffered testimony are relevant to the pending offense, the information produced pursuant to the court's order shall be disclosed to the prosecuting entity and admissible if otherwise permitted by law.

(e) A person who commits criminal transmission of HIV commits a Class 2 felony.
(Source: P.A. 96-1551, eff. 7-1-11.)

(720 ILCS 5/12-16.2) (from Ch. 38, par. 12-16.2)

(This Section renumbered as Section 12-5.01 by P.A. 96-1551, effective 7-1-11)

Sec. 12-16.2. Criminal Transmission of HIV. (a) A person commits criminal transmission of HIV when he or she, with the specific intent to commit the offense knowing that he or she is infected with HIV:

(1) engages in sexual activity with another without the use of a condom intimate contact with another;
(2) transfers, donates, or provides his or her blood, tissue, semen, organs, or other potentially infectious body fluids for transfusion, transplantation, insemination, or other administration to another;
or

(3) dispenses, delivers, exchanges, sells, or in any other way transfers to another any nonsterile intravenous or intramuscular drug paraphernalia.

(b) For purposes of this Section:

"HIV" means the human immunodeficiency virus or any other identified causative agent of acquired immunodeficiency syndrome.

"Sexual activity" means the insertive vaginal or anal intercourse on the part of an infected male, receptive consensual vaginal intercourse on the part of an infected woman with a male partner, or receptive consensual anal intercourse on the part of an infected man or woman with a male partner.

"Intimate contact with another" means the exposure of the body of one person to a bodily fluid of another person in a manner that could result in the transmission of HIV.

"Intravenous or intramuscular drug paraphernalia" means any equipment, product, or material of any kind which is peculiar to and marketed for use in injecting a substance into the human body.

(c) Nothing in this Section shall be construed to require that an infection with HIV has occurred in order for a person to have committed criminal transmission of HIV.

(d) It shall be an affirmative defense that the person exposed knew that the infected person was infected with HIV, knew that the action could result in infection with HIV, and consented to the action with that knowledge.

(d-5) A court, upon a finding of reasonable suspicion that an individual has committed the crime of criminal transmission of HIV, shall order the production of records of a person accused of the offense of criminal transmission of HIV or the attendance of a person with relevant knowledge thereof so long as the return of the records or attendance of the person pursuant to the subpoena is submitted initially to the court for an in camera inspection. Only upon a finding by the court that the records or proffered testimony are relevant to the pending offense, the information produced pursuant to the court's order shall be disclosed to the prosecuting entity and admissible if otherwise permitted by law.

(e) A person who commits criminal transmission of HIV commits a Class 2 felony.
(Source: P.A. 86-897. Renumbered as Section 12-5.01 by P.A. 96-1551, eff. 7-1-11.)

Section 95. No acceleration or delay. Where this Act makes changes in a statute that is represented in this Act by text that is not yet or no longer in effect (for example, a Section represented by multiple versions), the use of that text does not accelerate or delay the taking effect of (i) the changes made by this Act or (ii) provisions derived from any other Public Act."

The motion prevailed.

And the amendment was adopted and ordered printed.

[April 14, 2011]

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING BILLS OF THE SENATE A THIRD TIME

On motion of Senator Noland, **Senate Bill No. 1809**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the negative by the following vote:

YEAS 18; NAYS 33.

The following voted in the affirmative:

Collins, A.	Hunter	Link	Raoul
Collins, J.	Jacobs	Meeks	Sandoval
Crotty	Kotowski	Mulroe	Stears
Delgado	Landek	Muñoz	
Harmon	Lightford	Noland	

The following voted in the negative:

Althoff	Garrett	Maloney	Sandack
Bivins	Haine	McCann	Schmidt
Bomke	Johnson, C.	McCarter	Schoenberg
Brady	Johnson, T.	Millner	Silverstein
Clayborne	Jones, E.	Murphy	Sullivan
Cultra	Jones, J.	Pankau	Syverson
Dillard	LaHood	Radogno	
Duffy	Lauzen	Rezin	
Forby	Luechtefeld	Righter	

This bill, having failed to receive the vote of a constitutional majority of the members elected, was declared lost, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

On motion of Senator Schoenberg, **Senate Bill No. 1826**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the negative by the following vote:

YEAS 19; NAYS 30; Present 5.

The following voted in the affirmative:

Crotty	Hutchinson	Martinez	Schoenberg
Delgado	Koehler	Meeks	Stears
Garrett	Kotowski	Mulroe	Trotter
Harmon	Landek	Noland	Mr. President
Hunter	Lightford	Sandoval	

The following voted in the negative:

Althoff	Jacobs	Luechtefeld	Righter
Bivins	Johnson, C.	McCann	Sandack
Bomke	Johnson, T.	McCarter	Schmidt
Brady	Jones, E.	Millner	Silverstein
Cultra	Jones, J.	Muñoz	Sullivan

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Duffy	LaHood	Murphy	Syverson
Frerichs	Lauzen	Radogno	
Haine	Link	Rezin	

The following voted present:

Collins, J.	Holmes	Wilhelmi
Dillard	Raoul	

This bill, having failed to receive the vote of a constitutional majority of the members elected, was declared lost, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

On motion of Senator Kotowski, **Senate Bill No. 1827**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 58; NAYS None.

The following voted in the affirmative:

Althoff	Harmon	Link	Rezin
Bivins	Holmes	Luechtefeld	Righter
Bomke	Hunter	Maloney	Sandack
Brady	Hutchinson	Martinez	Sandoval
Clayborne	Jacobs	McCann	Schmidt
Collins, J.	Johnson, C.	McCarter	Schoenberg
Crotty	Johnson, T.	Meeks	Silverstein
Cultra	Jones, E.	Millner	Steans
Delgado	Jones, J.	Mulroe	Sullivan
Dillard	Koehler	Muñoz	Syverson
Duffy	Kotowski	Murphy	Trotter
Forby	LaHood	Noland	Wilhelmi
Frerichs	Landek	Pankau	Mr. President
Garrett	Lauzen	Radogno	
Haine	Lightford	Raoul	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

At the hour of 12:24 o'clock p.m., the Chair announced that the Senate stand at recess subject to the call of the Chair.

AFTER RECESS

At the hour of 2:10 o'clock p.m., the Senate resumed consideration of business.
Senator Harmon, presiding.

REPORT FROM STANDING COMMITTEE

Senator Meeks, Chairperson of the Committee on Education, to which was referred **Senate Joint Resolution No. 34**, reported the same back with the recommendation that the resolution be adopted.

Under the rules, **Senate Joint Resolution No. 34** was placed on the Secretary's Desk.

[April 14, 2011]

Senator Meeks, Chairperson of the Committee on Education, to which was referred the following Senate floor amendment, reported that the Committee recommends do adopt:

Senate Amendment No. 1 to Senate Bill 630

Under the rules, the foregoing floor amendment is eligible for consideration on second reading.

MESSAGE FROM THE HOUSE

A message from the House by
Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has passed bills of the following titles, in the passage of which I am instructed to ask the concurrence of the Senate, to-wit:

HOUSE BILL NO. 1368

A bill for AN ACT concerning State government.

HOUSE BILL NO. 2955

A bill for AN ACT concerning revenue.

Passed the House, April 13, 2011.

MARK MAHONEY, Clerk of the House

The foregoing **House Bills Numbered 1368 and 2955** were taken up, ordered printed and placed on first reading.

READING BILLS FROM THE HOUSE OF REPRESENTATIVES A FIRST TIME

House Bill No. 186, sponsored by Senator Radogno, was taken up, read by title a first time and referred to the Committee on Assignments.

House Bill No. 224, sponsored by Senator Steans, was taken up, read by title a first time and referred to the Committee on Assignments.

House Bill No. 2100, sponsored by Senator Holmes, was taken up, read by title a first time and referred to the Committee on Assignments.

House Bill No. 3152, sponsored by Senator Haine, was taken up, read by title a first time and referred to the Committee on Assignments.

House Bill No. 3293, sponsored by Senator Holmes, was taken up, read by title a first time and referred to the Committee on Assignments.

House Bill No. 3408, sponsored by Senator Haine, was taken up, read by title a first time and referred to the Committee on Assignments.

House Bill No. 3449, sponsored by Senator Bivins, was taken up, read by title a first time and referred to the Committee on Assignments.

READING BILLS OF THE SENATE A THIRD TIME

On motion of Senator Raoul, **Senate Bill No. 1831**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

[April 14, 2011]

YEAS 50; NAYS None.

The following voted in the affirmative:

Althoff	Harmon	Maloney	Rezin
Bivins	Holmes	Martinez	Sandack
Bomke	Hunter	McCann	Sandoval
Clayborne	Hutchinson	McCarter	Schmidt
Collins, J.	Jacobs	Meeks	Schoenberg
Crotty	Johnson, C.	Millner	Silverstein
Cultra	Johnson, T.	Mulroe	Steans
Delgado	Jones, E.	Muñoz	Sullivan
Dillard	Koehler	Murphy	Trotter
Duffy	Kotowski	Noland	Wilhelmi
Forby	LaHood	Pankau	Mr. President
Garrett	Lightford	Radogno	
Haine	Link	Raoul	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

On motion of Senator Murphy, **Senate Bill No. 1833**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, “Shall this bill pass?” it was decided in the affirmative by the following vote:

YEAS 54; NAYS None.

The following voted in the affirmative:

Althoff	Harmon	Maloney	Righter
Bivins	Holmes	Martinez	Sandack
Bomke	Hunter	McCann	Sandoval
Brady	Hutchinson	McCarter	Schmidt
Clayborne	Jacobs	Meeks	Schoenberg
Crotty	Johnson, C.	Millner	Silverstein
Cultra	Jones, E.	Mulroe	Steans
Delgado	Jones, J.	Muñoz	Sullivan
Dillard	Koehler	Murphy	Syverson
Duffy	Kotowski	Noland	Trotter
Forby	LaHood	Pankau	Wilhelmi
Frerichs	Lightford	Radogno	Mr. President
Garrett	Link	Raoul	
Haine	Luechtefeld	Rezin	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

On motion of Senator Martinez, **Senate Bill No. 1843**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, “Shall this bill pass?” it was decided in the affirmative by the following vote:

[April 14, 2011]

YEAS 56; NAYS None.

The following voted in the affirmative:

Althoff	Harmon	Luechtefeld	Sandack
Bivins	Holmes	Maloney	Sandoval
Bomke	Hunter	Martinez	Schmidt
Brady	Hutchinson	McCann	Schoenberg
Clayborne	Jacobs	McCarter	Silverstein
Collins, J.	Johnson, C.	Meeks	Steans
Crotty	Johnson, T.	Millner	Sullivan
Cultra	Jones, E.	Mulroe	Syverson
Delgado	Jones, J.	Muñoz	Trotter
Dillard	Koehler	Murphy	Wilhelmi
Duffy	Kotowski	Noland	Mr. President
Forby	LaHood	Pankau	
Frerichs	Lauzen	Radogno	
Garrett	Lightford	Raoul	
Haine	Link	Righter	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

On motion of Senator Link, **Senate Bill No. 1849**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, “Shall this bill pass?” it was decided in the affirmative by the following vote:

YEAS 56; NAYS 2.

The following voted in the affirmative:

Althoff	Harmon	Luechtefeld	Sandack
Bivins	Holmes	Maloney	Sandoval
Bomke	Hunter	Martinez	Schmidt
Brady	Hutchinson	McCann	Schoenberg
Clayborne	Jacobs	Meeks	Silverstein
Collins, A.	Johnson, C.	Millner	Steans
Crotty	Johnson, T.	Mulroe	Sullivan
Cultra	Jones, E.	Muñoz	Syverson
Delgado	Jones, J.	Murphy	Trotter
Dillard	Koehler	Noland	Wilhelmi
Duffy	Kotowski	Pankau	Mr. President
Forby	LaHood	Radogno	
Frerichs	Landek	Raoul	
Garrett	Lightford	Rezin	
Haine	Link	Righter	

The following voted in the negative:

Lauzen
McCarter

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

[April 14, 2011]

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

SENATE BILL RECALLED

On motion of Senator Luechtefeld, **Senate Bill No. 1852** was recalled from the order of third reading to the order of second reading.

Senator Luechtefeld offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO SENATE BILL 1852

AMENDMENT NO. 1. Amend Senate Bill 1852 by replacing everything after the enacting clause with the following:

"Section 5. The Food Handling Regulation Enforcement Act is amended by adding Section 3.3 as follows:

(410 ILCS 625/3.3 new)

Sec. 3.3. Farmers' markets.

(a) The General Assembly finds as follows:

(1) Farmers' markets, as defined in subsection (b) of this Section, provide not only a valuable marketplace for farmers and food artisans to sell their products directly to consumers, but also a place for consumers to access fresh fruits, vegetables, and other agricultural products.

(2) Farmers' markets serve as a stimulator for local economies and for thousands of new businesses every year, allowing farmers to sell directly to consumers and capture the full retail value of their products. They have become important community institutions and have figured in the revitalization of downtown districts and rural communities.

(3) Since 1999, the number of farmers' markets has tripled and new ones are being established every year. There is a lack of consistent regulation from one county to the next, resulting in confusion and discrepancies between counties regarding how products may be sold.

(4) In 1999, the Department of Public Health published Technical Information Bulletin/Food #30 in order to outline the food handling and sanitation guidelines required for farmers' markets, producer markets, and other outdoor food sales events.

(5) While this bulletin was revised in 2010, there continues to be inconsistencies, confusion, and lack of awareness by consumers, farmers, markets, and local health authorities of required guidelines affecting farmers' markets from county to county.

(b) For the purposes of this Section:

"Department" means the Department of Public Health.

"Director" means the Director of Public Health.

"Farmers' market" means a common facility or area where farmers gather to sell a variety of fresh fruits and vegetables and other locally produced farm and food products directly to consumers. Local food artisans may participate at farmers' markets.

(c) In order to facilitate the orderly and uniform statewide interpretation of the Department of Public Health's Technical Information Bulletin/Food #30, the Farmers' Market Task Force shall be formed by the Director to assist the Department in implementing statewide administrative regulations for farmers' markets.

(d) This Act does not intend and shall not be construed to limit the power of counties, municipalities, and other local government units to regulate farmers' markets for the protection of the public health, safety, morals, and welfare, including, but not limited to, licensing requirements and time, place, and manner restrictions. This Act provides for a statewide scheme for the orderly and consistent interpretation of the Department of Public Health administrative rules pertaining to the safety of food and food products sold at farmers' markets.

(e) The Farmers' Market Task Force shall consist of at least 23 members appointed within 60 days after the effective date of this Section. Task Force members shall consist of:

(1) one person appointed by the President of the Senate;

(2) one person appointed by the Minority Leader of the Senate;

(3) one person appointed by the Speaker of the House of Representatives;

(4) one person appointed by the Minority Leader of the House of Representatives;

(5) the Director of Public Health or his or her designee;

(6) the Director of Agriculture or his or her designee;

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(7) a representative of a general agricultural production association appointed by the Department of Agriculture;

(8) three representatives of local county public health departments appointed by the Director and selected from 3 different counties representing each of the northern, central, and southern portions of this State;

(9) four members of the general public who are engaged in local farmers' markets appointed by the Director of Agriculture;

(10) a representative of the Illinois Association of Public Health Administrators;

(11) a representative from the Northern Illinois Public Health Consortium;

(12) a representative of the Illinois Public Health Association;

(13) the Director of Commerce and Economic Opportunity or his or her designee; and

(14) five local food farmers selected by the Illinois Farmers Market Network.

Task Force members' terms shall be for a period of 2 years, with ongoing appointments made according to the provisions of this Section.

(f) The Task Force shall be convened by the Director or his or her designee. Members shall elect a Task Force Chair and Co-Chair.

(g) Meetings may be held via conference call, in person, or both. Three members of the Task Force may call a meeting as long as a 5-working-day notification is sent via mail, e-mail, or telephone call to each member of the Task Force.

(h) Members of the Task Force shall serve without compensation.

(i) The Task Force shall undertake a comprehensive and thorough review of the current Statutes and administrative rules that define which products and practices are permitted and which products and practices are not permitted at farmers' markets and to assist the Department in developing statewide administrative regulations for farmers' markets.

(j) The Task Force shall assist the Department of Public Health and the Department of Agriculture in developing administrative regulations and procedures regarding the implementation of the various Acts that define which products and practices are permitted and which products and practices are not permitted at farmers' markets.

(k) The Department of Public Health shall provide staffing support to the Task Force and shall help to prepare, print, and distribute all reports deemed necessary by the Task Force.

(l) The Task Force may request assistance from any entity necessary or useful for the performance of its duties. The Task Force shall issue a report annually to the Secretary of the Senate and the Clerk of the House.

(m) The following provisions shall apply concerning statewide farmers' market food safety guidelines:

(1) The Director, in accordance with this Section, shall adopt administrative rules (as provided by the Illinois Administrative Procedure Act) for foods found at farmers' markets.

(2) The rules and regulations described in this Act shall be consistently enforced by local health authorities throughout the State.

(3) In the case of alleged non-compliance with the provisions described in this Act, local health departments shall issue written notices to vendors and market managers of any noncompliance issues.

(4) Produce and food products coming within the scope of the provisions of this Act shall include, but not be limited to, raw agricultural products, including fresh fruits and vegetables; popcorn, grains, seeds, beans, and nuts that are whole, unprocessed, unpackaged, and unsprouted; fresh herb springs and dried herbs in bunches; baked goods sold at farmers' markets; cut fruits and vegetables; milk and cheese products; ice cream; syrups; wild and cultivated mushrooms; apple cider and other fruit and vegetable juices; herb vinegar; garlic-in-oil; flavored oils; pickles, relishes, salsas, and other canned or jarred items; shell eggs; meat and poultry; fish; and commercially produced prepackaged food products.

(n) Local health department regulatory guidelines may be applied to foods not often found at farmers' markets, all other food products not regulated by the Department of Agriculture and the Department of Public Health, as well as live animals to be sold at farmers' markets.

(o) The Task Force shall issue annual reports to the Secretary of the Senate and the Clerk of the House with recommendations for the development of administrative rules as specified. The first report shall be issued no later than December 31, 2012.

(p) The Department of Public Health and the Department of Agriculture, in conjunction with the Task Force, shall adopt administrative rules necessary to implement, interpret, and make specific the provisions of this Act, including, but not limited to, rules concerning labels, sanitation, and food product safety according to the realms of their jurisdiction.

Section 10. The Sanitary Food Preparation Act is amended by changing Section 11 as follows:

[April 14, 2011]

(410 ILCS 650/11) (from Ch. 56 1/2, par. 77)

Sec. 11. Except as hereinafter provided and as provided in Section 3.3 of the Food Handling Regulation Enforcement Act, the Department of Public Health shall enforce this Act, and for that purpose it may at all times enter every such building, room, basement, inclosure or premises occupied or used or suspected of being occupied or used for the production, preparation or manufacture for sale, or the storage, sale, distribution or transportation of such food, to inspect the premises and all utensils, fixtures, furniture and machinery used as aforesaid; and if upon inspection any such food producing or distribution establishment, conveyance, or employer, employee, clerk, driver or other person is found to be violating any of the provisions of this Act, or if the production, preparation, manufacture, packing, storage, sale, distribution or transportation of such food is being conducted in a manner detrimental to the health of the employees and operatives, or to the character or quality of the food therein being produced, manufactured, packed, stored, sold, distributed or conveyed, the officer or inspector making the inspection or examination shall report such conditions and violations to the Department. The Department of Agriculture shall have exclusive jurisdiction for the enforcement of this Act insofar as it relates to establishments defined by Section 2.5 of "The Meat and Poultry Inspection Act", approved July 22, 1959, as heretofore or hereafter amended. The Department of Agriculture or Department of Public Health, as the case may be, shall thereupon issue a written order to the person, firm or corporation responsible for the violation or condition aforesaid to abate such condition or violation or to make such changes or improvements as may be necessary to abate them, within such reasonable time as may be required. Notice of the order may be served by delivering a copy thereof to the person, firm or corporation, or by sending a copy thereof by registered mail, and the receipt thereof through the post office shall be prima facie evidence that notice of the order has been received. Such person, firm or corporation may appear in person or by attorney before the Department of Agriculture or the Department of Public Health, as the case may be, within the time limited in the order, and shall be given an opportunity to be heard and to show why such order or instructions should not be obeyed. The hearing shall be under such rules and regulations as may be prescribed by the Department of Agriculture or the Department of Public Health, as the case may be. If after such hearing it appears that this Act has not been violated, the order shall be rescinded. If it appears that this Act is being violated, and that the person, firm or corporation notified is responsible therefor, the previous order shall be confirmed or amended, as the facts shall warrant, and shall thereupon be final, but such additional time as is necessary may be granted within which to comply with the final order. If such person, firm or corporation is not present or represented when such final order is made, notice thereof shall be given as above provided. On failure of the party or parties to comply with the first order of the Department of Agriculture or the Department of Public Health, as the case may be, within the time prescribed, when no hearing is demanded, or upon failure to comply with the final order within the time specified, the Department shall certify the facts to the State's Attorney of the county in which such violation occurred, and such State's Attorney shall proceed against the party or parties for the fines and penalties provided by this Act, and also for the abatement of the nuisance: Provided, that the proceedings herein prescribed for the abatement of nuisances as defined in this Act shall not in any manner relieve the violator from prosecution in the first instance for every such violation, nor from the penalties for such violation prescribed by Section 13.

(Source: P.A. 81-1509.)

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

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING BILL OF THE SENATE A THIRD TIME

On motion of Senator Luechtefeld, **Senate Bill No. 1852**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 58; NAYS None.

[April 14, 2011]

The following voted in the affirmative:

Althoff	Harmon	Link	Rezin
Bivins	Holmes	Luechtefeld	Righter
Bomke	Hunter	Maloney	Sandack
Brady	Hutchinson	Martinez	Sandoval
Clayborne	Jacobs	McCann	Schmidt
Collins, J.	Johnson, C.	McCarter	Schoenberg
Crotty	Johnson, T.	Meeks	Silverstein
Cultra	Jones, E.	Millner	Steans
Delgado	Jones, J.	Mulroe	Sullivan
Dillard	Koehler	Muñoz	Syverson
Duffy	Kotowski	Murphy	Trotter
Forby	LaHood	Noland	Wilhelmi
Frerichs	Landek	Pankau	Mr. President
Garrett	Lauzen	Radogno	
Haine	Lightford	Raoul	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

SENATE BILL RECALLED

On motion of Senator Jones, E. III, **Senate Bill No. 1853** was recalled from the order of third reading to the order of second reading.

Senator Jones, E. III offered the following amendment and moved its adoption:

AMENDMENT NO. 4 TO SENATE BILL 1853

AMENDMENT NO. 4. Amend Senate Bill 1853, AS AMENDED, with reference to page and line numbers of Senate Amendment No. 2 as follows:

on page 2, line 12, by replacing "authorities" with "authority's"; and

on page 5, line 13, by replacing "container" with "container,"; and

on page 5, line 16, by replacing "liner" with "liner,"; and

on page 9, line 20, by replacing "authorities" with "authority's"; and

on page 10, line 4, by deleting "Attorney General or by the"; and

on page 10, lines 7 and 8, by replacing "State of Illinois Attorney General" with "State's Attorney of the county in which the cemetery is located"; and

on page 10, lines 11 and 12, by replacing "the following" with "a"; and

on page 10, line 14, by replacing "cemetery:" with "cemetery. The sign shall include the name, office address, and office phone numbers of the State's Attorney's office of the county in which the cemetery is located."; and

on page 10, by deleting lines 15 through 19; and

on page 10, lines 20 and 24, by deleting "Attorney General or the" each time it appears; and

on page 11, line 6, by replacing "person," with "person"; and

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on page 11, line 9, by replacing "offense," with "offense"; and

on page 67, line 8, by replacing "Section" with "Section,"; and

on page 97, line 12, by replacing "Section" with "Sections 11 and"; and

on page 97, immediately below line 12, by inserting the following:

(410 ILCS 535/11) (from Ch. 111 1/2, par. 73-11)

Sec. 11. Information required on forms.

(a) The form of certificates, reports, and other returns required by this Act or by regulations adopted under this Act shall include as a minimum the items recommended by the federal agency responsible for national vital statistics, subject to approval of and modification by the Department. All forms shall be prescribed and furnished by the State Registrar of Vital Records.

(b) On and after the effective date of this amendatory Act of 1983, all forms used to collect information under this Act which request information concerning the race or ethnicity of an individual by providing spaces for the designation of that individual as "white" or "black", or the semantic equivalent thereof, shall provide an additional space for a designation as "Hispanic".

(c) Effective November 1, 1990, the social security numbers of the mother and father shall be collected at the time of the birth of the child. These numbers shall not be recorded on the certificate of live birth. The numbers may be used only for those purposes allowed by Federal law.

(d) The social security number of a person who has died shall be entered on the death certificate; however, failure to enter the social security number of the person who has died on the death certificate does not invalidate the death certificate.

(e) If the place of disposition of a dead human body or cremated remains is in a cemetery, the burial permit shall include the place of disposition. The place of disposition shall include the lot, block, section, ~~and~~ plot or niche, and depth, if applicable, where the dead human body or cremated remains are located. This subsection does not apply to cremated remains scattered in a cemetery.

(Source: P.A. 96-863, eff. 3-1-10)."

The motion prevailed.

And the amendment was adopted and ordered printed.

Senate Floor Amendment No. 5 was held in the Committee on Assignments.

There being no further amendments, the foregoing Amendment No. 4 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING BILL OF THE SENATE A THIRD TIME

On motion of Senator Jones, E. III, **Senate Bill No. 1853**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 54; NAYS 2; Present 1.

The following voted in the affirmative:

Althoff	Haine	Lauzen	Radogno
Bivins	Harmon	Lightford	Raoul
Bomke	Holmes	Link	Rezin
Brady	Hunter	Luechtefeld	Sandack
Clayborne	Hutchinson	Maloney	Sandoval
Collins, A.	Jacobs	Martinez	Schmidt
Crotty	Johnson, C.	McCann	Schoenberg
Cultra	Johnson, T.	McCarter	Silverstein
Delgado	Jones, E.	Meeks	Steans
Dillard	Jones, J.	Millner	Sullivan
Duffy	Koehler	Mulroe	Syverson

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Forby	Kotowski	Muñoz	Wilhelmi
Frerichs	LaHood	Noland	
Garrett	Landek	Pankau	

The following voted in the negative:

Righter
Trotter

The following voted present:

Collins, J.

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

COMMITTEE MEETING ANNOUNCEMENT

The Chair announced the following committee to meet Friday, April 15, 2011, at 8:30 o'clock a.m.:

Appropriations I in Room 212

READING BILLS OF THE SENATE A THIRD TIME

On motion of Senator McCarter, **Senate Bill No. 1856**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 58; NAYS None.

The following voted in the affirmative:

Althoff	Haine	Lightford	Rezin
Bivins	Harmon	Link	Righter
Bomke	Holmes	Luechtefeld	Sandack
Brady	Hunter	Maloney	Sandoval
Clayborne	Hutchinson	Martinez	Schmidt
Collins, A.	Jacobs	McCann	Schoenberg
Collins, J.	Johnson, C.	McCarter	Silverstein
Crotty	Johnson, T.	Meeks	Steans
Cultra	Jones, E.	Millner	Sullivan
Delgado	Jones, J.	Mulroe	Syverson
Dillard	Koehler	Muñoz	Trotter
Duffy	Kotowski	Murphy	Wilhelmi
Forby	LaHood	Noland	Mr. President
Frerichs	Landek	Pankau	
Garrett	Laufen	Raoul	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

[April 14, 2011]

On motion of Senator Wilhelmi, **Senate Bill No. 1877**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 56; NAYS None.

The following voted in the affirmative:

Althoff	Holmes	Luechtefeld	Sandack
Bivins	Hunter	Maloney	Sandoval
Bomke	Hutchinson	Martinez	Schmidt
Clayborne	Jacobs	McCann	Schoenberg
Collins, A.	Johnson, C.	McCarter	Silverstein
Collins, J.	Johnson, T.	Meeks	Steans
Crotty	Jones, E.	Millner	Sullivan
Cultra	Jones, J.	Mulroe	Syverson
Delgado	Koehler	Muñoz	Trotter
Dillard	Kotowski	Murphy	Wilhelmi
Duffy	LaHood	Noland	Mr. President
Forby	Landek	Pankau	
Frerichs	Lauzen	Raoul	
Haine	Lightford	Rezin	
Harmon	Link	Righter	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

On motion of Senator Maloney, **Senate Bill No. 1883**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 58; NAYS None.

The following voted in the affirmative:

Althoff	Haine	Lightford	Rezin
Bivins	Harmon	Link	Righter
Bomke	Holmes	Luechtefeld	Sandack
Brady	Hunter	Maloney	Sandoval
Clayborne	Hutchinson	Martinez	Schmidt
Collins, A.	Jacobs	McCann	Schoenberg
Collins, J.	Johnson, C.	McCarter	Silverstein
Crotty	Johnson, T.	Meeks	Steans
Cultra	Jones, E.	Millner	Sullivan
Delgado	Jones, J.	Mulroe	Syverson
Dillard	Koehler	Muñoz	Trotter
Duffy	Kotowski	Murphy	Wilhelmi
Forby	LaHood	Noland	Mr. President
Frerichs	Landek	Pankau	
Garrett	Lauzen	Raoul	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

[April 14, 2011]

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

On motion of Senator Clayborne, **Senate Bill No. 1900**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 57; NAYS None.

The following voted in the affirmative:

Althoff	Haine	Link	Rezin
Bivins	Harmon	Luechtefeld	Righter
Bomke	Holmes	Maloney	Sandack
Brady	Hunter	Martinez	Sandoval
Clayborne	Hutchinson	McCann	Schmidt
Collins, A.	Johnson, C.	McCarter	Schoenberg
Collins, J.	Johnson, T.	Meeks	Silverstein
Crotty	Jones, E.	Millner	Steans
Cultra	Jones, J.	Mulroe	Sullivan
Delgado	Koehler	Muñoz	Syverson
Dillard	Kotowski	Murphy	Trotter
Duffy	LaHood	Noland	Wilhelmi
Forby	Landek	Pankau	
Frerichs	Lauzen	Radogno	
Garrett	Lightford	Raoul	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

On motion of Senator Sandoval, **Senate Bill No. 1907**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 55; NAYS 2.

The following voted in the affirmative:

Althoff	Haine	Lightford	Radogno
Bivins	Harmon	Link	Raoul
Bomke	Holmes	Luechtefeld	Rezin
Brady	Hunter	Maloney	Sandack
Clayborne	Hutchinson	Martinez	Sandoval
Collins, A.	Jacobs	McCann	Schmidt
Collins, J.	Johnson, C.	McCarter	Schoenberg
Crotty	Johnson, T.	Meeks	Silverstein
Cultra	Jones, E.	Millner	Steans
Delgado	Jones, J.	Mulroe	Sullivan
Dillard	Koehler	Muñoz	Syverson
Forby	Kotowski	Murphy	Trotter
Frerichs	LaHood	Noland	Wilhelmi
Garrett	Landek	Pankau	

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The following voted in the negative:

Lauzen
Righter

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

SENATE BILL RECALLED

On motion of Senator Sullivan, **Senate Bill No. 1914** was recalled from the order of third reading to the order of second reading.

Senator Sullivan offered the following amendment and moved its adoption:

AMENDMENT NO. 2 TO SENATE BILL 1914

AMENDMENT NO. 2. Amend Senate Bill 1914 on page 3, by replacing line 1 with the following:

"forbidden part thereof.

(b-5) Subject to the provisions of subsection (b-10), as an alternative to the posting of real"; and

on page 3, line 2, by deleting "this"; and

on page 3, by inserting immediately below line 19 the following:

"(b-10) Any owner or lessee who marks his or her real property using the method described in subsection (b-5) must also provide notice as described in subsection (b) of this Section. The public of this State shall be informed of the provisions of subsection (b-5) of this Section by the Illinois Department of Agriculture and the Illinois Department of Natural Resources. These Departments shall conduct an information campaign for the general public concerning the interpretation and implementation of subsection (b-5). The information shall inform the public about the marking requirements and the applicability of subsection (b-5) including information regarding the size requirements of the markings as well as the manner in which the markings shall be displayed. The Departments shall also include information regarding the requirement that, until the date this subsection becomes inoperative, any owner or lessee who chooses to mark his or her property using paint, must also comply with one of the notice requirements listed in subsection (b). The Departments may prepare a brochure or may disseminate the information through agency websites. Non-governmental organizations including, but not limited to, the Illinois Forestry Association, Illinois Tree Farm and the Walnut Council may help to disseminate the information regarding the requirements and applicability of subsection (b-5) based on materials provided by the Departments. This subsection (b-10) is inoperative on and after January 1, 2013."

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 2 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING BILL OF THE SENATE A THIRD TIME

On motion of Senator Sullivan, **Senate Bill No. 1914**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 44; NAYS 9; Present 2.

The following voted in the affirmative:

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Bomke	Holmes	Martinez	Schmidt
Brady	Hutchinson	McCann	Schoenberg
Clayborne	Jacobs	McCarter	Silverstein
Collins, A.	Johnson, C.	Mulroe	Steans
Collins, J.	Jones, E.	Muñoz	Sullivan
Delgado	Jones, J.	Murphy	Syverson
Dillard	Koehler	Noland	Wilhelmi
Forby	Kotowski	Raoul	Mr. President
Frerichs	Landek	Rezin	
Garrett	Link	Righter	
Haine	Luechtefeld	Sandack	
Harmon	Maloney	Sandoval	

The following voted in the negative:

Bivins	Johnson, T.	Millner
Cultra	LaHood	Pankau
Duffy	Lauzen	Radogno

The following voted present:

Althoff
Meeks

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

SENATE BILL RECALLED

On motion of Senator Hutchinson, **Senate Bill No. 1923** was recalled from the order of third reading to the order of second reading.

Senator Hutchinson offered the following amendment and moved its adoption:

AMENDMENT NO. 2 TO SENATE BILL 1923

AMENDMENT NO. 2. Amend Senate Bill 1923 by replacing everything after the enacting clause with the following:

"Section 5. The Department of Transportation Law of the Civil Administrative Code of Illinois is amended by changing Section 2705-600 as follows:

(20 ILCS 2705/2705-600)

Sec. 2705-600. Target market program. In order to remedy particular incidents and patterns of egregious race or gender discrimination, the chief procurement officer, in consultation with the Department, shall have the power to implement a target market program incorporating the following terms: achieve all diversity goals, the Department's chief procurement officer shall develop and coordinate a target market program including the following elements:

(0.5) Each fiscal year, the Department shall review any and all evidence of discrimination related to transportation construction projects. Evidence of discrimination may include, but is not limited to: (i) the determination of the Department's utilization of minority-owned and female-owned firms in its prime contracts and associated subcontracts; (ii) the availability of minority-owned and female-owned firms in the Department's geographic market areas and specific construction industry markets; (iii) any disparities between the utilization of minority-owned and female-owned firms in the Department's markets and the utilization of those firms on the Department's prime contracts and subcontracts in those markets; (iv) any disparities between the utilization of minority-owned and female-owned firms in the overall construction markets in which the Department purchases and the utilization of those firms in the overall construction economy in which the Department operates; (v) evidence of discrimination in the rates at which

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minority-owned and female-owned firms in the Department's markets form businesses compared to similar non-minority-owned and non-female-owned firms in the Department's markets and in the dollars earned by such businesses; and (vi) quantitative and qualitative anecdotal evidence of discrimination. If after reviewing such evidence, the Department finds and the chief procurement officer concurs in the findings that the Department has a strong basis in evidence that it has a compelling interest in remedying the identified discrimination against a specific group, race, or gender, and that the only remedy for such discrimination is a narrowly tailored target market, the chief procurement officer, in consultation with the Department, has the power to establish and implement a target market program tailored to address the specific findings of egregious discrimination made by the Department, after a public hearing at which minority, female, and general contractor groups, community organizations, and other interested parties shall have the opportunity to provide comments.

(1) In January of each year, the Department and the chief procurement officer shall report jointly to the General Assembly the results of any evidentiary inquiries or studies that establish the Department's compelling interest in remedying egregious discrimination based upon strong evidence of the need for a narrowly tailored target market to remedy such discrimination and public hearings held pursuant to this Section, and shall report the actions to be taken to address the findings, including, if warranted, the establishment and implementation of any target market initiatives, estimate the dollar value of all contracts to be awarded by the Department during that year and shall multiply that total by the minority-owned business target market percentage and the women-owned business target market percentage for that year. Contracts with an estimated dollar value equal to those products shall be set aside (prior to advertisement in the case of contracts to be awarded by bid) to be let only to qualified minority-owned businesses and qualified women-owned businesses, respectively.

(2) The chief procurement officer shall work with the officers and divisions of the Department to determine the appropriate designation of contracts as target market contracts. ~~The To the extent practical, the chief procurement officer, in consultation with the Department, shall determine appropriate contract formation and bidding procedures for target market contracts, including, but not limited to, the dividing of divide the procurements so designated into contract award units of economically feasible production runs in order to facilitate offers or bids from minority-owned businesses and female-owned women-owned businesses and the removal of bid bond requirements for minority-owned businesses and female-owned businesses. In making the annual designation of target market contracts, the chief procurement officer shall attempt to vary the included procurements so that a variety of goods and services produced by different minority-owned businesses and women-owned businesses shall be set aside each year.~~ Minority-owned businesses and female-owned women-owned businesses shall remain eligible to seek the procurement award of contracts that have not been designated as target market contracts.

(3) The Department shall develop a list of minority-owned businesses and women-owned businesses that are interested in participating in the target market program, including the type of contract in which each minority-owned businesses and women-owned businesses is interested in participating. The chief procurement officer Department may make participation in the target market program dependent upon

submission to stricter compliance audits than are generally applicable. No contract shall be eligible for inclusion in the target market program unless the list developed by the Department determines indicates that there are at least 3 qualified minority-owned businesses or female-owned women-owned businesses interested in participating in that type of contract. The Department, with the concurrence of the chief procurement officer, may develop guidelines to regulate the level of participation of individual minority-owned businesses and female-owned women-owned businesses in the target market program in order to prevent the domination of the target market program by a small number of those entities. The If necessary or useful, the Department may require minority-owned businesses and female-owned women-owned businesses to participate in training programs offered by the Department or other State agencies as a condition precedent to participation in the target market program.

(4) Participation in the target market program shall be limited to minority-owned businesses and female-owned women-owned businesses and joint ventures consisting exclusively of minority-owned businesses, female-owned women-owned businesses, or both, that are certified as disadvantaged businesses pursuant to the provisions of Section 6(d) of the Business Enterprise for Minorities, Females, and Persons with Disabilities Act. A firm awarded The prime contractor on a target market contract may subcontract up to 50% of the dollar value of the target market contract to subcontractors who are not minority-owned businesses or female-owned women-owned businesses.

(5) The Department may include in the target market program contracts that are

funded by the federal government to the extent allowed by federal law and may vary the standards of eligibility of the target market program (~~for example, by allowing the participation of businesses owned by a person with a disability~~) to the extent necessary to comply with the federal funding requirements.

(6) If no satisfactory bid or response is received with respect to a contract that has been designated as part of the target market program, the chief procurement officer, in consultation with the Department, ~~Department~~ may delete that contract from the target market program. In addition, the chief procurement officer, in consultation with the Department, ~~may shall~~ thereupon designate and set aside for the target market program additional contracts corresponding in approximate value to the contract that was deleted from the target market program, in keeping with the narrowly tailored process used for selecting contracts suitable for the program and to the extent feasible.

(7) The chief procurement officer, in consultation with the Department, shall promulgate such rules as he or she deems necessary to administer the target market program. ~~In order to facilitate the performance of target market contracts by minority owned businesses and women owned businesses, the chief procurement officer may expedite payments under target market contracts, may reduce retainages under target market contracts when appropriate, and may pay the contractor a portion of the value of a target market contract at the time of award as an advance to cover start up and mobilization costs.~~

If any part, sentence, or clause of this Section is for any reason held invalid or to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Section.

This Section is repealed on June 30, 2014.

(Source: P.A. 96-795, eff. 7-1-10 (see Section 5 of P.A. 96-793 for the effective date of P.A. 96-795).)

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

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 2 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING BILLS OF THE SENATE A THIRD TIME

On motion of Senator Hutchinson, **Senate Bill No. 1923**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 45; NAYS 6.

The following voted in the affirmative:

Althoff	Holmes	Meeks	Schmidt
Brady	Hutchinson	Millner	Schoenberg
Clayborne	Jacobs	Mulroe	Silverstein
Collins, A.	Johnson, T.	Muñoz	Stears
Collins, J.	Jones, E.	Murphy	Sullivan
Crotty	Koehler	Noland	Syverson
Delgado	Kotowski	Pankau	Trotter
Dillard	Landek	Radogno	Wilhelmi
Forby	Lightford	Raoul	Mr. President
Frerichs	Link	Rezin	
Garrett	Maloney	Sandack	
Haine	Martinez	Sandoval	

The following voted in the negative:

Bomke	Duffy	McCann
Cultra	LaHood	McCarter

[April 14, 2011]

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

Senator Hunter asked and obtained unanimous consent for the Journal to reflect her intention to have voted in the affirmative on **Senate Bill No. 1923**.

On motion of Senator Hutchinson, **Senate Bill No. 1924**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 59; NAYS None.

The following voted in the affirmative:

Althoff	Haine	Lightford	Raoul
Bivins	Harmon	Link	Rezin
Bomke	Holmes	Luechtefeld	Righter
Brady	Hunter	Maloney	Sandack
Clayborne	Hutchinson	Martinez	Sandoval
Collins, A.	Jacobs	McCann	Schmidt
Collins, J.	Johnson, C.	McCarter	Schoenberg
Crotty	Johnson, T.	Meeks	Silverstein
Cultra	Jones, E.	Millner	Steans
Delgado	Jones, J.	Mulroe	Sullivan
Dillard	Koehler	Muñoz	Syverson
Duffy	Kotowski	Murphy	Trotter
Forby	LaHood	Noland	Wilhelmi
Frerichs	Landek	Pankau	Mr. President
Garrett	Lauzen	Radogno	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

SENATE BILL RECALLED

On motion of Senator Link, **Senate Bill No. 1927** was recalled from the order of third reading to the order of second reading.

Senator Link offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO SENATE BILL 1927

AMENDMENT NO. 1. Amend Senate Bill 1927 on page 2, by replacing line 14 with the following:

"Sections 7-11, 7-12, 7-59, 7-60, 8-10, 8-17, 10-1,"; and

on page 5, by replacing lines 15 through 17 with the following:

"Board shall direct such petitions to be filed in accordance with the time period set forth in the delegate selection plan for the State central committee that is approved by the national political party ~~not more than 83 and not less than 76 days prior to the date of the primary.~~"; and

by deleting everything from line 11 on page 21 through line 22 on page 26; and

by deleting everything from line 1 on page 32 through line 2 on page 38.

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The motion prevailed.

And the amendment was adopted and ordered printed.

Senate Floor Amendment No. 2 was held in the Committee on Executive.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING BILL OF THE SENATE A THIRD TIME

On motion of Senator Link, **Senate Bill No. 1927**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 58; NAYS None.

The following voted in the affirmative:

Althoff	Haine	Link	Rezin
Bivins	Harmon	Luechtefeld	Righter
Bomke	Hunter	Maloney	Sandack
Brady	Hutchinson	Martinez	Sandoval
Clayborne	Jacobs	McCann	Schmidt
Collins, A.	Johnson, C.	McCarter	Schoenberg
Collins, J.	Johnson, T.	Meeks	Silverstein
Crotty	Jones, E.	Millner	Steans
Cultra	Jones, J.	Mulroe	Sullivan
Delgado	Koehler	Muñoz	Syverson
Dillard	Kotowski	Murphy	Trotter
Duffy	LaHood	Noland	Wilhelmi
Forby	Landek	Pankau	Mr. President
Frerichs	Lauzen	Radogno	
Garrett	Lightford	Raoul	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

SENATE BILL RECALLED

On motion of Senator Delgado, **Senate Bill No. 1945** was recalled from the order of third reading to the order of second reading.

Senator Delgado offered the following amendment and moved its adoption:

AMENDMENT NO. 2 TO SENATE BILL 1945

AMENDMENT NO. 2. Amend Senate Bill 1945 as follows:

on page 1, line 10, immediately before "The State", by inserting "Implementation of this Act is entirely subject to the availability and appropriation of funds from federal grant money applied for by the Department of Public Health."; and

on page 1, line 18, immediately after the period, by inserting "The Council shall work in coordination with the State Health Improvement Plan Implementation Coordination Council to ensure alignment with the State Health Improvement Plan."; and

on page 2, line 10, immediately after "nurses,", by inserting "pharmacists,".

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The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 2 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING BILLS OF THE SENATE A THIRD TIME

On motion of Senator Delgado, **Senate Bill No. 1945**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 59; NAYS None.

The following voted in the affirmative:

Althoff	Haine	Lightford	Raoul
Bivins	Harmon	Link	Rezin
Bomke	Holmes	Luechtefeld	Righter
Brady	Hunter	Maloney	Sandack
Clayborne	Hutchinson	Martinez	Sandoval
Collins, A.	Jacobs	McCann	Schmidt
Collins, J.	Johnson, C.	McCarter	Schoenberg
Crotty	Johnson, T.	Meeks	Silverstein
Cultra	Jones, E.	Millner	Steans
Delgado	Jones, J.	Mulroe	Sullivan
Dillard	Koehler	Muñoz	Syverson
Duffy	Kotowski	Murphy	Trotter
Forby	LaHood	Noland	Wilhelmi
Frerichs	Landek	Pankau	Mr. President
Garrett	Lauzen	Radogno	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

On motion of Senator Delgado, **Senate Bill No. 1948**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 57; NAYS None.

The following voted in the affirmative:

Althoff	Harmon	Luechtefeld	Righter
Bivins	Holmes	Maloney	Sandack
Bomke	Hunter	Martinez	Sandoval
Brady	Hutchinson	McCann	Schmidt
Clayborne	Jacobs	McCarter	Schoenberg
Collins, A.	Johnson, C.	Meeks	Silverstein
Collins, J.	Johnson, T.	Millner	Steans
Crotty	Jones, E.	Mulroe	Sullivan
Cultra	Jones, J.	Muñoz	Syverson
Delgado	Koehler	Murphy	Trotter

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Dillard	Kotowski	Noland	Wilhelmi
Forby	LaHood	Pankau	Mr. President
Frerichs	Landek	Radogno	
Garrett	Lightford	Raoul	
Haine	Link	Rezin	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

On motion of Senator Delgado, **Senate Bill No. 1949**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 59; NAYS None.

The following voted in the affirmative:

Althoff	Haine	Lightford	Raoul
Bivins	Harmon	Link	Rezin
Bomke	Holmes	Luechtefeld	Righter
Brady	Hunter	Maloney	Sandack
Clayborne	Hutchinson	Martinez	Sandoval
Collins, A.	Jacobs	McCann	Schmidt
Collins, J.	Johnson, C.	McCarter	Schoenberg
Crotty	Johnson, T.	Meeks	Silverstein
Cultra	Jones, E.	Millner	Steans
Delgado	Jones, J.	Mulroe	Sullivan
Dillard	Koehler	Muñoz	Syverson
Duffy	Kotowski	Murphy	Trotter
Forby	LaHood	Noland	Wilhelmi
Frerichs	Landek	Pankau	Mr. President
Garrett	Lauzen	Radogno	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

On motion of Senator Althoff, **Senate Bill No. 1952**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 59; NAYS None.

The following voted in the affirmative:

Althoff	Haine	Lightford	Raoul
Bivins	Harmon	Link	Rezin
Bomke	Holmes	Luechtefeld	Righter
Brady	Hunter	Maloney	Sandack
Clayborne	Hutchinson	Martinez	Sandoval
Collins, A.	Jacobs	McCann	Schmidt
Collins, J.	Johnson, C.	McCarter	Schoenberg

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Crotty	Johnson, T.	Meeks	Silverstein
Cultra	Jones, E.	Millner	Steans
Delgado	Jones, J.	Mulroe	Sullivan
Dillard	Koehler	Muñoz	Syverson
Duffy	Kotowski	Murphy	Trotter
Forby	LaHood	Noland	Wilhelmi
Frerichs	Landek	Pankau	Mr. President
Garrett	Lauzen	Radogno	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

On motion of Senator Millner, **Senate Bill No. 1962**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, “Shall this bill pass?” it was decided in the affirmative by the following vote:

YEAS 58; NAYS None.

The following voted in the affirmative:

Althoff	Harmon	Link	Rezin
Bivins	Holmes	Luechtefeld	Righter
Bomke	Hunter	Maloney	Sandack
Brady	Hutchinson	Martinez	Sandoval
Clayborne	Jacobs	McCann	Schmidt
Collins, A.	Johnson, C.	McCarter	Schoenberg
Collins, J.	Johnson, T.	Meeks	Silverstein
Crotty	Jones, E.	Millner	Steans
Cultra	Jones, J.	Mulroe	Sullivan
Delgado	Koehler	Muñoz	Syverson
Dillard	Kotowski	Murphy	Trotter
Duffy	LaHood	Noland	Wilhelmi
Frerichs	Landek	Pankau	Mr. President
Garrett	Lauzen	Radogno	
Haine	Lightford	Raoul	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

Senator Forby asked and obtained unanimous consent for the Journal to reflect his intention to have voted in the affirmative on **Senate Bill No. 1962**.

Senator Raoul asked and obtained unanimous consent for the Journal to reflect his intention to have voted present on **Senate Bill No. 1962**.

On motion of Senator Clayborne, **Senate Bill No. 1968**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, “Shall this bill pass?” it was decided in the affirmative by the following vote:

YEAS 59; NAYS None.

The following voted in the affirmative:

Althoff	Haine	Lightford	Raoul
Bivins	Harmon	Link	Rezin
Bomke	Holmes	Luechtefeld	Righter
Brady	Hunter	Maloney	Sandack
Clayborne	Hutchinson	Martinez	Sandoval
Collins, A.	Jacobs	McCann	Schmidt
Collins, J.	Johnson, C.	McCarter	Schoenberg
Crotty	Johnson, T.	Meeks	Silverstein
Cultra	Jones, E.	Millner	Steans
Delgado	Jones, J.	Mulroe	Sullivan
Dillard	Koehler	Muñoz	Syverson
Duffy	Kotowski	Murphy	Trotter
Forby	LaHood	Noland	Wilhelmi
Frerichs	Landek	Pankau	Mr. President
Garrett	Lauzen	Radogno	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

SENATE BILL RECALLED

On motion of Senator Althoff, **Senate Bill No. 1971** was recalled from the order of third reading to the order of second reading.

Senator Althoff offered the following amendment and moved its adoption:

AMENDMENT NO. 2 TO SENATE BILL 1971

AMENDMENT NO. 2. Amend Senate Bill 1971 by replacing everything after the enacting clause with the following:

"Section 5. The Mechanics Lien Act is amended by changing Section 6 as follows:
(770 ILCS 60/6) (from Ch. 82, par. 6)

Sec. 6. In no event shall it be necessary to fix or stipulate in any contract a time for the completion or a time for payment in order to obtain a lien under this act, provided, that the work is done or material furnished within three years from the commencement of said work or the commencement of furnishing said material, but if the work is not done within 3 years from the commencement of the work or the material is not furnished within 3 years from the commencement of the furnishing of the material, then a lien may be obtained under this Act within one year after the work is done or after the material is completely furnished, whichever is later.

(Source: Laws 1903, p. 230.)

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

The motion prevailed.

And the amendment was adopted and ordered printed.

Senate Floor Amendment No. 3 was postponed in the Committee on Judiciary.

There being no further amendments, the foregoing Amendment No. 2 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING BILL OF THE SENATE A THIRD TIME

On motion of Senator Althoff, **Senate Bill No. 1971**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

[April 14, 2011]

YEAS 59; NAYS None.

The following voted in the affirmative:

Althoff	Haine	Lightford	Raoul
Bivins	Harmon	Link	Rezin
Bomke	Holmes	Luechtefeld	Righter
Brady	Hunter	Maloney	Sandack
Clayborne	Hutchinson	Martinez	Sandoval
Collins, A.	Jacobs	McCann	Schmidt
Collins, J.	Johnson, C.	McCarter	Schoenberg
Crotty	Johnson, T.	Meeks	Silverstein
Cultra	Jones, E.	Millner	Steans
Delgado	Jones, J.	Mulroe	Sullivan
Dillard	Koehler	Muñoz	Syverson
Duffy	Kotowski	Murphy	Trotter
Forby	LaHood	Noland	Wilhelmi
Frerichs	Landek	Pankau	Mr. President
Garrett	Lauzen	Radogno	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

SENATE BILL RECALLED

On motion of Senator Althoff, **Senate Bill No. 1972** was recalled from the order of third reading to the order of second reading.

Senator Althoff offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO SENATE BILL 1972

AMENDMENT NO. 1. Amend Senate Bill 1972 on page 14, line 7, by deleting "(i)"; and on page 14, line 9, by deleting "(ii)".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING BILLS OF THE SENATE A THIRD TIME

On motion of Senator Althoff, **Senate Bill No. 1972**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 59; NAYS None.

The following voted in the affirmative:

Althoff	Haine	Lightford	Raoul
Bivins	Harmon	Link	Rezin
Bomke	Holmes	Luechtefeld	Righter
Brady	Hunter	Maloney	Sandack
Clayborne	Hutchinson	Martinez	Sandoval

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Collins, A.	Jacobs	McCann	Schmidt
Collins, J.	Johnson, C.	McCarter	Schoenberg
Crotty	Johnson, T.	Meeks	Silverstein
Cultra	Jones, E.	Millner	Steans
Delgado	Jones, J.	Mulroe	Sullivan
Dillard	Koehler	Muñoz	Syverson
Duffy	Kotowski	Murphy	Trotter
Forby	LaHood	Noland	Wilhelmi
Frerichs	Landek	Pankau	Mr. President
Garrett	Laufen	Radogno	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

On motion of Senator Dillard, **Senate Bill No. 1992**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 58; NAY 1.

The following voted in the affirmative:

Althoff	Harmon	Link	Rezin
Bivins	Holmes	Luechtefeld	Righter
Bomke	Hunter	Maloney	Sandack
Brady	Hutchinson	Martinez	Sandoval
Clayborne	Jacobs	McCann	Schmidt
Collins, J.	Johnson, C.	McCarter	Schoenberg
Crotty	Johnson, T.	Meeks	Silverstein
Cultra	Jones, E.	Millner	Steans
Delgado	Jones, J.	Mulroe	Sullivan
Dillard	Koehler	Muñoz	Syverson
Duffy	Kotowski	Murphy	Trotter
Forby	LaHood	Noland	Wilhelmi
Frerichs	Landek	Pankau	Mr. President
Garrett	Laufen	Radogno	
Haine	Lightford	Raoul	

The following voted in the negative:

Collins, A.

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

SENATE BILL RECALLED

On motion of Senator Noland, **Senate Bill No. 1996** was recalled from the order of third reading to the order of second reading.

Senator Noland offered the following amendment and moved its adoption:

AMENDMENT NO. 2 TO SENATE BILL 1996

[April 14, 2011]

AMENDMENT NO. 2. Amend Senate Bill 1996 by replacing everything after the enacting clause with the following:

"Section 5. The Mobile Home Landlord and Tenant Rights Act is amended by adding Section 14.2 as follows:

(765 ILCS 745/14.2 new)

Sec. 14.2. Relocation plan. The Department of Public Health shall create a plan to address the relocation efforts of manufactured home or mobile home owners who are compelled to relocate due to (i) the sale of the manufactured home community or mobile home park in which they live to a person or entity which will use the property for a use other than as a manufactured home community or mobile home park or (ii) the closure of or the cessation of the operation of the manufactured home community or mobile home park in which they live. The Department shall develop this plan in cooperation with members of the General Assembly, manufactured home owners, mobile home owners, manufactured home community owners, mobile home park owners, and the respective statewide organizations that represent manufactured home owners, mobile home owners, manufactured home community owners, or mobile home park owners. The plan shall include provisions for the special counseling of manufactured home or mobile home owners displaced from the manufactured home community or mobile home park in which they live; the relocation or shelter needs of displaced manufactured home or mobile home owners; and the creation of a Manufactured Housing Relocation Fund. The Department's plan may include proposed legislation. No later than October 1, 2011, the Department shall deliver its plan and any proposed legislation to the President of the Senate, the Senate Minority Leader, the Speaker of the House of Representatives, and the House Minority Leader.

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

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 2 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING BILLS OF THE SENATE A THIRD TIME

On motion of Senator Noland, **Senate Bill No. 1996**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 48; NAYS 7.

The following voted in the affirmative:

Althoff	Harmon	Luechtefeld	Sandoval
Bivins	Holmes	Maloney	Schmidt
Bomke	Hunter	Martinez	Schoenberg
Clayborne	Hutchinson	McCarter	Silverstein
Collins, A.	Jacobs	Meeks	Steans
Collins, J.	Johnson, C.	Millner	Sullivan
Crotty	Jones, E.	Mulroe	Trotter
Delgado	Jones, J.	Muñoz	Wilhelmi
Dillard	Koehler	Noland	Mr. President
Forby	Kotowski	Pankau	
Frerichs	Landek	Raoul	
Garrett	Lightford	Rezin	
Haine	Link	Righter	

The following voted in the negative:

Cultra	Johnson, T.	Lauzen	Sandack
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Duffy

LaHood

McCann

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

On motion of Senator Delgado, **Senate Bill No. 2002**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 51; NAYS 7.

The following voted in the affirmative:

Althoff	Harmon	Luechtefeld	Righter
Bivins	Holmes	Maloney	Sandack
Bomke	Hunter	Martinez	Sandoval
Clayborne	Hutchinson	McCarter	Schmidt
Collins, A.	Jacobs	Meeks	Schoenberg
Collins, J.	Johnson, C.	Millner	Silverstein
Crotty	Jones, E.	Mulroe	Steans
Delgado	Jones, J.	Muñoz	Sullivan
Dillard	Koehler	Noland	Syverson
Forby	Kotowski	Pankau	Trotter
Frerichs	LaHood	Radogno	Wilhelmi
Garrett	Landek	Raoul	Mr. President
Haine	Link	Rezin	

The following voted in the negative:

Brady	Duffy	Lauzen	Murphy
Cultra	Johnson, T.	McCann	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

On motion of Senator Jacobs, **Senate Bill No. 2004**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 57; NAY 1.

The following voted in the affirmative:

Althoff	Harmon	Link	Righter
Bivins	Holmes	Luechtefeld	Sandack
Bomke	Hunter	Maloney	Sandoval
Brady	Hutchinson	Martinez	Schmidt
Clayborne	Jacobs	McCann	Schoenberg
Collins, A.	Johnson, C.	McCarter	Silverstein
Collins, J.	Johnson, T.	Meeks	Steans
Crotty	Jones, E.	Mulroe	Sullivan

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Delgado	Jones, J.	Muñoz	Syverson
Dillard	Koehler	Murphy	Trotter
Duffy	Kotowski	Noland	Wilhelmi
Forby	LaHood	Pankau	Mr. President
Frerichs	Landek	Radogno	
Garrett	Lauzen	Raoul	
Haine	Lightford	Rezin	

The following voted in the negative:

Cultra

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

On motion of Senator Frerichs, **Senate Bill No. 2010**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, “Shall this bill pass?” it was decided in the affirmative by the following vote:

YEAS 57; NAYS None.

The following voted in the affirmative:

Althoff	Harmon	Luechtefeld	Righter
Bivins	Holmes	Maloney	Sandack
Bomke	Hunter	Martinez	Sandoval
Brady	Hutchinson	McCann	Schmidt
Clayborne	Jacobs	McCarter	Schoenberg
Collins, A.	Johnson, C.	Meeks	Silverstein
Collins, J.	Johnson, T.	Millner	Steans
Crotty	Jones, E.	Mulroe	Sullivan
Cultra	Koehler	Muñoz	Syverson
Delgado	Kotowski	Murphy	Trotter
Dillard	LaHood	Noland	Wilhelmi
Duffy	Landek	Pankau	Mr. President
Frerichs	Lauzen	Radogno	
Garrett	Lightford	Raoul	
Haine	Link	Rezin	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

Senator Forby asked and obtained unanimous consent for the Journal to reflect his intention to have voted in the affirmative on **Senate Bill No. 2010**.

On motion of Senator Silverstein, **Senate Bill No. 2015**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, “Shall this bill pass?” it was decided in the affirmative by the following vote:

YEAS 57; NAYS None.

The following voted in the affirmative:

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Althoff	Haine	Link	Righter
Bivins	Harmon	Maloney	Sandack
Bomke	Holmes	Martinez	Sandoval
Brady	Hunter	McCann	Schmidt
Clayborne	Hutchinson	McCarter	Schoenberg
Collins, A.	Jacobs	Meeks	Silverstein
Collins, J.	Johnson, C.	Millner	Steans
Crotty	Johnson, T.	Mulroe	Sullivan
Cultra	Jones, E.	Muñoz	Syverson
Delgado	Koehler	Murphy	Trotter
Dillard	Kotowski	Noland	Wilhelmi
Duffy	LaHood	Pankau	Mr. President
Forby	Landek	Radogno	
Frerichs	Lauzen	Raoul	
Garrett	Lightford	Rezin	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

On motion of Senator Muñoz, **Senate Bill No. 2034**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, “Shall this bill pass?” it was decided in the affirmative by the following vote:

YEAS 58; NAYS None.

The following voted in the affirmative:

Althoff	Haine	Lightford	Raoul
Bivins	Harmon	Link	Rezin
Bomke	Holmes	Luechtefeld	Sandack
Brady	Hunter	Maloney	Sandoval
Clayborne	Hutchinson	Martinez	Schmidt
Collins, A.	Jacobs	McCann	Schoenberg
Collins, J.	Johnson, C.	McCarter	Silverstein
Crotty	Johnson, T.	Meeks	Steans
Cultra	Jones, E.	Millner	Sullivan
Delgado	Jones, J.	Mulroe	Syverson
Dillard	Koehler	Muñoz	Trotter
Duffy	Kotowski	Murphy	Wilhelmi
Forby	LaHood	Noland	Mr. President
Frerichs	Landek	Pankau	
Garrett	Lauzen	Radogno	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

SENATE BILL RECALLED

On motion of Senator Sullivan, **Senate Bill No. 2037** was recalled from the order of third reading to the order of second reading.

Senator Sullivan offered the following amendment and moved its adoption:

[April 14, 2011]

AMENDMENT NO. 2 TO SENATE BILL 2037

AMENDMENT NO. 2. Amend Senate Bill 2037 by replacing everything after the enacting clause with the following:

"Section 5. The Elevator Safety and Regulation Act is amended by changing Sections 35, 95, and 120 as follows:

(225 ILCS 312/35)

(Section scheduled to be repealed on January 1, 2013)

Sec. 35. Powers and duties of the Board and Administrator.

(a) The Board shall consult with engineering authorities and organizations and adopt rules consistent with the provisions of this Act for the administration and enforcement of this Act. The Board may prescribe forms to be issued in connection with the administration and enforcement of this Act. The rules shall establish standards and criteria consistent with this Act for licensing of elevator mechanics, inspectors, and installers of elevators, including the provisions of the Safety Code for Elevators and Escalators (ASME A17.1), the provisions of the Performance-Based Safety Code for Elevators and Escalators (ASME A17.7), the Standard for the Qualification of Elevator Inspectors (ASME QEI-1), the Automated People Mover Standards (ASCE 21), the Safety Requirements for Personnel Hoists and Employee Elevators (ANSI A10.4), and the Safety Standard for Platform Lifts and Stairway Chairlifts (ASME A18.1). The Board shall adopt or amend and adopt the latest editions of the standards referenced in this subsection within 12 months after the effective date of the standards.

The Board shall make determinations authorized by this Act regarding variances, interpretations, and the installation of new technology. Such determinations shall have a binding precedential effect throughout the State regarding equipment, structure, or the enforcement of codes unless limited by the Board to the fact-specific issues.

(b) The Administrator or Local Administrator shall have the authority to grant exceptions and variances from the literal requirements of applicable State codes, standards, and regulations in cases where such variances would not jeopardize the public safety and welfare. The Administrator has the right to review and object to any exceptions or variances granted by the Local Administrator. The Board shall have the authority to hear appeals, for any denial by the Local Administrator or for any denial or objection by the Administrator. The Board shall hold hearings, and decide upon such within 30 days of the appeal.

(c) The Board shall establish fee schedules for licenses, and registrations issued by the Administrator. The Board shall also establish fee schedules for permits, certificates, and inspections for conveyances not under a Local Administrator. The fees shall be set at an amount necessary to cover the actual costs and expenses to operate the Board and to conduct the duties as described in this Act.

(d) The Board shall be authorized to recommend the amendments of applicable legislation, when appropriate, to legislators.

(e) The Administrator may solicit the advice and expert knowledge of the Board on any matter relating to the administration and enforcement of this Act.

(f) The Administrator may employ professional, technical, investigative, or clerical help, on either a full-time or part-time basis, as may be necessary for the enforcement of this Act.

(g) (Blank).

(h) Notwithstanding anything else in this Section, the following upgrade requirements of the 2007 edition of the Safety Code for Elevators and Escalators (ASME A17.1) and the 2005 edition of the Safety Code for Existing Elevators (ASME A17.3) must be completed by January 1, 2015, but the Administrator or Local Administrator may not require their completion prior to January 1, 2013:

- (i) restricted opening of hoistway doors or car doors on passenger elevators;
- (ii) car illumination;
- (iii) emergency operation and signaling devices;
- (iv) phase reversal and failure protection;
- (v) reopening device for power operated doors or gates;
- (vi) stop switch pits; and
- (vii) pit ladder installation in accordance with Section 2.2.4.2 of ASME A17.1-2007.

(i) In the event that a conveyance regulated by this Act is altered, the alteration shall comply with ASME A17.1. Notwithstanding anything else in this Section, the firefighter's emergency operation, and the hydraulic elevator cylinder, including the associated safety devices outlined in Section 4.3.3(b) of ASME A17.3-2005, are not required to be upgraded unless: (1) there is an alteration, (2) the equipment fails, or (3) failing to replace the equipment jeopardizes the public safety and welfare as determined by

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the Local Administrator or the Board.

(j) The Administrator may choose to require the inspection of any conveyance to be performed by its own inspectors or by third-party licensed inspectors employed by the Administrator.

(Source: P.A. 95-573, eff. 8-31-07; 96-54, eff. 7-23-09.)

(225 ILCS 312/95)

(Section scheduled to be repealed on January 1, 2013)

Sec. 95. New installations; annual inspections and registrations.

(a) All new conveyance installations regulated by this Act shall be performed by a person, firm, or company to which a license to install or service conveyances has been issued. Subsequent to installation, the licensed person, firm, or company must certify compliance with the applicable Sections of this Act. Prior to any conveyance being used, the property owner or lessee must obtain a certificate of operation from the Administrator or Local Administrator. A fee as authorized by Section 35 of this Act or as set by the Local Administrator shall be paid for the certificate of operation. It shall be the responsibility of the owner to complete and submit first time registration for new installations.

(b) (Blank).

(c) A certificate of operation is renewable annually, except that a certificate of operation is renewable every 3 years for a conveyance (i) that is located in a building owned and occupied by any church, synagogue, or other building, structure, or place used primarily for religious worship and is the only conveyance in the building, (ii) that is under the jurisdiction of the Administrator, (iii) that is limited in use to 2 levels, and (iv) for which the church, synagogue, or other building, structure, or place used primarily for religious worship has an annual maintenance examination that includes the applicable category tests. For these occupancies, on-site witnessing of the category test shall be witnessed every 3 years. Records of the applicable maintenance checks and elevator category test results shall be maintained on-site by the building owner. The certificates of operation or copy thereof, must be clearly displayed in the conveyance for the benefit of code enforcement staff.

(Source: P.A. 96-54, eff. 7-23-09.)

(225 ILCS 312/120)

(Section scheduled to be repealed on January 1, 2013)

Sec. 120. Inspection and testing.

(a) Except as provided in subsection (c) of Section 95 of this Act, it ~~is~~ shall be the responsibility of the owner of all new and existing conveyances located in any building or structure to have the conveyance inspected annually by a person, firm, or company to which a license to inspect conveyances has been issued. Subsequent to inspection, the licensed person, firm, or company must supply the property owner or lessee and the Administrator with a written inspection report describing any and all code violations. Property owners shall have 30 days from the date of the published inspection report to be in full compliance by correcting the violations. The Administrator shall determine whether such violations have been corrected and may extend the compliance dates for good cause, provided that such violations are minor and pose no threat to public safety.

(b) It shall be the responsibility of the owner of all conveyances to have a licensed elevator contractor, as defined in this Act, ensure that the required tests are performed at intervals in compliance with the ASME A 17.1, ASME A 18.1 and ASCE 21.

(c) All tests shall be performed by a licensed elevator mechanic.

(Source: P.A. 94-698, eff. 11-22-05; 95-573, eff. 8-31-07.)

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

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 2 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING BILLS OF THE SENATE A THIRD TIME

On motion of Senator Sullivan, **Senate Bill No. 2037**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

[April 14, 2011]

YEAS 58; NAYS None.

The following voted in the affirmative:

Althoff	Haine	Link	Rezin
Bivins	Harmon	Luechtefeld	Righter
Bomke	Holmes	Maloney	Sandack
Brady	Hunter	Martinez	Sandoval
Clayborne	Hutchinson	McCann	Schmidt
Collins, A.	Jacobs	McCarter	Schoenberg
Collins, J.	Johnson, C.	Meeks	Silverstein
Crotty	Johnson, T.	Millner	Steans
Cultra	Jones, E.	Mulroe	Sullivan
Delgado	Koehler	Muñoz	Syverson
Dillard	Kotowski	Murphy	Trotter
Duffy	LaHood	Noland	Wilhelmi
Forby	Landek	Pankau	Mr. President
Frerichs	Lauzen	Radogno	
Garrett	Lightford	Raoul	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

On motion of Senator Millner, **Senate Bill No. 2042**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, “Shall this bill pass?” it was decided in the affirmative by the following vote:

YEAS 58; NAYS None.

The following voted in the affirmative:

Althoff	Harmon	Link	Rezin
Bivins	Holmes	Luechtefeld	Righter
Bomke	Hunter	Maloney	Sandack
Brady	Hutchinson	Martinez	Sandoval
Clayborne	Jacobs	McCann	Schmidt
Collins, A.	Johnson, C.	McCarter	Schoenberg
Collins, J.	Johnson, T.	Meeks	Silverstein
Crotty	Jones, E.	Millner	Steans
Cultra	Jones, J.	Mulroe	Sullivan
Delgado	Koehler	Muñoz	Syverson
Dillard	Kotowski	Murphy	Trotter
Forby	LaHood	Noland	Wilhelmi
Frerichs	Landek	Pankau	Mr. President
Garrett	Lauzen	Radogno	
Haine	Lightford	Raoul	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

On motion of Senator Righter, **Senate Bill No. 2046**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

[April 14, 2011]

And the question being, “Shall this bill pass?” it was decided in the affirmative by the following vote:

YEAS 56; NAYS None.

The following voted in the affirmative:

Althoff	Haine	Luechtefeld	Righter
Bivins	Harmon	Maloney	Sandack
Bomke	Holmes	Martinez	Sandoval
Brady	Hunter	McCann	Schmidt
Clayborne	Hutchinson	McCarter	Schoenberg
Collins, A.	Jacobs	Meeks	Silverstein
Collins, J.	Johnson, C.	Millner	Steans
Crotty	Johnson, T.	Mulroe	Sullivan
Cultra	Jones, E.	Muñoz	Syverson
Delgado	Koehler	Murphy	Wilhelmi
Dillard	LaHood	Noland	Mr. President
Duffy	Landek	Pankau	
Forby	Lauzen	Radogno	
Frerichs	Lightford	Raoul	
Garrett	Link	Rezin	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

On motion of Senator Maloney, **Senate Bill No. 2064**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, “Shall this bill pass?” it was decided in the affirmative by the following vote:

YEAS 58; NAYS None.

The following voted in the affirmative:

Althoff	Haine	Link	Rezin
Bivins	Harmon	Luechtefeld	Righter
Bomke	Holmes	Maloney	Sandack
Brady	Hunter	Martinez	Sandoval
Clayborne	Hutchinson	McCann	Schmidt
Collins, A.	Jacobs	McCarter	Schoenberg
Collins, J.	Johnson, C.	Meeks	Silverstein
Crotty	Johnson, T.	Millner	Steans
Cultra	Jones, E.	Mulroe	Sullivan
Delgado	Koehler	Muñoz	Syverson
Dillard	Kotowski	Murphy	Trotter
Duffy	LaHood	Noland	Wilhelmi
Forby	Landek	Pankau	Mr. President
Frerichs	Lauzen	Radogno	
Garrett	Lightford	Raoul	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

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SENATE BILL RECALLED

On motion of Senator J. Collins, **Senate Bill No. 2069** was recalled from the order of third reading to the order of second reading.

Senator J. Collins offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO SENATE BILL 2069

AMENDMENT NO. 1. Amend Senate Bill 2069 by replacing everything after the enacting clause with the following:

"Section 5. The Code of Civil Procedure is amended by changing Section 2-202 as follows:
(735 ILCS 5/2-202) (from Ch. 110, par. 2-202)

Sec. 2-202. Persons authorized to serve process; Place of service; Failure to make return.

(a) Process shall be served by a sheriff, or if the sheriff is disqualified, by a coroner of some county of the State. A sheriff of a county with a population of less than 2,000,000 may employ civilian personnel to serve process. In counties with a population of less than 2,000,000, process may be served, without special appointment, by a person who is licensed or registered as a private detective under the Private Detective, Private Alarm, Private Security, Fingerprint Vendor, and Locksmith Act of 2004 or by a registered employee of a private detective agency certified under that Act as defined in Section (a-5). A private detective or licensed employee must supply the sheriff of any county in which he serves process with a copy of his license or certificate; however, the failure of a person to supply the copy shall not in any way impair the validity of process served by the person. The court may, in its discretion upon motion, order service to be made by a private person over 18 years of age and not a party to the action. It is not necessary that service be made by a sheriff or coroner of the county in which service is made. If served or sought to be served by a sheriff or coroner, he or she shall endorse his or her return thereon, and if by a private person the return shall be by affidavit.

(a-5) Upon motion and in its discretion, the court may appoint as a special process server a private detective agency certified under the Private Detective, Private Alarm, Private Security, Fingerprint Vendor, and Locksmith Act of 2004. Under the appointment, any employee of the private detective agency who is registered under that Act may serve the process. The motion and the order of appointment must contain the number of the certificate issued to the private detective agency by the Department of Professional Regulation under the Private Detective, Private Alarm, Private Security, Fingerprint Vendor, and Locksmith Act of 2004. A private detective or private detective agency shall send, one time only, a copy of his, her, or its individual private detective license or private detective agency certificate to the county sheriff in each county in which the detective or detective agency or his, her, or its employees serve process, regardless of size of the population of the county. As long as the license or certificate is valid and meets the requirements of the Department of Financial and Professional Regulation, a new copy of the current license or certificate need not be sent to the sheriff. A private detective agency shall maintain a list of its registered employees. Registered employees shall consist of:

(1) an employee who works for the agency holding a valid Permanent Employee Registration Card;

(2) a person who has applied for a Permanent Employee Registration Card, has had his or her fingerprints processed and cleared by the Department of State Police and the FBI, and as to whom the Department of Financial and Professional Regulation website shows that the person's application for a Permanent Employee Registration Card is pending;

(3) a person employed by a private detective agency who is exempt from a Permanent Employee Registration Card requirement because the person is a current peace officer; and

(4) a private detective who works for a private detective agency as an employee.

A detective agency shall maintain this list and forward it to any sheriff's department that requests this list within 5 business days after the receipt of the request.

(b) Summons may be served upon the defendants wherever they may be found in the State, by any person authorized to serve process. An officer may serve summons in his or her official capacity outside his or her county, but fees for mileage outside the county of the officer cannot be taxed as costs. The person serving the process in a foreign county may make return by mail.

(c) If any sheriff, coroner, or other person to whom any process is delivered, neglects or refuses to make return of the same, the plaintiff may petition the court to enter a rule requiring the sheriff, coroner, or other person, to make return of the process on a day to be fixed by the court, or to show cause on that day why that person should not be attached for contempt of the court. The plaintiff shall then cause a written notice of the rule to be served on the sheriff, coroner, or other person. If good and sufficient

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cause be not shown to excuse the officer or other person, the court shall adjudge him or her guilty of a contempt, and shall impose punishment as in other cases of contempt.

(d) If process is served by a sheriff or coroner, the court may tax the fee of the sheriff or coroner as costs in the proceeding. If process is served by a private person or entity, the court may establish a fee therefor and tax such fee as costs in the proceedings.

(e) In addition to the powers stated in Section 8.1a of the Housing Authorities Act, in counties with a population of 3,000,000 or more inhabitants, members of a housing authority police force may serve process for forcible entry and detainer actions commenced by that housing authority and may execute orders of possession for that housing authority.

(f) In counties with a population of 3,000,000 or more, process may be served, with special appointment by the court, by a private process server or a law enforcement agency other than the county sheriff in proceedings instituted under the Forcible Entry and Detainer Article of this Code as a result of a lessor or lessor's assignee declaring a lease void pursuant to Section 11 of the Controlled Substance and Cannabis Nuisance Act.

(Source: P.A. 95-613, eff. 9-11-07; 96-1451, eff. 8-20-10.)".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING BILLS OF THE SENATE A THIRD TIME

On motion of Senator J. Collins, **Senate Bill No. 2069**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 58; NAYS None.

The following voted in the affirmative:

Althoff	Haine	Link	Rezin
Bivins	Harmon	Luechtefeld	Righter
Bomke	Holmes	Maloney	Sandack
Brady	Hunter	Martinez	Sandoval
Clayborne	Hutchinson	McCann	Schmidt
Collins, A.	Jacobs	McCarter	Schoenberg
Collins, J.	Johnson, C.	Meeks	Silverstein
Crotty	Johnson, T.	Millner	Steans
Cultra	Jones, E.	Mulroe	Sullivan
Delgado	Koehler	Muñoz	Syverson
Dillard	Kotowski	Murphy	Trotter
Duffy	LaHood	Noland	Wilhelmi
Forby	Landek	Pankau	Mr. President
Frerichs	Lauzen	Radogno	
Garrett	Lightford	Raoul	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

On motion of Senator Dillard, **Senate Bill No. 2081**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

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YEAS 57; NAYS None.

The following voted in the affirmative:

Althoff	Haine	Lightford	Rezin
Bivins	Harmon	Link	Righter
Bomke	Holmes	Luechtefeld	Sandack
Brady	Hunter	Maloney	Sandoval
Clayborne	Hutchinson	Martinez	Schmidt
Collins, A.	Jacobs	McCann	Schoenberg
Collins, J.	Johnson, C.	McCarter	Silverstein
Crotty	Johnson, T.	Meeks	Sullivan
Cultra	Jones, E.	Millner	Syverson
Delgado	Jones, J.	Mulroe	Trotter
Dillard	Koehler	Muñoz	Wilhelmi
Duffy	Kotowski	Murphy	Mr. President
Forby	LaHood	Noland	
Frerichs	Landek	Radogno	
Garrett	Lauzen	Raoul	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

On motion of Senator Pankau, **Senate Bill No. 2082**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 57; NAYS None.

The following voted in the affirmative:

Althoff	Haine	Lightford	Rezin
Bivins	Harmon	Link	Sandack
Bomke	Holmes	Luechtefeld	Sandoval
Brady	Hunter	Maloney	Schmidt
Clayborne	Hutchinson	Martinez	Schoenberg
Collins, A.	Jacobs	McCann	Silverstein
Collins, J.	Johnson, C.	McCarter	Steans
Crotty	Johnson, T.	Meeks	Sullivan
Cultra	Jones, E.	Millner	Syverson
Delgado	Jones, J.	Mulroe	Trotter
Dillard	Koehler	Muñoz	Wilhelmi
Duffy	Kotowski	Murphy	Mr. President
Forby	LaHood	Pankau	
Frerichs	Landek	Radogno	
Garrett	Lauzen	Raoul	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

On motion of Senator Pankau, **Senate Bill No. 2084**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 59; NAYS None.

The following voted in the affirmative:

Althoff	Haine	Lightford	Raoul
Bivins	Harmon	Link	Rezin
Bomke	Holmes	Luechtefeld	Righter
Brady	Hunter	Maloney	Sandack
Clayborne	Hutchinson	Martinez	Sandoval
Collins, A.	Jacobs	McCann	Schmidt
Collins, J.	Johnson, C.	McCarter	Schoenberg
Crotty	Johnson, T.	Meeke	Silverstein
Cultra	Jones, E.	Millner	Steans
Delgado	Jones, J.	Mulroe	Sullivan
Dillard	Koehler	Muñoz	Syverson
Duffy	Kotowski	Murphy	Trotter
Forby	LaHood	Noland	Wilhelmi
Frerichs	Landek	Pankau	Mr. President
Garrett	Laufen	Radogno	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

SENATE BILL RECALLED

On motion of Senator Garrett, **Senate Bill No. 2106** was recalled from the order of third reading to the order of second reading.

Senator Garrett offered the following amendment and moved its adoption:

AMENDMENT NO. 3 TO SENATE BILL 2106

AMENDMENT NO. 3. Amend Senate Bill 2106, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 5. The Electronic Products Recycling and Reuse Act is amended by changing Sections 5, 10, 15, 20, 30, 50, 55, 60, 65, 80, and 95 as follows:

(415 ILCS 150/5)

Sec. 5. Findings and purpose.

(a) The General Assembly finds all of the following:

(1) Electronic products are the fastest growing portion of the solid waste stream. In ~~2007, 3,000,000~~ ~~2005, 2,600,000~~

tons of electronic products became obsolete yet only ~~14%~~ ~~13%~~ of those products were recycled.

(2) Many electronic products contain lead, mercury, cadmium, hexavalent chromium, and other materials that pose environmental and health risks that must be managed.

(3) ~~Obsolete~~ ~~Many obsolete~~ electronic products can be recycled or refurbished for reuse and then returned to

the economic mainstream in the form of raw materials or products.

(4) Electronic products contain metals, plastics, and leaded glass that have resale

value. The reuse of these components conserves natural resources and energy, and the reuse also reduces air and water pollution and greenhouse gas emissions.

(5) ~~The~~ ~~A~~ management of obsolete residential products is necessary to prioritize ~~place~~ the reuse and recycling of ~~these obsolete residential electronic~~ products as the preferred

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management strategy over incineration and landfill disposal.

(6) The 2010 Recycling Economic Information Study Update for Illinois estimates that the total economic impact of recycling and reusing obsolete electronic products resulted in the creation of nearly 8,000 jobs and \$622 million in annual receipts. The Illinois Recycling Economic Information Study of 2001 estimates that the total economic impact of establishing statewide recycling and reuse programs for residential electronic products may result in the creation of nearly 4,000 new jobs and \$740 million in annual receipts.

(7) The State-appointed Computer Equipment Disposal and Recycling Commission issued a final report in May 2006 recommending legislative, regulatory, or other actions to properly address the recycling and reuse of obsolete residential electronic products.

(b) The purpose of this Act is to set forth procedures by which the recycling and processing for reuse of covered electronic devices will be accomplished in Illinois.

(Source: P.A. 95-959, eff. 9-17-08.)

(415 ILCS 150/10)

Sec. 10. Definitions. As used in this Act:

"Agency" means the Environmental Protection Agency.

"Cathode-ray tube" means a vacuum tube or picture tube used to convert an electronic signal into a visual image, such as a television or computer monitor.

"Collector" means a person who receives covered electronic devices or eligible electronic devices directly from a residence for recycling or processing for reuse. "Collector" includes, but is not limited to, manufacturers, recyclers, and refurbishers who receive CEDs or EEDs directly from the public.

"Computer", often referred to as a "personal computer" or "PC", means a desktop or notebook computer as further defined below and used only in a residence, but does not mean an automated typewriter, electronic printer, mobile telephone, portable hand-held calculator, portable digital assistant (PDA), MP3 player, or other similar device. "Computer" does not include computer peripherals, commonly known as cables, mouse, or keyboard. "Computer" is further defined as either:

(1) "Desktop computer", which means an electronic, magnetic, optical, electrochemical,

or other high-speed data processing device performing logical, arithmetic, or storage functions for general purpose needs that are met through interaction with a number of software programs contained therein, and that is not designed to exclusively perform a specific type of logical, arithmetic, or storage function or other limited or specialized application. Human interface with a desktop computer is achieved through a stand-alone keyboard, stand-alone monitor, or other display unit, and a stand-alone mouse or other pointing device, and is designed for a single user. A desktop computer has a main unit that is intended to be persistently located in a single location, often on a desk or on the floor. A desktop computer is not designed for portability and generally utilizes an external monitor, keyboard, and mouse with an external or internal power supply for a power source. Desktop computer does not include an automated typewriter or typesetter; or

(2) "Notebook computer", which means an electronic, magnetic, optical, electrochemical,

or other high-speed data processing device performing logical, arithmetic, or storage functions for general purpose needs that are met through interaction with a number of software programs contained therein, and that is not designed to exclusively perform a specific type of logical, arithmetic, or storage function or other limited or specialized application. Human interface with a notebook computer is achieved through a keyboard, video display greater than 4 inches in size, and mouse or other pointing device, all of which are contained within the construction of the unit that comprises the notebook computer; supplemental stand-alone interface devices typically can also be attached to the notebook computer. Notebook computers can use external, internal, or batteries for a power source. Notebook computer does not include a portable hand-held calculator, or a portable digital assistant or similar specialized device. A notebook computer has an incorporated video display greater than 4 inches in size and can be carried as one unit by an individual. A notebook computer is sometimes referred to as a laptop computer.

(3) "Tablet computer", which means an electronic, magnetic, optical, electrochemical, or other high-speed data processing device performing logical, arithmetic, or storage functions for general purpose needs that are met through interaction with a number of software programs contained therein, and that is not designed to exclusively perform a specific type of logical, arithmetic, or storage function or other limited or specialized application. Human interface with a tablet computer is achieved through a touch-screen and video display screen greater than 6 inches in size (all of which are contained within the unit that comprises the tablet computer). Tablet computers may use an external or internal power source. "Tablet computer" does not include a portable hand-held calculator, a portable digital assistant, or a similar specialized device.

"Computer monitor" means an electronic device that is a cathode-ray tube or flat panel display primarily intended to display information from a computer and is used only in a residence.

"Covered electronic device" or "CED" means any computer, computer monitor, television, ~~or printer~~, electronic keyboard, facsimile machine, videocassette recorder, portable digital music player that has memory capability and is battery powered, digital video disc player, video game console, electronic mouse, scanner, digital converter box, cable or satellite receiver, digital video disc recorder, or small-scale server sold at retail, provided that the item is taken out of service from a residence in this State regardless of purchase location. "Covered electronic device" does not include any of the following:

(1) an electronic device that is a part of a motor vehicle or any component part of a motor vehicle assembled by or for a vehicle manufacturer or franchised dealer, including replacement parts for use in a motor vehicle;

(2) an electronic device that is functionally or physically part of a larger piece of equipment or that is taken out of service from an industrial, commercial (including retail), library checkout, traffic control, kiosk, security (other than household security), governmental, agricultural, or medical setting, including but not limited to diagnostic, monitoring, or control equipment; or

(3) an electronic device that is contained within a clothes washer, clothes dryer, refrigerator, refrigerator and freezer, microwave oven, conventional oven or range, dishwasher, room air conditioner, dehumidifier, water pump, sump pump, or air purifier.

To the extent allowed under federal and State laws and regulations, a CED that is being collected, recycled, or processed for reuse is not considered to be hazardous waste, household waste, solid waste, or special waste.

"Developmentally disabled", as defined by the Illinois Department of Human Services, Division of Developmental Disabilities Program Manual, means having mental retardation or a related condition. For the purposes of this Act:

(1) "Mental retardation" means significantly subaverage general intellectual functioning as well as deficits in adaptive behavior that manifested before age 18. A person's general intellectual functioning is significantly subaverage if that person has an intelligence quotient (IQ) of 70 or below on standardized measures of intelligence. This upper limit, however, may be extended upward depending on the reliability of the intelligence test used.

(2) "Related condition" means a severe, chronic disability that (i) is attributable to cerebral palsy, epilepsy, or any other condition, other than mental illness, (ii) is found to be closely related to mental retardation because the condition results in impairment of general intellectual functioning or adaptive behavior similar to that of a person with mental retardation, and (iii) requires treatment or services similar to those required for persons with mental retardation. means having a severe disability, as defined by the Office of Rehabilitation Services of the Illinois Department of Human Services, that can be expected to result in death or that has lasted, or is expected to last, at least 12 months and that prevents working at a "substantial gainful activity" level.

"Dismantling" means the demanufacturing and shredding of a CED.

"Eligible electronic device" or "EED" means any of the following electronic products sold at retail and taken

out of service from a residence in this State regardless of purchase location: mobile telephone; computer cable, ~~mouse, or keyboard~~; ~~stand alone facsimile machine~~; ~~MP3 player~~; portable digital assistant (PDA); or video game console, video cassette recorder/player, digital video disk player, or similar video device; zip drive; or scanner. To the extent allowed under federal and state laws and regulations, an EED that is being collected, recycled, or processed for reuse is not considered to be hazardous waste, household waste, solid waste, or special waste.

"Low income children and families" mean those children and families that are subject to the most recent version of the United States Department of Health and Human Services Federal Poverty Guidelines.

"Manufacturer" means a person, or a successor in interest to a person, under whose brand or label a CED is or was sold at retail. For CEDs sold at retail under a brand or label that is licensed from a person who is a mere brand owner and who does not sell or produce the CED, the person who produced the CED or his or her successor in interest is the manufacturer. For CEDs sold that were at retail under the brand or label of both the retail seller and the person that produced the CED, the person that produced the CED, or his or her successor in interest, is the manufacturer. A retail seller of CEDs may elect to be the manufacturer of one or more CEDs if the retail seller provides written notice to the Agency that it is accepting responsibility as the manufacturer of the CED under this Act and identifies the CEDs for which it is electing to be the manufacturer.

"Municipal joint action agency" means a municipal joint action agency created under Section 3.2 of

the Intergovernmental Cooperation Act.

"Orphan CEDs" means those CEDs that are returned for recycling, or processing for reuse, whose manufacturer cannot be identified, or whose manufacturer is no longer conducting business and has no successor in interest.

"Person" means any individual, partnership, co-partnership, firm, company, limited liability company, corporation, association, joint stock company, trust, estate, political subdivision, State agency, or any other legal entity, or a legal representative, agent, or assign of that entity.

"Printer" means desktop printers, multifunction printer copiers, and printer/fax combinations taken out of service from a residence that are designed to reside on a work surface, and include various print technologies, including without limitation laser and LED (electrographic), ink jet, dot matrix, thermal, and digital sublimation, and "multi-function" or "all-in-one" devices that perform different tasks, including without limitation copying, scanning, faxing, and printing. Printers do not include floor-standing printers, printers with optional floor stand, point of sale (POS) receipt printers, household printers such as a calculator with printing capabilities or label makers, or non-stand-alone printers that are embedded into products that are not CEDs.

"Processing for reuse" means any method, technique, or process by which CEDs or EEDs that would otherwise be disposed of or discarded are instead separated, processed, and returned to their original intended purposes or to other useful purposes as electronic devices. "Processing for reuse" includes the collection and transportation of CEDs or EEDs.

"Program Year" means a calendar year. The first program year is 2010.

"Recycler" means a person who engages in the recycling of CEDs or EEDs, but does not include telecommunications carriers, telecommunications manufacturers, or commercial mobile service providers with an existing recycling program.

"Recycling" means any method, technique, or process by which CEDs or EEDs that would otherwise be disposed of or discarded are instead collected, separated, or processed and are returned to the economic mainstream in the form of raw materials or products. "Recycling" includes the collection, transportation, dismantling, and shredding of the CEDs or EEDs.

"Recycling coordinator" means the person designated by each county waste management plan to administer the county recycling program, as set forth in the Solid Waste Management Act.

"Refurbisher" means any person who processes CEDs or EEDs for reuse, but does not include telecommunications carriers, telecommunications manufacturers, or commercial mobile service providers with an existing recycling program.

"Residence" means a dwelling place or home in which one or more individuals live.

"Retailer" means a person who sells, rents, or leases, through sales outlets, catalogs, or the Internet, computers, computer monitors, ~~printers,~~ ~~or~~ televisions, electronic keyboards, facsimile machines, videocassette recorders, portable digital music players that have memory capability and are battery powered, digital video disc players, video game consoles, electronic mice, scanners, digital converter boxes, cable or satellite receivers, digital video disc recorders, or small-scale servers at retail to individuals in this State. For purposes of this Act, sales to individuals at retail are considered to be sales for residential use. "Retailer" includes, but is not limited to, manufacturers who sell computers, computer monitors, printers, ~~or~~ televisions, electronic keyboards, facsimile machines, videocassette recorders, portable digital music players that have memory capability and are battery powered, digital video disc players, video game consoles, electronic mice, scanners, digital converter boxes, cable or satellite receivers, digital video disc recorders, or small-scale servers at retail directly to individuals in this State.

"Sale" means any retail transfer of title for consideration of title including, but not limited to, transactions conducted through sales outlets, catalogs, or the Internet or any other similar electronic means but does not mean financing or leasing.

"Small-scale server" means a computer that typically uses desktop components in a desktop form designed primarily to serve as a storage host for other computers. To be considered a small-scale server, a computer must: be designed in a pedestal, tower, or other form that is similar to that of a desktop computer so that all data processing, storage, and network interfacing is contained within one box or product; be designed to be operational 24 hours per day and 7 days per week; have very little unscheduled downtime (on the order of hours per year); be capable of operating in a simultaneous multi-user environment serving several users through networked client units; and be designed for an industry accepted operating system for home or low-end server applications.

"Television" means an electronic device (i) containing a cathode-ray tube or flat panel screen the size of which is greater than 4 inches when measured diagonally, (ii) that is intended to receive video programming via broadcast, cable, or satellite transmission or to receive video from surveillance or other similar cameras, and (iii) that is used only in a residence.

"Underserved counties" means those counties so identified in Section 60.

(Source: P.A. 95-959, eff. 9-17-08; 96-1154, eff. 7-21-10.)

(415 ILCS 150/15)

Sec. 15. Statewide recycling and reuse goals for all covered electronic devices.

(a) For program year 2010, the statewide recycling or reuse goal for all CEDs is the product of: (i) the latest population estimate for the State, as published on the U.S. Census Bureau's website on January 1, 2010; multiplied by (ii) 2.5 pounds per capita.

(b) For program year 2011, the statewide recycling or reuse goal for all CEDs is the product of: (i) the 2010 base weight; multiplied by (ii) the 2010 goal attainment percentage.

For the purposes of this subsection (b):

The "2010 base weight" means the greater of: (i) twice the total weight of all CEDs that were recycled or processed for reuse between January 1, 2010 and June 30, 2010 as reported to the Agency under subsection (i) or (j) of Section 30; or (ii) twice the total weight of all CEDs that were recycled or processed for reuse between January 1, 2010 and June 30, 2010 as reported to the Agency under subsection (c) of Section 55.

The "2010 goal attainment percentage" means:

- (1) 90% if the 2010 base weight is less than 90% of the statewide recycling or reuse goal for program year 2010;
- (2) 95% if the 2010 base weight is 90% or greater, but does not exceed 95%, of the statewide recycling or reuse goal for program year 2010;
- (3) 100% if the 2010 base weight is 95% or greater, but does not exceed 105%, of the statewide recycling or reuse goal for program year 2010;
- (4) 105% if the 2010 base weight is 105% or greater, but does not exceed 110%, of the statewide recycling or reuse goal for program year 2010; and
- (5) 110% if the 2010 base weight is 110% or greater of the statewide recycling or reuse goal for program year 2010.

(c) For program year ~~years~~ 2012, each manufacturer of CEDs shall recycle or reuse CEDs and EEDs whose total weight is equal to 40% of all the CEDs the manufacturer sold in Illinois during the calendar year beginning January 1, 2010. Each CED manufacturer shall use its own sales data or national sales data proportioned to Illinois' share of the U.S. population, based on the U.S. Census population estimate for 2009, to determine the manufacturer's annual recycling or reuse goal.

(c-5) For program years 2013 and thereafter, each manufacturer of CEDs shall annually recycle or reuse CEDs and EEDs whose total weight is equal to 50% of all the CEDs the manufacturer sold in Illinois during the calendar year that began 2 years before the beginning of the applicable program year. Each CED manufacturer shall use its own sales data or national sales data proportioned to Illinois' share of the U.S. population, based on the most recent U.S. Census data, to determine the manufacturer's annual recycling goal, and thereafter, the statewide recycling or reuse goal for all CEDs is the product of: (i) the base weight; multiplied by (ii) the goal attainment percentage.

For the purposes of this subsection (c):

The "base weight" means the greater of: (i) the total weight of all CEDs recycled or processed for reuse during the previous program year as reported to the Agency under subsection (k) or (l) of Section 30; or (ii) the total weight of all CEDs recycled or processed for reuse during the previous program year as reported to the Agency under subsection (d) of Section 55.

The "goal attainment percentage" means:

- (1) 90% if the base weight is less than 90% of the statewide recycling or reuse goal for the previous program year;
- (2) 95% if the base weight is 90% or greater, but does not exceed 95%, of the statewide recycling or reuse goal for the previous program year;
- (3) 100% if the base weight is 95% or greater, but does not exceed 105%, of the statewide recycling or reuse goal for the previous program year;
- (4) 105% if the base weight is 105% or greater, but does not exceed 110%, of the statewide recycling or reuse goal for the previous program year; and
- (5) 110% if the base weight is 110% or greater of the statewide recycling or reuse goal for the previous program year.

(Source: P.A. 95-959, eff. 9-17-08.)

(415 ILCS 150/20)

Sec. 20. Agency responsibilities.

(a) The Agency has the authority to monitor compliance with this Act, enforce violations of the Act by administrative citation, and to refer violations of this Act to the Attorney General.

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(b) No later than October 1 of each program year, the Agency shall post on its website a list of underserved counties in the State for the next program year. The list of underserved counties for program years 2010 and 2011 ~~the first program year~~ is set forth in subsection (a) of Section 60.

(c) ~~From~~ ~~By~~ July 1, 2009 ~~until December 31, 2015~~, the Agency shall implement a county and municipal government education campaign to inform those entities about this Act and the implications on solid waste collection in their localities.

~~(c-5) No later than February 1, 2012 and every February 1 thereafter, the Agency shall use a portion of the manufacturer, recycler, and refurbisher registration fees to provide a \$2,000 grant to the recycling coordinator in each county of the State in order to inform residents in each county about this Act and opportunities to recycle CEDs and EEDs. The recycling coordinator shall expend the \$2,000 grant before December 31 of the program year in which the grant is received. The recycling coordinator shall maintain records that document the use of the grant funds.~~

~~(c-10) By June 15, 2012 and by December 15, 2012, and by every June 15 and December 15 thereafter through December 15, 2015, the Agency shall meet with the Illinois Retail Merchants' Association to discuss compliance with Section 40.~~

~~(c-15) By December 15, 2012 and each December 15 thereafter, the Agency shall post on its website: (i) the mailing address of each collection site at which collectors collected CEDs during the program year and (ii) the amount in pounds of each CED collected at the collection site during the program year.~~

(d) By July 1, 2011 for the first program year, and by ~~May 15~~ ~~April 1~~ for all subsequent program years, the Agency shall report to the Governor and to the General Assembly annually on the previous program year's performance. The report must be posted on the Agency's website. The report must include, but not be limited to, the following:

(1) the total overall weight of CEDs, as well as the sub-total weight of computers, the sub-total weight of computer monitors, the sub-total weight of printers, the sub-total weight of televisions, and the total weight of EEDs that were recycled or processed for reuse in the State during the program year, as reported by manufacturers and collectors under Sections 30 and 55;

(2) a listing of all collection sites, as set forth under subsection (a) ~~(e)~~ of Section 55, and the addresses of those sites;

(3) a statement ~~showing, for the preceding program year, (i) the total weight of CEDs and EEDs collected, recycled, and processed for reuse by the manufacturers pursuant to Section 30, (ii) the total weight of CEDs processed for reuse by the manufacturers, and (iii) the total weight of CEDs collected by the collectors of the manufacturers' progress toward achieving the statewide recycling goal set forth in Section 15 (calculated from the manufacturer reports pursuant to Section 30 and the collector reports pursuant to Section 55) and any identified State actions that may help expand collection opportunities to help manufacturers achieve the statewide recycling goal;~~

(4) a listing of ~~all entities or persons to any manufacturers~~ whom the Agency issued an administrative citation or with respect to which the Agency made a referral for enforcement ~~referred to the Attorney General's Office for enforcement~~ as a result of a violation of this Act;

(5) a discussion of the Agency's education and outreach activities ~~as set forth in subsection (c) of this Section;~~ and

(6) a discussion of the penalties, if any, incurred by manufacturers for failure to achieve recycling goals, and a recommendation to the General Assembly of any necessary or appropriate changes to the ~~manufacturers' statewide recycling goals, manufacturer's recycling goals,~~ or penalty provisions included in this Act.

(e) The Agency shall post on its website: ~~(1) a list of manufacturers that have paid the current year's registration fee as set forth in subsection (b) of Section 30; (2) a list of manufacturers that failed to pay the current year's registration fee as set forth in subsection (b) of Section 30; and (3) Section 30(b) and (2) a list of registered collectors, the addresses of their collection sites, their business telephone numbers, and a link to their websites, to whom Illinois residents can bring CEDs and EEDs for recycling or processing for reuse, including links to the collectors' websites and the collectors' phone numbers.~~

(f) In program years 2012, 2013, and 2014, and at its discretion thereafter, the Agency shall convene and host an Electronic Products Recycling Conference. The Agency may host the conferences alone or with other public entities or with organizations associated with electronic products recycling.

(g) No later than October 1 of each program year, the Agency must post on its website the following information for the next program year: ~~(i) the individual recycling and reuse goals for each manufacturer, as set forth in subsection (c) of Section 15, and (ii) the total statewide recycling goal,~~

determined by adding each individual manufacturer's annual goal.

(1) The overall statewide recycling and reuse goal for CEDs, as well as the sub goals for televisions, and computers, computer monitors, and printers as set forth in Section 15.

(2) The market shares of television manufacturers and the return shares of computer, computer monitor, and printer manufacturers, as set forth in Section 18, and

(3) The individual recycling and reuse goals for each manufacturer, as set forth in Section 19.

(h) By April 1, 2011, and by April 1 of all subsequent years, the Agency shall award recognize those manufacturers that have met or exceeded their recycling or reuse goals for the previous program year with . Such recognition shall be the awarding to all such manufacturers of an Electronic Industry Recycling Award . The award shall acknowledge that the manufacturer has met or exceeded its recycling goals and shall be posted , which shall be recognized on the Agency website and in other media as appropriate.

(i) By March 1, 2011, and by March 1 of each subsequent year, the Agency shall post on its website a list of registered manufacturers that have not met their annual recycling and reuse goal for the previous program year.

(j) By July 1, 2015 2012, the Agency shall solicit written comments regarding all aspects of the program codified in this Act, for the purpose of determining if the program requires any modifications.

(1) Issues to be reviewed by the Agency are, but not limited to, the following:

(A) Sufficiency of the annual statewide recycling goals.

(B) Fairness of the formulas used to determine individual manufacturer goals.

(C) Adequacy of, or the need for, continuation of the credits outlined in Section 30(d)(1) through (3).

(D) Any temporary rescissions of county landfill bans granted by the Illinois Pollution Control Board pursuant to Section 95(e).

(E) Adequacy of, or the need for, the penalties listed in Section 80 of this Act, which are scheduled to take effect on January 1, 2013.

(F) Adequacy of the collection systems that have been implemented as a result of this Act, with a particular focus on promoting the most cost-effective and convenient collection system possible for Illinois residents.

(2) By July 1, 2015 2012, the Agency shall complete its review of the written comments received, as well as its own reports on the preceding program years 2010 and 2011. By August 1, 2015 2012, the Agency shall hold a public hearing to present its findings and solicit additional comments. All additional comments shall be submitted to the Agency in writing no later than October 1, 2015 2012.

(3) The Agency's final report, which shall be issued no later than February 1, 2016 2013, shall be submitted to the Governor and the General Assembly and shall include specific recommendations for any necessary or appropriate modifications to the program.

(k) Any violation of this Act shall be enforceable by administrative citation. Whenever the Agency personnel or county personnel to whom the Agency has delegated the authority to monitor compliance with this Act shall, on the basis of direct observation, determine that any person has violated any provision of this Act, the Agency or county personnel may issue and serve, within 60 days after the observed violation, an administrative citation upon that person or the entity employing that person. Each citation shall be served upon the person named or the person's authorized agent for service of process and shall include the following:

(1) a statement specifying the provisions of this Act that the person or the entity employing the person has violated;

(2) a copy of the inspection report in which the Agency or local government recorded the violation and the date and time of the inspection;

(3) the penalty imposed under Section 80; and

(4) an affidavit by the personnel observing the violation, attesting to their material actions and observations.

(l) If the person named in the administrative citation fails to petition the Illinois Pollution Control Board for review within 35 days after the date of service, the Board shall adopt a final order, which shall include the administrative citation and findings of violation as alleged in the citation and shall impose the penalty specified in Section 80.

(m) If a petition for review is filed with the Board to contest an administrative citation issued under this Section, the Agency or unit of local government shall appear as a complainant at a hearing before the Board to be conducted pursuant to subsection (n) of this Section at a time not less than 21 days after notice of the hearing has been sent by the Board to the Agency or unit of local government and the person named in the citation. In those hearings, the burden of proof shall be on the Agency or unit of

local government. If, based on the record, the Board finds that the alleged violation occurred, it shall adopt a final order, which shall include the administrative citation and findings of violation as alleged in the citation, and shall impose the penalty specified in Section 80 of this Act. However, if the Board finds that the person appealing the citation has shown that the violation resulted from uncontrollable circumstances, the Board shall adopt a final order that makes no finding of violation and imposes no penalty.

(n) All hearings under this Act shall be held before a qualified hearing officer, who may be attended by one or more members of the Board, designated by the Chairman. All of these hearings shall be open to the public, and any person may submit written statements to the Board in connection with the subject of these hearings. In addition, the Board may permit any person to offer oral testimony. Any party to a hearing under this subsection may be represented by counsel, make oral or written argument, offer testimony, cross-examine witnesses, or take any combination of those actions. All testimony taken before the Board shall be recorded stenographically. The transcript so recorded and any additional matter accepted for the record shall be open to public inspection, and copies of those materials shall be made available to any person upon payment of the actual cost of reproducing the original.

(o) Counties that have entered into a delegation agreement with the Agency pursuant to subsection (r) of Section 4 of the Illinois Environmental Protection Act for the purpose of conducting inspection, investigation, or enforcement-related functions may conduct inspections for noncompliance with this Act.

(Source: P.A. 95-959, eff. 9-17-08; 96-328, eff. 8-11-09.)

(415 ILCS 150/30)

Sec. 30. Manufacturer responsibilities.

(a) Prior to April 1, 2009 for the first program year, and by October 1 for program year 2011 and each program year thereafter, manufacturers who sell ~~whose~~ computers, computer monitors, printers, ~~or~~ televisions, electronic keyboards, facsimile machines, videocassette recorders, portable digital music players that have memory capability and are battery powered, digital video disc players, video game consoles, electronic mice, scanners, digital converter boxes, cable or satellite receivers, digital video disc recorders, or small-scale servers sold at retail ~~are sold~~ in this State must register with the Agency. The registration must be submitted in the form and manner required by the Agency. The registration must include, without limitation, all of the following:

(1) a list of all of the manufacturer's brands of computers, computer monitors, printers, or televisions to be offered for sale in the next program year;

(2) ~~(blank) for manufacturers of both televisions and computers, computer monitors, or printers, an identification of whether, for residential use, (i) televisions or (ii) computers, computer monitors, and printers, represent the larger number of units sold for the manufacturer; and~~

(3) a statement disclosing whether: ~~(A) any computer, computer monitor, printer, or television sold in this State exceeds the maximum concentration values established for lead, mercury, cadmium, hexavalent chromium, polybrominated biphenyls (PBBs), and polybrominated diphenyl ethers (PBDEs) under the RoHS (restricting the use of certain hazardous substances in electrical and electronic equipment) Directive 2002/95/EC of the European Parliament and Council and any amendments thereto and, if so, an identification of that computer, computer monitor, printer, or television; or (B) the manufacturer has received an exemption from one or more of those maximum concentration values under the RoHS Directive that has been approved and published by the European Commission.~~

If, during the program year, a manufacturer's computer, computer monitor, printer, ~~or~~ television, electronic keyboard, facsimile machine, videocassette recorder, portable digital music player that has memory capability and is battery powered, digital video disc player, video game console, electronic mouse, scanner, digital converter box, cable or satellite receiver, digital video disc recorder, or small-scale server sold at retail is sold or offered for sale in Illinois under a new brand that is not listed in the manufacturer's registration, then, within 30 days after the first sale or offer for sale under the new brand, the manufacturer must amend its registration to add the new brand.

(b) Prior to July 1, 2009 for the first program year, and by the November 1 preceding program years 2011 and later, all manufacturers whose CEDs ~~whose computers, computer monitors, printers, or televisions~~ are offered for sale ~~in the State~~ shall submit to the Agency, at an address prescribed by the Agency, the registration fee for the next program year. The registration fee for program year 2010 is \$5,000. The registration fee for program year 2011 is \$5,000, increased by the applicable inflation factor as described below. In program year 2012, if, in program year 2011, a manufacturer sold 250 or fewer CEDs in the State, then the registration fee for that manufacturer is \$1,250. In each program year after 2012, if, in the preceding program year, a manufacturer sold 250

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or fewer CEDs in the State, then the registration fee is the fee that applied in the previous year to manufacturers that sold that number of CEDs, increased by the applicable inflation factor as described below. In program year 2012, if, in the proceeding program year a manufacturer sold 251 or more CEDs in the State, then the registration fee for that manufacturer is \$5,000. In each program year after 2012, if, in the proceeding program year, a manufacturer sold 251 or more CEDs in the State, then the registration fee is the fee that applied in the previous year to manufacturers that sold that number of CEDs, increased by the applicable inflation factor as described below. For program year ~~years~~ 2011 , program year 2013, and each program year thereafter ~~later~~, the applicable registration fee is increased each year by an inflation factor determined by the annual Implicit Price Deflator for Gross National Product, as published by the U.S. Department of Commerce in its Survey of Current Business. The inflation factor must be calculated each year by dividing the latest published annual Implicit Price Deflator for Gross National Product by the annual Implicit Price Deflator for Gross National Product for the previous year. The inflation factor must be rounded to the nearest 1/100th, and the resulting registration fee must be rounded to the nearest whole dollar. No later than October 1 of each program year, the Agency shall post on its website the registration fee for the next program year.

(c) A manufacturer whose ~~CEDs computers, computer monitors, printers, or televisions~~ are first sold or offered for sale in this State on or after January 1

of a program year must register with the Agency within 30 days after the first sale or offer for sale in accordance with subsection (a) of this Section and submit the registration fee required under subsection (b) of this Section prior to the ~~CEDs manufacturer's computers, computer monitors, printers, or televisions~~ being sold or offered for sale.

(d) Each manufacturer shall recycle or process for reuse CEDs and EEDs whose total weight equals or exceeds the manufacturer's individual recycling and reuse goal set forth in Section 15 Section 19 of this Act. Individual consumers ~~shall may~~ not be charged a ~~an end-of-life~~ fee when bringing their CEDs and EEDs to ~~permanent or temporary~~ collection locations, unless a financial incentive of equal or greater value, such as a coupon, is provided. Collectors may charge a fee for premium services such as curbside collection, home pick-up, or a similar method of collection. When determining whether a manufacturer has met or exceeded its individual recycling and reuse goal set forth in Section 15 Section 19 of this Act, all of the following adjustments must be made:

(1) The total weight of CEDs processed ~~for reuse~~ by the manufacturer, its recyclers, or its refurbishers for reuse is doubled.

(2) The total weight of CEDs is tripled if they are donated for reuse by the manufacturer to a primary or secondary public education institution the majority of whose students are considered low income or developmentally disabled or to a ~~not for profit entity that is established under Section 501(c)(3) of the Internal Revenue Code of 1986 and whose principal mission is to assist~~ low-income children or families or to assist the developmentally disabled in Illinois. This subsection applies only to CEDs for which the manufacturer has received a written confirmation that the recipient has accepted the donation. Copies of all written confirmations must be submitted in the annual report required under Section 30.

(3) The total weight of CEDs collected by manufacturers free of charge in underserved counties is doubled. This subsection applies only to CEDs that are documented by collectors as being collected or received free of charge in underserved counties. This documentation must include, without limitation, the date and location of collection or receipt, the weight of the CEDs collected or received, and an acknowledgement by the collector that the CEDs were collected or received free of charge. Copies of the documentation must be submitted in the annual report required under subsection (h), (i), (j), (k), or (l) of Section 30.

(4) If an entity (i) collects, recycles, or refurbishes CEDs for a manufacturer, (ii) qualifies for non-profit status under Section 501(c)(3) of the Internal Revenue Code of 1986, and (iii) at least 75% of its employees are developmentally disabled, then the total weight of CEDs will be tripled. A manufacturer that uses such a recycler or refurbisher shall submit documentation in the annual report required under Section 30 identifying the name, location, and length of service of the entity that qualifies for credit under this subsection.

(e) Manufacturers of computers, computer monitors, or printers, either individually or collectively, shall hire an independent third-party auditor to perform statistically significant return share samples of CEDs received by recyclers and refurbishers for recycling or processing for reuse. Each third-party auditor shall perform a return share sample of CEDs for at least one 8-hour period, once a quarter during the program year at the facility of each registered recycler and refurbisher under contract with the manufacturer or group of manufacturers that has hired the auditor. The audit shall

contain the following data:

- (1) the number and weight of CEDs, sorted by brand name and product type, including a category for orphan CEDs;
- (2) the total weight of the sample by product type;
- (3) the date, location, and time of the sampling;
- (4) the name or names of the manufacturer for whom the recycler is performing activities under this Act; and

(5) a certification by the third-party auditor that the sampling is statistically significant and, if not, an explanation as to what occurred to render the sampling insignificant.

The manufacturer shall notify the Agency 30 days prior to the third-party auditor's return share sampling by providing the Agency with the time and date on which the third-party auditor will perform the return share sample. The Agency may, at its discretion, be present at any sampling event and may audit the methodology and the results of the third-party auditor.

No less than 30 days after the close of each calendar quarter, the manufacturer shall submit to the Agency the results of the third-party samplings conducted during the quarter. The results shall be submitted in the form and manner required by the Agency.

(f) Manufacturers shall ensure that only recyclers and refurbishers that have registered with the Agency are used to meet the individual recycling and reuse goals set forth in this Act.

(g) Manufacturers shall ensure that the recyclers and refurbishers used to meet the individual recycling and reuse goals set forth in this Act shall, at a minimum, comply with the standards set forth under subsection (d) of Section 50 of this Act. By November 1, 2011 and every November 1 thereafter, manufacturers shall submit a document, as prescribed by the Agency, listing each registered recycler and refurbisher that will be used to meet the manufacturer's annual CED recycling and reuse goal and certifying that those recyclers or refurbishers comply with the standards set forth in subsection (d) of Section 50.

(h) ~~By September 1, 2012 and every September 1 thereafter August 15, 2009,~~ CED television manufacturers shall submit to the Agency, in the form and manner required by the

Agency, a report that contains the total weight of ~~CEDs televisions~~ sold under each of the manufacturer's brands to individuals ~~at retail~~ in this State as calculated under subsection (c) and (c-15) of Section 15. Each manufacturer shall indicate on the report whether the total weight of CEDs was derived from its own sales records or national sales data. If a manufacturer's CED weight is derived from national sales data, the manufacturer shall indicate the source of the sales data, as set forth in the reports to manufacturers by retailers under subsection (e) of Section 40.

(i) ~~(Blank). No later than September 1, 2010, television manufacturers must submit to the Agency, in the form and manner required by the Agency, a report for the period January 1, 2010 through June 30, 2010 that contains both of the following:~~

~~(1) The total weight of televisions sold under each of the manufacturer's brands to individuals at retail in this State, from one of the following 2 sources, with the manufacturer indicating in the report which of the 2 data sources was used, and, if a national sales data report was used, the name of the national sales data source:~~

~~(A) the manufacturer's own sales reports; or~~

~~(B) national sales data reports obtained by the manufacturer and pro-rated to Illinois by multiplying the weight of the manufacturer's televisions sold nationally by the quotient that results from dividing the population of Illinois by the population of the United States. The population of Illinois and the United States shall be obtained using the most recent U.S. census data.~~

~~(2) The total weight of computers, the total weight of computer monitors, the total weight of printers, the total weight of televisions, and the total weight of EEDs recycled or processed for reuse.~~

~~(j) (Blank). By August 15, 2010, computer, computer monitor, and printer manufacturers shall submit to the Agency, on forms and in a format prescribed by the Agency, a report for the period January 1, 2010 through June 30, 2010 that contains the total weight of computers, the total weight of computer monitors, the total weight of printers, the total weight of televisions, and the total weight of EEDs, recycled or processed for reuse.~~

~~(k) (Blank). No later than April 1 of program years 2011 and thereafter, television manufacturers shall submit to the Agency, in the form and manner required by the Agency, a report that contains all of the following information for the previous program year:~~

~~(1) The total weight of televisions sold under each of the manufacturer's brands to individuals at retail in this State, from one of the following 2 sources, with the manufacturer indicating in the report which of the two data sources was used, and, if a national sales data report was used, the name of the national sales data source:~~

(a) the manufacturer's own sales reports; or

(b) national sales data reports obtained by the manufacturer and pro-rated to Illinois by multiplying the weight of the manufacturer's televisions sold nationally by the quotient that results from dividing the population of Illinois by the population of the United States. The population of Illinois and the United States shall be obtained using the most recent U.S. census data.

(2) The total weight of computers, the total weight of computer monitors, the total weight of printers, the total weight of televisions, and the total weight of EEDs recycled or processed for reuse.

(3) The identification of all weights that are adjusted under subsection (d) of this Section. For all weights adjusted under item (2) of subsection (d), the manufacturer must include copies of the written confirmation required under that subsection.

(4) A list of each recycler, refurbisher, and collector used by the manufacturer to fulfill the manufacturer's individual recycling and reuse goal set forth in Section 19 of this Act.

(5) A summary of the manufacturer's consumer education program required under subsection (m) of this Section.

(l) ~~On or before January 31, 2013 and on or before every January 31 No later than April 1 of program years 2011 and thereafter, CED computer, computer monitor, and printer manufacturers shall submit to the Agency, on forms and in a format prescribed by the Agency, a report that contains all of the following information for the previous program year:~~

(1) ~~The~~ the total weight of computers, the total weight of computer monitors, the total weight of printers, the total weight of televisions, and the total weight of EEDs recycled or processed for reuse. ;

(2) ~~The~~ the identification of all weights that are adjusted under subsection (d) of this Section. For all weights adjusted under item (2) of subsection (d), the manufacturer must include copies of the written confirmation required under that subsection. ;

(3) ~~A~~ a list of each recycler, refurbisher, and collector used by the manufacturer to fulfill the manufacturer's individual recycling and reuse goal set forth in subsection (c) of Section 15 of this Act. ; ~~and~~

(4) ~~A~~ a summary of the manufacturer's consumer education program required under subsection (m) of this Section.

(m) Manufacturers must develop and maintain a consumer education program that complements and corresponds to the primary retailer-driven campaign required under Section 40 of this Act. The education program shall promote the recycling of electronic products and proper end-of-life management of the products by consumers.

(n) Beginning January 1 2010, no manufacturer may sell a computer, computer monitor, printer, or television in this State unless the manufacturer is registered with the State as required under this Act, has paid the required registration fee, and is otherwise in compliance with the provisions of this Act.

(o) Beginning January 1, 2010, no manufacturer may sell a computer, computer monitor, printer, or television in this State unless the manufacturer's brand name is permanently affixed to, and is readily visible on, the computer, computer monitor, printer, or television.

(Source: P.A. 95-959, eff. 9-17-08; 96-1154, eff. 7-21-10.)

(415 ILCS 150/50)

Sec. 50. Recycler and refurbisher registration.

(a) Prior to January 1 of each program year, each recycler and refurbisher must register with the Agency and submit a registration fee pursuant to subsection (b) for that program year. Registration must be on forms and in a format prescribed by the Agency and shall include, but not be limited to, the address of each location where the recycler or refurbisher manages CEDs or EEDs and identification of each location at which the recycler or refurbisher accepts CEDs or EEDs from a residence.

(b) The registration fee for program year 2010 is \$2,000. For program year 2011, if a recycler's or refurbisher's annual combined total weight of CEDs and EEDs is less than 1,000 tons per year, the registration fee shall be \$500. For program year 2012 and for all subsequent program years, both registration fees shall be increased each year by an inflation factor determined by the annual Implicit Price Deflator for Gross National Product as published by the U.S. Department of Commerce in its Survey of Current Business. The inflation factor must be calculated each year by dividing the latest published annual Implicit Price Deflator for Gross National Product by the annual Implicit Price Deflator for Gross National Product for the previous year. The inflation factor must be rounded to the nearest 1/100th, and the resulting registration fee must be rounded to the nearest whole dollar. No later than October 1 of each program year, the Agency shall post on its website the registration fee for the next program year.

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(c) No person may act as a recycler or a refurbisher of CEDs for a manufacturer obligated to meet goals under this Act unless the recycler or refurbisher is registered and has paid the registration fee as required under this Section. Registered recyclers and refurbishers must accept any delivered CED or EED. Neither a registered recycler nor a refurbisher may charge individual consumers a fee to recycle or refurbish CEDs and EEDs, unless the recycler or refurbisher provides (i) a financial incentive, such as a coupon, that is of greater or equal value to the applicable item or (ii) premium service, such as curbside collection, home pick-up, or a similar method of collection.

(d) Recyclers and refurbishers must, at a minimum, comply with all of the following:

(1) Recyclers and refurbishers must comply with federal, State, and local laws and regulations, including federal and State minimum wage laws, specifically relevant to the handling, processing, refurbishing and recycling of residential CEDs and must have proper authorization by all appropriate governing authorities to perform the handling, processing, refurbishment, and recycling.

(2) Recyclers and refurbishers must implement the appropriate measures to safeguard occupational and environmental health and safety, through the following:

(A) environmental health and safety training of personnel, including training with regard to material and equipment handling, worker exposure, controlling releases, and safety and emergency procedures;

(B) an up-to-date, written plan for the identification and management of hazardous materials; and

(C) an up-to-date, written plan for reporting and responding to exceptional pollutant releases, including emergencies such as accidents, spills, fires, and explosions.

(3) Recyclers and refurbishers must maintain (i) commercial general liability insurance or the equivalent corporate guarantee for accidents and other emergencies with limits of not less than \$1,000,000 per occurrence and \$1,000,000 aggregate and (ii) pollution legal liability insurance with limits not less than \$1,000,000 per occurrence for companies engaged solely in the dismantling activities and \$5,000,000 per occurrence for companies engaged in recycling.

(4) Recyclers and refurbishers must maintain on file documentation that demonstrates the completion of an environmental health and safety audit completed and certified by a competent internal and external auditor annually. A competent auditor is an individual who, through professional training or work experience, is appropriately qualified to evaluate the environmental health and safety conditions, practices, and procedures of the facility. Documentation of auditors' qualifications must be available for inspection by Agency officials and third-party auditors.

(5) Recyclers and refurbishers must maintain on file proof of workers' compensation and employers' liability insurance.

(6) Recyclers and refurbishers must provide adequate assurance (such as bonds or corporate guarantee) to cover environmental and other costs of the closure of the recycler or refurbisher's facility, including cleanup of stockpiled equipment and materials.

(7) Recyclers and refurbishers must apply due diligence principles to the selection of facilities to which components and materials (such as plastics, metals, and circuit boards) from CEDs and EEDs are sent for reuse and recycling.

(8) Recyclers and refurbishers must establish a documented environmental management system that is appropriate in level of detail and documentation to the scale and function of the facility, including documented regular self-audits or inspections of the recycler or refurbisher's environmental compliance at the facility.

(9) Recyclers and refurbishers must use the appropriate equipment for the proper processing of incoming materials as well as controlling environmental releases to the environment. The dismantling operations and storage of CED and EED components that contain hazardous substances must be conducted indoors and over impervious floors. Storage areas must be adequate to hold all processed and unprocessed inventory. When heat is used to soften solder and when CED and EED components are shredded, operations must be designed to control indoor and outdoor hazardous air emissions.

(10) Recyclers and refurbishers must establish a system for identifying and properly managing components (such as circuit boards, batteries, CRTs, and mercury phosphor lamps) that are removed from CEDs and EEDs during disassembly. Recyclers and refurbishers must properly manage all hazardous and other components requiring special handling from CEDs and EEDs consistent with federal, State, and local laws and regulations. Recyclers and refurbishers must provide visible tracking (such as hazardous waste manifests or bills of lading) of hazardous components and materials from the facility to the destination facilities and documentation (such as contracts) stating how the destination facility processes the materials received. No recycler or refurbisher may send, either

directly or through intermediaries, hazardous wastes to solid waste (non-hazardous waste) landfills or to non-hazardous waste incinerators for disposal or energy recovery. For the purpose of these guidelines, smelting of hazardous wastes to recover metals for reuse in conformance with all applicable laws and regulations is not considered disposal or energy recovery.

(11) Recyclers and refurbishers must use a regularly implemented and documented monitoring and record-keeping program that tracks inbound CED and EED material weights (total) and subsequent outbound weights (total to each destination), injury and illness rates, and compliance with applicable permit parameters including monitoring of effluents and emissions. Recyclers and refurbishers must maintain contracts or other documents, such as sales receipts, suitable to demonstrate: (i) the reasonable expectation that there is a downstream market or uses for designated electronics (which may include recycling or reclamation processes such as smelting to recover metals for reuse); and (ii) that any residuals from recycling or reclamation processes, or both, are properly handled and managed to maximize reuse and recycling of materials to the extent practical.

(12) Recyclers and refurbishers must comply with federal and international law and agreements regarding the export of used products or materials. In the case of exports of CEDs and EEDs, recyclers and refurbishers must comply with applicable requirements of the U.S. and of the import and transit countries and must maintain proper business records documenting its compliance. No recycler or refurbisher may establish or use intermediaries for the purpose of circumventing these U.S. import and transit country requirements.

(13) Recyclers and refurbishers that conduct transactions involving the transboundary shipment of used CEDs and EEDs shall use contracts (or the equivalent commercial arrangements) made in advance that detail the quantity and nature of the materials to be shipped. For the export of materials to a foreign country (directly or indirectly through downstream market contractors): (i) the shipment of intact televisions and computer monitors destined for reuse must include only whole products that are tested and certified as being in working order or requiring only minor repair (e.g. not requiring the replacement of circuit boards or CRTs), must be destined for reuse with respect to the original purpose, and the recipient must have verified a market for the sale or donation of such product for reuse; (ii) the shipments of CEDs and EEDs for material recovery must be prepared in a manner for recycling, including, without limitation, smelting where metals will be recovered, plastics recovery and glass-to-glass recycling; or (iii) the shipment of CEDs and EEDs are being exported to companies or facilities that are owned or controlled by the original equipment manufacturer.

(14) Recyclers and refurbishers must maintain the following export records for each shipment on file for a minimum of 3 years: (i) the facility name and the address to which shipment is exported; (ii) the shipment contents and volumes; (iii) the intended use of contents by the destination facility; (iv) any specification required by the destination facility in relation to shipment contents; (v) an assurance that all shipments for export, as applicable to the CED manufacturer, are legal and satisfy all applicable laws of the destination country.

(15) Recyclers and refurbishers must employ industry-accepted procedures for the destruction or sanitization of data on hard drives and other data storage devices. Acceptable guidelines for the destruction or sanitization of data are contained in the National Institute of Standards and Technology's Guidelines for Media Sanitation or those guidelines certified by the National Association for Information Destruction;

(16) No recycler or refurbisher may employ prison labor in any operation related to the collection, transportation, recycling, and refurbishment of CEDs and EEDs. No recycler or refurbisher may employ any third party that uses or subcontracts for the use of prison labor.

(Source: P.A. 95-959, eff. 9-17-08; 96-1154, eff. 7-21-10.)

(415 ILCS 150/55)

Sec. 55. Collector responsibilities.

(a) No later than January 1 of each program year, collectors that collect or receive CEDs or EEDs for one or more manufacturers, recyclers, or refurbishers shall register with the Agency. Registration must be in the form and manner required by the Agency and must include, without limitation, the address of each location where CEDs or EEDs are received and the identification of each location at which the collector accepts CEDs or EEDs from a residence.

(b) Manufacturers, recyclers, refurbishers also acting as collectors shall so indicate on their registration under Section 30 or 50 and not register separately as collectors.

(c) No later than August 15, 2010, collectors must submit to the Agency, on forms and in a format prescribed by the Agency, a report for the period from January 1, 2010 through June 30, 2010 that contains the following information: the total weight of computers, the total weight of computer monitors, the total weight of printers, the total weight of televisions, and the total weight of EEDs collected or

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received for each manufacturer.

(d) ~~By January 31~~ ~~No later than May 1~~ of each program year, collectors must submit to the Agency, on forms and in a format prescribed by the Agency, a report that contains the following information for the previous program year:

(1) ~~The total weight of individual CEDs collected computers, the total weight of computer monitors, the total weight of printers, the total weight of televisions,~~ and the total weight of EEDs collected or received for each

manufacturer during the previous program year.

(2) ~~A~~ a list of each recycler and refurbisher that received CEDs and EEDs from the collector and the total weight each recycler and refurbisher received.

(3) ~~The~~ the address of each collector's facility where the CEDs and EEDs were collected or received. Each facility address must include the county in which the facility is located.

(e) Collectors may accept no more than 10 CEDs or EEDs at one time from individual members of the public and, when scheduling collection events, shall provide no fewer than 30 days' notice to the county waste agency of those events.

(f) No collector of CEDs and EEDs may recycle, or refurbish for reuse or resale CEDs or EEDs, to a third-party unless the collector registers as a recycler or refurbisher pursuant to Section 50 and pays the registration fee pursuant to Section 50.

(Source: P.A. 95-959, eff. 9-17-08; 96-1154, eff. 7-21-10.)

(415 ILCS 150/60)

Sec. 60. Collection strategy for underserved counties.

(a) For program year 2010 and 2011, all counties in this State except the following are considered underserved: Champaign, Clay, Clinton, Cook, DuPage, Fulton, Hancock, Henry, Jackson, Kane, Kendall, Knox, Lake, Livingston, Macoupin, McDonough, McHenry, McLean, Mercer, Peoria, Rock Island, St. Clair, Sangamon, Schuyler, Stevenson, Warren, Will, Williamson, and Winnebago.

(b) For program year 2012 and each program year thereafter underserved counties shall be those counties within the state of Illinois with a population density of 190 persons or less per square mile based on the most recent U.S. Census population estimate. For program years 2011 and later, underserved counties shall be counties in this State that, during the program year 2 years prior, were not served by a minimum of one collection site that (i) accepted all types of CEDs and EEDs and (ii) was open for a minimum of 8 hours on at least one day per month of that program year. For the purposes of this subsection (b), 2009 shall be considered to have been a program year, and for the program year 2012 the determination of whether a county is underserved shall be based on the criteria of this subsection (b) instead of the county's inclusion in the list set forth in subsection (a) of this Section.

(Source: P.A. 95-959, eff. 9-17-08.)

(415 ILCS 150/65)

Sec. 65. State government procurement.

(a) The Department of Central Management Services shall ensure that all bid specifications and contracts for the purchase or lease of desktop computers, laptop or notebook computers, and computer monitors, by State agencies under a statewide master contract require that the electronic products have a Bronze performance tier or higher registration under the Electronic Product Environmental Assessment Tool ("EPEAT") operated by the Green Electronics Council.

(b) The Department of Central Management Services shall ensure that bid specifications and contracts for the purchase or lease of televisions, and printers, electronic keyboards, facsimile machines, videocassette recorders, portable digital music players that have memory capability and are battery powered, digital video disc players, video game consoles, electronic mice, scanners, digital converter boxes, cable or satellite receivers, digital video disc recorders, or small-scale servers by State agencies under a statewide master contract require that those items the televisions have a Bronze performance tier or higher registration under EPEAT if the Department determines that there are an adequate number of those items the televisions or printers registered under EPEAT to provide a sufficiently competitive bidding environment.

(c) This Section applies to bid specifications issued, and contracts entered into, on or after January 1, 2010.

(Source: P.A. 95-959, eff. 9-17-08; 96-1154, eff. 7-21-10.)

(415 ILCS 150/80)

Sec. 80. Penalties.

(a) Except as otherwise provided in this Act, any person who violates any provision of this Act or fails to perform any duty under this Act is liable for a civil penalty not to exceed \$15,000 ~~\$1,000~~ for the violation and an additional civil penalty not to exceed \$5,000 ~~\$1,000~~ for each day the violation continues

~~and is liable for a civil penalty not to exceed \$5,000 for a second or subsequent violation and an additional civil penalty not to exceed \$1,000 for each day the second or subsequent violation continues.~~

(b) A manufacturer that is not registered with the Agency as required under this Act, or that has not paid the registration fee as required under this Act, is liable for a civil penalty not to exceed \$10,000 for the violation and an additional civil penalty not to exceed \$10,000 for each day the violation continues.

(c) A manufacturer in violation of subsection (d) of Section 30 of this Act in program year 2012 or thereafter is liable for a civil penalty equal to the following:

(1) In program year 2012, if the total weight of CEDs and EEDs recycled or processed for reuse by the manufacturer is less than 60% of the manufacturer's individual recycling or reuse goal set forth in ~~subsection (c) of Section 15~~ ~~Section 19~~ of this Act, the manufacturer shall pay a penalty equal to the product of: (i) \$0.70 per pound; multiplied by (ii) the difference between the manufacturer's individual recycling or reuse goal and the total weight of CEDs and EEDs recycled or processed for reuse by the manufacturer during the program year.

(2) In program year 2013, and each year thereafter, if the total weight of CEDs and EEDs recycled or processed for reuse by the manufacturer less than 75% of the manufacturer's individual recycling or reuse goal set forth in Section 19 of this Act, the manufacturer shall pay a penalty equal to the product of: (i) \$0.70 per pound; multiplied by (ii) the difference between the manufacturer's individual recycling or reuse goal and the total weight of CEDs and EEDs recycled or processed for reuse by the manufacturer during the program year.

(d) Beginning January 1, 2010, a manufacturer in violation of subsection (e), (h), (i), (j),

(k), ~~or (l)~~ ~~or (m)~~ of Section 30 is liable for a civil penalty not to exceed \$5,000 for the violation.

(e) Any person in violation of Section 50 of this Act is liable for a civil penalty not to exceed \$5,000 for the violation.

(f) A knowing violation of subsections (a) and (c) of Section 95 of this Act is a petty offense punishable by a fine of \$1500; however, a knowing violation of subsections (a) and (c) of Section 95 of this Act by a residential consumer is a petty offense punishable by a fine of \$100.

(g) The penalties provided for in this Act may be recovered in a civil action brought by the Attorney General in the name of the People of the State of Illinois. Any moneys collected under this Section in which the Attorney General has prevailed may be deposited into the Electronic Recycling Fund, established under this Act.

(h) The Attorney General, at the request of the Agency or on his or her own motion, may institute a civil action for an injunction, prohibitory or mandatory, to restrain violations of this Act or to require such actions as may be necessary to address violations of this Act.

(i) The penalties and injunctions provided in this Act are in addition to any penalties, injunctions, or other relief provided under any other law. Nothing in this Act bars a cause of action by the State for any other penalty, injunction, or relief provided by any other law.

(Source: P.A. 95-959, eff. 9-17-08.)

(415 ILCS 150/95)

Sec. 95. Landfill ban.

(a) Except as may be provided pursuant to subsection (e) of this Section, and beginning January 1, 2012, no person may knowingly cause or allow the mixing of a CED, or any other computer, computer monitor, printer, ~~or television~~ electronic keyboard, facsimile machine, videocassette recorder, portable digital music player, digital video disc player, or video game console with municipal waste that is intended for disposal at a landfill.

(b) Except as may be provided pursuant to subsection (e) of this Section, and beginning January 1, 2012, no person may knowingly cause or allow the disposal of a CED or any other computer, computer monitor, printer, ~~or television~~ electronic keyboard, facsimile machine, videocassette recorder, portable digital music player, digital video disc player, or video game console in a sanitary landfill.

(c) Beginning January 1, 2012, no person may knowingly cause or allow the mixing of a CED, or any other computer, computer monitor, printer, ~~or television~~ electronic keyboard, facsimile machine, videocassette recorder, portable digital music player, digital video disc player, or video game console with waste that is intended for disposal by burning or incineration.

(d) Beginning January 1, 2012, no person may knowingly cause or allow the burning or incineration of a CED, or any other computer, computer monitor, printer, ~~or television~~ electronic keyboard, facsimile machine, videocassette recorder, portable digital music player, digital video disc player, or video game console.

(e) Beginning April 1, 2012 but no later than December 31, 2013, the Illinois Pollution Control Board (Board) is authorized to review temporary CED landfill ban waiver petitions by county governments or municipal joint action agencies (action agencies) and determine whether the respective county's or action

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agency's jurisdiction may be granted a temporary CED landfill ban waiver due to a lack of funds and a lack of collection opportunities to collect CEDs and EEDs within the county's or action agency's jurisdiction. If the Board grants a waiver under this subsection (e), subsections (a) and (b) of this Section shall not apply to CEDs and EEDs that are taken out of service from residences within the jurisdiction of the county or action agency receiving the waiver and disposed of during the remainder of the program year in which the petition is filed.

(1) The petition from the county or action agency shall include the following:

(A) documentation of the county's or action agency's attempts to gain funding, as well as the total funding obtained, for the collection of CEDs and EEDs in its jurisdiction from manufacturers or other units of government in the State; and

(B) an assessment of other collection opportunities in the county's or action agency's jurisdiction demonstrating insufficient capacity for the anticipated volume of CEDs and EEDs for the remainder of the program year in which the petition is being filed.

(2) In addition to the criteria listed in item (1), the Board shall consider the following additional criteria when reviewing a petition:

(A) total weight of CEDs and EEDs collected in the county's or action agency's jurisdiction during all preceding program years;

(B) total weight of CEDs and EEDs collected in the county's or action agency's jurisdiction during the year in which the petition is filed; and

(C) the projected difference in weight between prior program years and the year in which the petition is filed.

(3) Within 60 days after the filing of the petition with the Board, the Board shall determine, based on the criteria in items (1) and (2), whether a temporary CED landfill ban waiver shall be granted to the respective county or action agency for the remainder of the program year in which the petition is filed. The Board's decision to grant such a waiver shall be based upon a showing by clear and convincing evidence that a county or action agency has a lack of funds and its respective jurisdiction lacks sufficient collection opportunities to collect CEDs and EEDs. If the Board denies the petition for a landfill ban waiver, the Board's order shall be final and immediately appealable to the circuit court having jurisdiction over the petitioner.

(4) Within 5 days after granting a temporary CED landfill ban waiver, the Board shall provide written notice to the Agency of the Board's decision. The notice shall be provided at least 15 days prior to the waiver taking effect.

(5) Any county or action agency granted a temporary CED landfill ban waiver shall, within 7 days after receiving the waiver, inform all solid waste haulers and landfill operators used by the county or action agency for solid waste disposal that a waiver has been granted for the remainder of the program year. The notification shall be provided to the solid waste haulers and landfill operators at least 15 days prior to the waiver taking effect.

(6) Between April 1, 2012 and December 31, 2013, if a temporary CED landfill ban waiver has been granted to a petitioner, no person disposing of a CED shall be subject to any enforcement proceeding unless he or she disposes of the CED with knowledge that the CED is from a county or action agency that has not received a temporary CED landfill ban waiver.

(Source: P.A. 95-959, eff. 9-17-08.)

(415 ILCS 150/16 rep.) (415 ILCS 150/17 rep.) (415 ILCS 150/18 rep.) (415 ILCS 150/19 rep.)

Section 10. The Electronic Products Recycling and Reuse Act is amended by repealing Sections 16, 17, 18, and 19.

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

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 3 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING BILLS OF THE SENATE A THIRD TIME

On motion of Senator Garrett, **Senate Bill No. 2106**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

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And the question being, “Shall this bill pass?” it was decided in the affirmative by the following vote:

YEAS 37; NAYS 16.

The following voted in the affirmative:

Althoff	Holmes	Maloney	Schoenberg
Clayborne	Hunter	Martinez	Silverstein
Collins, J.	Hutchinson	Meeks	Steans
Crotty	Johnson, T.	Millner	Sullivan
Delgado	Jones, E.	Mulroe	Trotter
Forby	Koehler	Noland	Wilhelmi
Frerichs	Kotowski	Radogno	Mr. President
Garrett	Landek	Sandack	
Haine	Lightford	Sandoval	
Harmon	Link	Schmidt	

The following voted in the negative:

Bivins	Jacobs	McCann	Syverson
Bomke	Johnson, C.	Muñoz	
Brady	LaHood	Pankau	
Cultra	Lauzen	Rezin	
Duffy	Luechtefeld	Righter	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

On motion of Senator Garrett, **Senate Bill No. 2123**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, “Shall this bill pass?” it was decided in the affirmative by the following vote:

YEAS 55; NAYS None.

The following voted in the affirmative:

Althoff	Haine	Luechtefeld	Rezin
Bivins	Harmon	Maloney	Righter
Bomke	Holmes	Martinez	Sandack
Brady	Hutchinson	McCann	Sandoval
Clayborne	Jacobs	McCarter	Schmidt
Collins, J.	Johnson, C.	Meeks	Schoenberg
Crotty	Johnson, T.	Millner	Silverstein
Cultra	Jones, E.	Mulroe	Steans
Delgado	Koehler	Muñoz	Sullivan
Dillard	Kotowski	Murphy	Syverson
Duffy	Landek	Noland	Trotter
Forby	Lauzen	Pankau	Wilhelmi
Frerichs	Lightford	Radogno	Mr. President
Garrett	Link	Raoul	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

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Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

SENATE BILL RECALLED

On motion of Senator Garrett, **Senate Bill No. 2134** was recalled from the order of third reading to the order of second reading.

Senator Garrett offered the following amendment and moved its adoption:

AMENDMENT NO. 2 TO SENATE BILL 2134

AMENDMENT NO. 2. Amend Senate Bill 2134, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 5. The School Code is amended by changing Section 3-15.14 and by adding Sections 3-15.14a and 17-1.1 as follows:

(105 ILCS 5/3-15.14) (from Ch. 122, par. 3-15.14)

Sec. 3-15.14. Cooperative Educational and Operational Programs. To administer and direct a cooperative or joint educational or operational program or project when 2 or more districts request and authorize him or her to provide and administer these services. Each regional superintendent of schools is encouraged to offer school districts the opportunity to share in joint educational or operational programs and to urge school districts to participate in such programs when the school district determines that such participation is fiscally prudent. The regional superintendent of schools ~~He~~ may provide and contract for the staff, space, necessary materials, supplies, books and apparatus for such agreements. The school boards of the respective districts shall pay to the regional superintendent the pro rata share of the expenses of the operation of such programs, and the regional superintendent shall use such funds in payment of such operational expenses. The regional superintendent shall collect and remit the required pension contributions from the participating districts if the board of control of the program participates in Article 7 of the Illinois Pension Code.

A board of control composed of one member from each cooperating district and one member from the office of the regional superintendent will set policy for the cooperative. The agreement establishing the cooperative may provide that the cooperative shall act as its own administrative district and shall be an entity separate and apart from the Educational Service Region.

Each regional superintendent that is the administrator of a joint agreement shall cause an annual financial statement to be submitted on forms prescribed by the State Board of Education exhibiting the financial condition of the program established pursuant to the joint agreement for the fiscal year ending on the immediately preceding June 30.

The regional superintendent may also administer, direct and account for educational programs of single or multi-county educational service region, or of multi-regional design which are sponsored and financed by State or federal educational agencies, or by both such agencies. In cases where funding for any such approved program is delayed, the regional superintendent may borrow the funds required to begin operation of the program in accordance with the terms of the grant; and the principal amount so borrowed, together with the interest due thereon, shall be paid from the grant moneys when received.

(Source: P.A. 83-815; 86-1332.)

(105 ILCS 5/3-15.14a new)

Sec. 3-15.14a. Shared services. The regional superintendent of schools may, at the request of a school district, present to the school district possible services and functions that multiple schools may share or consolidate. Such services and functions may include, but are not limited to, bidding and purchasing, office functions such as payroll and accounting, information technology, professional development, grant writing, food service management, or administrative positions. Regional superintendents of schools may share best financial practices with school districts that are exploring new methods to become more financially efficient.

(105 ILCS 5/17-1.1 new)

Sec. 17-1.1. Shared service reporting and fiscal efficiency.

(a) Annually, each school district shall complete a report developed by the State Board of Education, to accompany the annual financial report and to be published on the State Board of Education's Internet website, that summarizes district attempts to improve fiscal efficiency through shared services or outsourcing in the prior fiscal year. The report must be primarily in checklist form and approximately one page in length. It shall include, but shall not be limited to, the incidence of the following shared

service options; insurance; employee benefits; transportation; personnel recruitment; shared personnel; technology services; energy purchasing; supply and equipment purchasing; food services; legal services; investment pools; special education cooperatives, vocational cooperatives, and other shared educational programs; curriculum planning; professional development; custodial services; maintenance services; grounds maintenance services; food services; grant writing; and science, technology, engineering, and mathematics (STEM) program offerings. The report shall also include a list of potential shared services or outsourcing the district may consider or investigate for the next fiscal year and any anticipated barriers to implementation. This report must be approved by the school board and published on the Internet website of the school district, if any.

(b) Based on data supplied by school districts through the annual financial report, regional superintendents of schools shall publish annually a regional report summarizing district attempts to improve fiscal efficiency through shared services or outsourcing within the educational service region. This report shall include a list of all joint purchasing initiatives, joint agreements between districts, attempts to reduce or eliminate duplication of services and duplicative expenditures, and identification of any overlapping regional service delivery systems.

(c) For school districts required to develop and submit to the State Board of Education a deficit reduction plan under Section 17-1 of this Code, the regional superintendent of schools and the school district shall jointly prepare a shared services and outsourcing plan that considers actions that may improve the district's fiscal efficiency and how future savings associated with shared services or outsourcing are to be utilized."

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 2 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING BILLS OF THE SENATE A THIRD TIME

On motion of Senator Garrett, **Senate Bill No. 2134**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 50; NAYS 2.

The following voted in the affirmative:

Althoff	Harmon	Luechtefeld	Sandack
Bomke	Holmes	Maloney	Sandoval
Clayborne	Hunter	Martinez	Schmidt
Collins, A.	Hutchinson	Millner	Schoenberg
Collins, J.	Jacobs	Mulroe	Silverstein
Crotty	Johnson, T.	Muñoz	Steans
Delgado	Jones, E.	Murphy	Sullivan
Dillard	Koehler	Noland	Syverson
Duffy	Kotowski	Pankau	Trotter
Forby	LaHood	Radogno	Wilhelmi
Frerichs	Landek	Raoul	Mr. President
Garrett	Lightford	Rezin	
Haine	Link	Righter	

The following voted in the negative:

Cultra
Johnson, C.

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

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Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

On motion of Senator Garrett, **Senate Bill No. 2138**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 55; NAY 1.

The following voted in the affirmative:

Althoff	Garrett	Link	Raoul
Bivins	Harmon	Luechtefeld	Rezin
Bomke	Holmes	Maloney	Sandack
Brady	Hunter	Martinez	Sandoval
Clayborne	Hutchinson	McCann	Schmidt
Collins, A.	Johnson, C.	McCarter	Schoenberg
Collins, J.	Johnson, T.	Meeks	Silverstein
Crotty	Jones, E.	Millner	Steans
Cultra	Koehler	Mulroe	Sullivan
Delgado	Kotowski	Muñoz	Syverson
Dillard	LaHood	Murphy	Trotter
Duffy	Landek	Noland	Wilhelmi
Forby	Lauzen	Pankau	Mr. President
Frerichs	Lightford	Radogno	

The following voted in the negative:

Haine

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

On motion of Senator Lauzen, **Senate Bill No. 2139**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 57; NAY 1.

The following voted in the affirmative:

Althoff	Haine	Luechtefeld	Righter
Bivins	Harmon	Maloney	Sandack
Bomke	Holmes	Martinez	Sandoval
Brady	Hunter	McCann	Schmidt
Clayborne	Hutchinson	McCarter	Schoenberg
Collins, A.	Jacobs	Meeks	Silverstein
Collins, J.	Johnson, C.	Millner	Steans
Crotty	Johnson, T.	Mulroe	Sullivan
Cultra	Jones, E.	Muñoz	Syverson
Delgado	Koehler	Murphy	Trotter
Dillard	Kotowski	Noland	Wilhelmi
Duffy	LaHood	Pankau	Mr. President

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Forby	Lauzen	Radogno
Frerichs	Lightford	Raoul
Garrett	Link	Rezin

The following voted in the negative:

Landek

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

On motion of Senator Jones, E. III, **Senate Bill No. 2148**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 56; NAYS None.

The following voted in the affirmative:

Althoff	Haine	Link	Sandack
Bivins	Harmon	Maloney	Sandoval
Bomke	Holmes	Martinez	Schmidt
Brady	Hunter	McCann	Schoenberg
Clayborne	Hutchinson	McCarter	Silverstein
Collins, A.	Jacobs	Meeks	Steans
Collins, J.	Johnson, C.	Millner	Sullivan
Crotty	Johnson, T.	Mulroe	Syverson
Cultra	Jones, E.	Muñoz	Trotter
Delgado	Koehler	Murphy	Wilhelmi
Dillard	Kotowski	Noland	Mr. President
Duffy	LaHood	Pankau	
Forby	Landek	Radogno	
Frerichs	Lauzen	Raoul	
Garrett	Lightford	Rezin	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

SENATE BILL RECALLED

On motion of Senator Sullivan, **Senate Bill No. 2149** was recalled from the order of third reading to the order of second reading.

Senator Sullivan offered the following amendment and moved its adoption:

AMENDMENT NO. 3 TO SENATE BILL 2149

AMENDMENT NO. 3. Amend Senate Bill 2149, AS AMENDED, with reference to page and line numbers of Senate Amendment No. 1, as follows:

on page 6, line 10, after "official", by inserting ", except that such person shall not be treated as an employee under this Section if that person has negotiated with the Financial Oversight Panel, in conjunction with the school district, a contractual agreement for exclusion from this Section"; and

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on page 22, line 8, by replacing "1E-165" with "1B-25, 1E-165,"; and

on page 31, immediately below line 8, by inserting the following:

"(105 ILCS 5/1B-25 new)

Sec. 1B-25. Establishment prohibited. No school district may have a Financial Oversight Panel established pursuant to this Article after Article 1H of this Code is established."

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 3 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING BILL OF THE SENATE A THIRD TIME

On motion of Senator Sullivan, **Senate Bill No. 2149**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 36; NAYS 19; Present 1.

The following voted in the affirmative:

Bomke	Harmon	Link	Silverstein
Clayborne	Holmes	Maloney	Steans
Collins, A.	Hunter	Martinez	Sullivan
Collins, J.	Hutchinson	Meeks	Trotter
Crotty	Jacobs	Mulroe	Wilhelmi
Delgado	Jones, E.	Muñoz	Mr. President
Forby	Koehler	Noland	
Frerichs	Kotowski	Radogno	
Garrett	Landek	Sandoval	
Haine	Lightford	Schoenberg	

The following voted in the negative:

Althoff	Duffy	Luechtefeld	Rezin
Bivins	Johnson, C.	McCann	Sandack
Brady	Johnson, T.	McCarter	Schmidt
Cultra	LaHood	Millner	Syverson
Dillard	Laufen	Murphy	

The following voted present:

Raoul

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

SENATE BILL RECALLED

On motion of Senator Millner, **Senate Bill No. 2151** was recalled from the order of third reading to the order of second reading.

Senator Millner offered the following amendment and moved its adoption:

[April 14, 2011]

AMENDMENT NO. 1 TO SENATE BILL 2151

AMENDMENT NO. 1. Amend Senate Bill 2151 on page 7, line 12, by replacing "sexual exploitation" with "felony sexual exploitation"; and

on page 9, by inserting immediately below line 17 the following:

"(k) Waiver of prohibition.

(1) A person who is an adjudicated juvenile delinquent child sex offender covered by this Section may, no less than 10 years after adjudication, petition for a waiver from the prohibitions of this Section.

(2) The court may upon a hearing on the petition for waiver of prohibitions, grant a waiver from the prohibitions of this Section to the person if the court finds that the person does not pose a risk to the community by a preponderance of the evidence based upon the factors set forth in paragraph (3) of this subsection (k).

(3) To determine whether a person seeking a waiver from the prohibitions of this Section poses a risk to the community, the court shall consider the following factors:

(A) a risk assessment performed by an evaluator approved by the Sex Offender Management Board;

(B) the sex offender history of the person;

(C) evidence of the person's rehabilitation;

(D) the age of the person at the time of the offense for which the person was adjudicated as a juvenile delinquent child sex offender;

(E) information related to the person's mental, physical, educational, and social history;

(F) victim impact statements; and

(G) any other factors deemed relevant by the court.

(4) At the hearing, the person may present a risk assessment conducted by an evaluator who is a licensed psychiatrist, psychologist, or other mental health professional, and who has demonstrated clinical experience in sex offender treatment."

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING BILL OF THE SENATE A THIRD TIME

On motion of Senator Millner, **Senate Bill No. 2151**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 42; NAYS 2; Present 8.

The following voted in the affirmative:

Althoff	Haine	Lauzen	Sandack
Bivins	Holmes	Link	Sandoval
Bomke	Hutchinson	Luechtefeld	Schmidt
Brady	Jacobs	Maloney	Schoenberg
Clayborne	Johnson, C.	McCann	Silverstein
Crotty	Johnson, T.	McCarter	Steans
Dillard	Jones, E.	Millner	Sullivan
Duffy	Koehler	Pankau	Syverson
Forby	Kotowski	Radogno	Wilhelmi
Frerichs	LaHood	Rezin	
Garrett	Landek	Righter	

The following voted in the negative:

Collins, A.

[April 14, 2011]

Cultra

The following voted present:

Collins, J.	Hunter	Raoul
Delgado	Meeks	Trotter
Harmon	Noland	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

Senator Trotter asked and obtained unanimous consent to recess for the purpose of a Democrat caucus.

Senator Murphy asked and obtained unanimous consent to recess for the purpose of a Republican caucus.

At the hour of 4:35 o'clock p.m., the Chair announced that the Senate stand at recess subject to the call of the Chair.

AFTER RECESS

At the hour of 5:47 o'clock p.m., the Senate resumed consideration of business.
Senator Harmon, presiding.

MESSAGES FROM THE HOUSE

A message from the House by

Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has passed bills of the following titles, in the passage of which I am instructed to ask the concurrence of the Senate, to-wit:

HOUSE BILL NO. 308

A bill for AN ACT concerning regulation.

HOUSE BILL NO. 1241

A bill for AN ACT concerning transportation.

HOUSE BILL NO. 1723

A bill for AN ACT concerning regulation.

HOUSE BILL NO. 2066

A bill for AN ACT concerning courts.

HOUSE BILL NO. 3237

A bill for AN ACT concerning employment.

Passed the House, April 14, 2011.

MARK MAHONEY, Clerk of the House

The foregoing **House Bills Numbered 308, 1241, 1723, 2066 and 3237** were taken up, ordered printed and placed on first reading.

A message from the House by

Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has passed bills of the following titles, in the passage of which I am instructed to ask the concurrence of the Senate, to-wit:

HOUSE BILL NO. 503

[April 14, 2011]

A bill for AN ACT concerning revenue.
HOUSE BILL NO. 1195
A bill for AN ACT concerning State government.
HOUSE BILL NO. 1284
A bill for AN ACT concerning insurance.
HOUSE BILL NO. 1534
A bill for AN ACT concerning health facilities.
HOUSE BILL NO. 1716
A bill for AN ACT concerning government.
HOUSE BILL NO. 2550
A bill for AN ACT concerning local government.
HOUSE BILL NO. 3486
A bill for AN ACT concerning criminal law.
Passed the House, April 14, 2011.

MARK MAHONEY, Clerk of the House

The foregoing **House Bills Numbered 503, 1195, 1284, 1534, 1716, 2550 and 3486** were taken up, ordered printed and placed on first reading.

A message from the House by
Mr. Mahoney, Clerk:
Mr. President -- I am directed to inform the Senate that the House of Representatives has passed bills of the following titles, in the passage of which I am instructed to ask the concurrence of the Senate, to-wit:

HOUSE BILL NO. 1470
A bill for AN ACT concerning public aid.
HOUSE BILL NO. 1476
A bill for AN ACT concerning professional regulation.
HOUSE BILL NO. 2804
A bill for AN ACT concerning wildlife.
HOUSE BILL NO. 2820
A bill for AN ACT concerning local government.
HOUSE BILL NO. 3265
A bill for AN ACT concerning criminal law.
HOUSE BILL NO. 3636
A bill for AN ACT concerning civil law.
Passed the House, April 14, 2011.

MARK MAHONEY, Clerk of the House

The foregoing **House Bills Numbered 1470, 1476, 2804, 2820, 3265 and 3636** were taken up, ordered printed and placed on first reading.

A message from the House by
Mr. Mahoney, Clerk:
Mr. President -- I am directed to inform the Senate that the House of Representatives has passed bills of the following titles, in the passage of which I am instructed to ask the concurrence of the Senate, to-wit:

HOUSE BILL NO. 1960
A bill for AN ACT concerning civil law.
HOUSE BILL NO. 2607
A bill for AN ACT concerning employment.
HOUSE BILL NO. 3025
A bill for AN ACT concerning business.
HOUSE BILL NO. 3342
A bill for AN ACT concerning transportation.
HOUSE BILL NO. 3522
A bill for AN ACT concerning transportation.

[April 14, 2011]

Passed the House, April 14, 2011.

MARK MAHONEY, Clerk of the House

The foregoing **House Bills Numbered 1960, 2607, 3025, 3342 and 3522** were taken up, ordered printed and placed on first reading.

A message from the House by

Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has passed bills of the following titles, in the passage of which I am instructed to ask the concurrence of the Senate, to-wit:

HOUSE BILL NO. 3102

A bill for AN ACT concerning local government.

HOUSE BILL NO. 3103

A bill for AN ACT concerning State government.

HOUSE BILL NO. 3300

A bill for AN ACT concerning criminal law.

HOUSE BILL NO. 3390

A bill for AN ACT concerning criminal law.

Passed the House, April 14, 2011.

MARK MAHONEY, Clerk of the House

The foregoing **House Bills Numbered 3102, 3103, 3300 and 3390** were taken up, ordered printed and placed on first reading.

A message from the House by

Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has adopted the following joint resolution, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

HOUSE JOINT RESOLUTION NO. 7

WHEREAS, During the 96th General Assembly, the School Success Task Force was established pursuant to House Joint Resolution 5 for the purpose of examining issues and making recommendations related to current State Board of Education policies regarding suspensions, expulsions, and truancies and identifying different strategies and approaches, promoting professional development and other learning opportunities, and supporting community-based organizations and parents; and

WHEREAS, Further work is needed on these issues; therefore, be it

RESOLVED, BY THE HOUSE OF REPRESENTATIVES OF THE NINETY-SEVENTH GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, THE SENATE CONCURRING HEREIN, that the School Success Task Force is extended; and be it further

RESOLVED, That the School Success Task Force shall submit a report, as established in its authorizing resolution, before December 31, 2011; and be it further

RESOLVED, That with this reporting extension, the School Success Task Force shall continue to operate pursuant to its enabling resolution.

Adopted by the House, April 14, 2011.

MARK MAHONEY, Clerk of the House

[April 14, 2011]

The foregoing message from the House of Representatives reporting House Joint Resolution No. 7 was referred to the Committee on Assignments.

A message from the House by

Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has adopted the following joint resolution, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

HOUSE JOINT RESOLUTION NO. 13

WHEREAS, Krabbe disease, also known as Globoid Cell Leukodystrophy, is an inherited neurodegenerative lysosomal enzyme disorder affecting the central and peripheral nervous systems caused by a defect in the GALC gene; persons with this gene defect do not make enough of an enzyme called galactosylceramidase; the body needs this enzyme to make myelin, the material that surrounds and protects nerve fibers; without the enzyme, myelin breaks down and as a result, brain cells die and nerves in the brain and other body areas cannot function properly; and

WHEREAS, The symptoms of the infantile form of Krabbe disease usually begin before the age of one year; initial signs and symptoms typically include irritability, muscle weakness, feeding difficulties, episodes of fever without any sign of infection, stiff posture, and slowed mental and physical development; with disease progression, muscles continue to weaken, affecting the infant's ability to move, chew, swallow, and breathe; affected infants also experience vision loss and seizures; death usually occurs before the age of 2 years; and

WHEREAS, Though the condition is considered very rare (1 in 100,000 births in the United States) it is estimated that the carrier rate in the general population is estimated to be 1 in 125 births; the genesis for this resolution is the late Liam Hammonds who succumbed from Krabbe disease in 2001 before his first birthday; his parents, Scott and Terry established a memorial foundation in his behalf to educate the public about Krabbe disease and provide monetary and other support to affected families; therefore, be it

RESOLVED, BY THE HOUSE OF REPRESENTATIVES OF THE NINETY-SEVENTH GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, THE SENATE CONCURRING HEREIN, that the Department of Public Health shall study Krabbe disease and related leukodystrophies and report to the General Assembly by December 31, 2012 salient information, including, but not limited to, disease incidence in this State, available treatment options, State or federal research projects, available disease registries and biobanks, diagnostic tests and their usage, access and availability of drugs, economic impact of the disease on families, and any other relevant information that the General Assembly should consider in addressing the diseases; and be it further

RESOLVED, That a suitable copy of this resolution be delivered to the Director of Public Health.

Adopted by the House, April 14, 2011.

MARK MAHONEY, Clerk of the House

The foregoing message from the House of Representatives reporting House Joint Resolution No. 13 was referred to the Committee on Assignments.

A message from the House by

Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has adopted the following joint resolution, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

HOUSE JOINT RESOLUTION NO. 28

[April 14, 2011]

WHEREAS, Interstate 57 is a major thoroughfare in the United States interstate system of roads which, in part, is situated through sections of the south side of Chicago and through the southern suburbs of Cook County, tracing along the route of the former Illinois Central railroad line; and

WHEREAS, The Tuskegee Airmen is the popular name of a group of African American pilots who fought in World War II; formally, they were the 332nd Fighter Group and the 477th Bombardment Group of the U.S. Army Air Corps; the Tuskegee Airmen were dedicated, determined young men who enlisted to become America's first black military airmen; and

WHEREAS, The Tuskegee Airmen were the first African American military aviators in the United States Armed Forces; during World War II, African Americans in many U.S. states were still subject to racist Jim Crow laws; the American military was no exception, as it too was racially segregated along with much of the federal government; the Tuskegee Airmen were subject to racial discrimination, both within and outside the Army; despite these adversities, they trained and flew with distinction; each of the men possessed a strong personal desire to serve the United States to the best of his ability; and

WHEREAS, By the spring of 1944 the all-black 332nd Fighter Group had been sent overseas with three fighter squadrons: the 100th, 301st and 302nd; these squadrons were moved to mainland Italy, where the 99th Fighter Squadron, assigned to the group on May 1, 1944, joined them on June 6, at Rarnitelli Airfield, near Termoli, on the Adriatic coast; from Rarnitelli, the 332nd Fighter Group escorted the Fifteenth Air Force heavy strategic bombing raids into Czechoslovakia, Austria, Hungary, Poland, and Germany; flying escort for heavy bombers, the 332nd earned an impressive combat record; the Allies called these airmen "Red Tails" or "Red-Tail Angels" because of the distinctive crimson paint predominately applied on the tail section of the unit's aircraft; these assignments marked the first aerial combat missions ever carried out by African American pilots; and

WHEREAS, 996 pilots in total were trained in Tuskegee from 1941 to 1946, approximately 445 were deployed overseas, and 150 Airmen lost their lives in accidents or combat; the blood cost included 66 pilots killed in action or accidents, and 32 fallen into captivity as prisoners of war; the Tuskegee Airmen were credited by higher commands with the following accomplishments:

- 15,533 combat sorties and 1578 missions;
- 112 German aircraft destroyed in the air and another 150 on the ground;
- 950 railcars, trucks, and other motor vehicles destroyed;
- One destroyer sunk by P-47 machine gun fire;
- A nearly perfect record of not losing U.S. bombers; and

WHEREAS, Awards and decorations awarded for valor and performance included:

Three Distinguished Unit Citations (99th Pursuit Squadron: May 30-June 11, 1943 for the capture of Pantelleria, Italy; 99th Fighter Squadron: May 12-14, 1944 for successful air strikes against Monte Cassino, Italy; and 332d Fighter Group: March 24, 1945 for the longest bomber escort mission of World War II);

- At least one Silver Star;
- An estimated 150 Distinguished Flying Crosses;
- 14 Bronze Stars;
- 744 Air Medals;
- 8 Purple Hearts; and

WHEREAS, After the end of World War II, black airmen returned to the United States and once again faced racism and hatred, despite their outstanding service record; and

WHEREAS, These brave men deserve to be recognized by the State of Illinois for their service to their country during wartime; and

WHEREAS, Kentucky became the first state to honor the Tuskegee Airmen when it named U.S. Interstate 75 the "Tuskegee Airmen Memorial Trail" in 2010; therefore, be it

RESOLVED, BY THE HOUSE OF REPRESENTATIVES OF THE NINETY-SEVENTH GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, THE SENATE CONCURRING HEREIN, that the section of Interstate 57 between Exit 339 at Sauk Trail Road, and Exit 358 at Wentworth Avenue

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in Chicago, be renamed the Tuskegee Airmen Memorial Trail; and be it further

RESOLVED, That the Illinois Department of Transportation is requested to erect at suitable locations, consistent with State and federal regulations, appropriate plaques or signs giving notice of the name of the Tuskegee Airmen Memorial Trail; and be it further

RESOLVED, That a suitable copy of this resolution be presented to the Secretary of the Illinois Department of Transportation and the Chicago "DODO" Chapter of the Tuskegee Airmen, Incorporated.

Adopted by the House, April 14, 2011.

MARK MAHONEY, Clerk of the House

The foregoing message from the House of Representatives reporting House Joint Resolution No. 28 was referred to the Committee on Assignments.

SENATE BILL RECALLED

On motion of Senator McCarter, **Senate Bill No. 1349** was recalled from the order of third reading to the order of second reading.

Senator McCarter offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO SENATE BILL 1349

AMENDMENT NO. 1. Amend Senate Bill 1349 by replacing everything after the enacting clause with the following:

"Section 5. The Workers' Compensation Act is amended by changing Sections 1, 8, 8.1, 8.2, 8.3, 8.7, 11, 16, 19, and 25.5 and by adding Sections 1.1, 4b, 16b, and 16c.
(820 ILCS 305/1) (from Ch. 48, par. 138.1)

Sec. 1. This Act may be cited as the Workers' Compensation Act.

(a) The term "employer" as used in this Act means:

1. The State and each county, city, town, township, incorporated village, school district, body politic, or municipal corporation therein.

2. Every person, firm, public or private corporation, including hospitals, public service, eleemosynary, religious or charitable corporations or associations who has any person in service or under any contract for hire, express or implied, oral or written, and who is engaged in any of the enterprises or businesses enumerated in Section 3 of this Act, or who at or prior to the time of the accident to the employee for which compensation under this Act may be claimed, has in the manner provided in this Act elected to become subject to the provisions of this Act, and who has not, prior to such accident, effected a withdrawal of such election in the manner provided in this Act.

3. Any one engaging in any business or enterprise referred to in subsections 1 and 2 of Section 3 of this Act who undertakes to do any work enumerated therein, is liable to pay compensation to his own immediate employees in accordance with the provisions of this Act, and in addition thereto if he directly or indirectly engages any contractor whether principal or sub-contractor to do any such work, he is liable to pay compensation to the employees of any such contractor or sub-contractor unless such contractor or sub-contractor has insured, in any company or association authorized under the laws of this State to insure the liability to pay compensation under this Act, or guaranteed his liability to pay such compensation. With respect to any time limitation on the filing of claims provided by this Act, the timely filing of a claim against a contractor or subcontractor, as the case may be, shall be deemed to be a timely filing with respect to all persons upon whom liability is imposed by this paragraph.

In the event any such person pays compensation under this subsection he may recover the amount thereof from the contractor or sub-contractor, if any, and in the event the contractor pays compensation under this subsection he may recover the amount thereof from the sub-contractor, if any.

This subsection does not apply in any case where the accident occurs elsewhere than on, in or about the immediate premises on which the principal has contracted that the work be done.

4. Where an employer operating under and subject to the provisions of this Act loans an employee to another such employer and such loaned employee sustains a compensable accidental injury in the employment of such borrowing employer and where such borrowing employer does not provide or pay

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the benefits or payments due such injured employee, such loaning employer is liable to provide or pay all benefits or payments due such employee under this Act and as to such employee the liability of such loaning and borrowing employers is joint and several, provided that such loaning employer is in the absence of agreement to the contrary entitled to receive from such borrowing employer full reimbursement for all sums paid or incurred pursuant to this paragraph together with reasonable attorneys' fees and expenses in any hearings before the Illinois Workers' Compensation Commission or in any action to secure such reimbursement. Where any benefit is provided or paid by such loaning employer the employee has the duty of rendering reasonable cooperation in any hearings, trials or proceedings in the case, including such proceedings for reimbursement.

Where an employee files an Application for Adjustment of Claim with the Illinois Workers' Compensation Commission alleging that his claim is covered by the provisions of the preceding paragraph, and joining both the alleged loaning and borrowing employers, they and each of them, upon written demand by the employee and within 7 days after receipt of such demand, shall have the duty of filing with the Illinois Workers' Compensation Commission a written admission or denial of the allegation that the claim is covered by the provisions of the preceding paragraph and in default of such filing or if any such denial be ultimately determined not to have been bona fide then the provisions of Paragraph K of Section 19 of this Act shall apply.

An employer whose business or enterprise or a substantial part thereof consists of hiring, procuring or furnishing employees to or for other employers operating under and subject to the provisions of this Act for the performance of the work of such other employers and who pays such employees their salary or wages notwithstanding that they are doing the work of such other employers shall be deemed a loaning employer within the meaning and provisions of this Section.

(b) The term "employee" as used in this Act means:

1. Every person in the service of the State, including members of the General Assembly, members of the Commerce Commission, members of the Illinois Workers' Compensation Commission, and all persons in the service of the University of Illinois, county, including deputy sheriffs and assistant state's attorneys, city, town, township, incorporated village or school district, body politic, or municipal corporation therein, whether by election, under appointment or contract of hire, express or implied, oral or written, including all members of the Illinois National Guard while on active duty in the service of the State, and all probation personnel of the Juvenile Court appointed pursuant to Article VI of the Juvenile Court Act of 1987, and including any official of the State, any county, city, town, township, incorporated village, school district, body politic or municipal corporation therein except any duly appointed member of a police department in any city whose population exceeds 200,000 according to the last Federal or State census, and except any member of a fire insurance patrol maintained by a board of underwriters in this State. A duly appointed member of a fire department in any city, the population of which exceeds 200,000 according to the last federal or State census, is an employee under this Act only with respect to claims brought under paragraph (c) of Section 8.

One employed by a contractor who has contracted with the State, or a county, city, town, township, incorporated village, school district, body politic or municipal corporation therein, through its representatives, is not considered as an employee of the State, county, city, town, township, incorporated village, school district, body politic or municipal corporation which made the contract.

2. Every person in the service of another under any contract of hire, express or implied, oral or written, including persons whose employment is outside of the State of Illinois where the contract of hire is made within the State of Illinois, persons whose employment results in fatal or non-fatal injuries within the State of Illinois where the contract of hire is made outside of the State of Illinois, and persons whose employment is principally localized within the State of Illinois, regardless of the place of the accident or the place where the contract of hire was made, and including aliens, and minors who, for the purpose of this Act are considered the same and have the same power to contract, receive payments and give quittances therefor, as adult employees.

3. Every sole proprietor and every partner of a business may elect to be covered by this Act.

An employee or his dependents under this Act who shall have a cause of action by reason of any injury, disablement or death arising out of and in the course of his employment may elect to pursue his remedy in the State where injured or disabled, or in the State where the contract of hire is made, or in the State where the employment is principally localized.

However, any employer may elect to provide and pay compensation to any employee other than those engaged in the usual course of the trade, business, profession or occupation of the employer by complying with Sections 2 and 4 of this Act. Employees are not included within the provisions of this Act when excluded by the laws of the United States relating to liability of employers to their employees for personal injuries where such laws are held to be exclusive.

The term "employee" does not include persons performing services as real estate broker, broker-salesman, or salesman when such persons are paid by commission only.

(c) "Commission" means the Industrial Commission created by Section 5 of "The Civil Administrative Code of Illinois", approved March 7, 1917, as amended, or the Illinois Workers' Compensation Commission created by Section 13 of this Act.

(d) The term "accident" as used in this Act means an occurrence arising out of the employment resulting from a risk incidental to the employment and in the course of the employment at a time and place and under circumstances reasonably required by the employment.

(e) The term "injury" as used in this Act means a condition or impairment that arises out of and in the course of employment. An injury, its occupational cause, and any resulting manifestations or disability must be established to a reasonable degree of medical certainty, based on objective relevant medical findings, and the accidental compensable injury must be the major contributing cause of any resulting injuries. For the purposes of this Section, "major contributing cause" means the cause which is more than 50% responsible for the injury as compared to all other causes combined for which treatment or benefits are sought. "Injury" includes the aggravation of a pre-existing condition by an accident arising out of and in the course of the employment, but only for so long as the aggravation of the pre-existing condition continues to be the major contributing cause of the disability.

(1) An injury is deemed to arise out of and in the course of the employment only if:

(A) it is reasonably apparent, upon consideration of all circumstances, that the accident is the major contributing cause of the injury; and

(B) it does not come from a hazard or risk unrelated to the employment to which employees would have been equally exposed outside of the employment.

(2) An injury resulting directly or indirectly from idiopathic causes is not compensable.

(Source: P.A. 93-721, eff. 1-1-05.)

(820 ILCS 305/1.1 new)

Sec. 1.1. Standards of Conduct.

(a) Commissioners and arbitrators shall dispose of all Workers' Compensation matters promptly, officially, and fairly, without bias or prejudice. Commissioners and arbitrators shall be faithful to the law and maintain professional competence in it. Commissioners and arbitrators shall in a timely manner take appropriate action or initiate appropriate disciplinary measures against a Commissioner, arbitrator, lawyer, or others for unprofessional conduct which the Commissioner or arbitrator may become aware of.

(b) Except as otherwise provided in this Act, the Canons of the Code of Judicial Conduct as adopted by the Supreme Court of Illinois govern the hearing and non-hearing conduct of members of the Commission and arbitrators under this Act. The Commission may set additional rules and standards, not less stringent than those rules and standards established by the Code of Judicial Conduct, for the conduct of arbitrators.

(c) The following provisions of the Code of Judicial Conduct do not apply under this Section:

(1) Canon 3(B), relating to administrative responsibilities.

(2) Canon 6(C), relating to annual filings of economic interests. Instead of filing declarations of economic interests with the Clerk of the Illinois Supreme Court under Illinois Supreme Court Rule 68, members of the Commission and arbitrators shall make filings substantially similar to those required by Rule 68 with the Chairman, and such filings shall be made available for examination by the public.

(d) An arbitrator or a Commissioner may accept an uncompensated appointment to a governmental committee, commission, or other position that is concerned with issues of policy on matters which may come before the arbitrator or Commissioner if such appointment neither affects his or her independent professional judgment nor the conduct of his or her duties.

(e) Decisions of an arbitrator or a Commissioner shall be based exclusively on evidence in the record of the proceeding and material that has been officially noticed.

(820 ILCS 305/4b new)

Sec. 4b. Collective Bargaining Agreements.

(a) Definitions.

For purposes of this Section, the term "construction employer" means any person or legal entity or group of persons or legal entities engaging in or planning to engage in any constructing, altering, reconstructing, repairing, rehabilitating, refinishing, refurbishing, remodeling, remediating, renovating, custom fabricating, maintaining, landscaping, improving, wrecking, painting, decorating, demolishing, and adding to or subtracting from any building, structure, airport facility, highway, roadway, street, alley, bridge, sewer, drain, ditch, sewage disposal plant, water works, parking facility, railroad, excavation or other project, development, real property, or improvement, or to do any part thereof.

whether or not the performance of the work herein described involves the addition to, or fabrication into, any structure, project, development, real property, or improvement herein described of any material or article of merchandise and shall also include moving construction related materials on the job site or to or from the job site.

(b) Provisions.

Upon appropriate filing, the Commission and the courts of this State shall recognize as valid and binding any provision in a collective bargaining agreement between any construction employer or group of employers and a labor organization which is recognized or certified and the exclusive representative of the employer's employees under the National Labor Relations Act, 29 U.S.C. § 151, et al., which contains certain obligations and procedures relating to workers' compensation. This agreement must be limited to, but need not include, all of the following:

(1) an alternative dispute resolution ("ADR") system to supplement, modify, or replace the procedural or dispute resolution provisions of this Act. The system may include mediation, arbitration, or other dispute resolution proceedings, the results of which shall be final and binding upon the parties;

(2) an agreed list of medical treatment providers that may be the exclusive source of all medical and related treatment provided under this Act;

(3) the use of a limited list of impartial physicians to conduct independent medical examinations;

(4) the creation of a light duty, modified job, or return to work program;

(5) the use of a limited list of individuals and companies for the establishment of vocational rehabilitation or retraining programs that may be the exclusive source of rehabilitation and retraining services provided under this Act; or

(6) the establishment of joint labor management safety committees and safety procedures.

(c) Void Agreements.

Nothing in this Section shall be construed to authorize any agreement in a collective bargaining agreement that diminishes or increases a construction employer's entitlements under this Act or an employee's entitlement to benefits as otherwise set forth in this Act. For the purposes of this Section, the procedural rights and dispute resolution agreements under subparagraphs (1) thru (6) of subsection (b) of this Section are not agreements which diminish or increase a construction employer's entitlements under this Act or an employee's entitlement to benefits under this Act. Any agreement that diminishes or increases the construction employer's entitlements under this Act or an employee's entitlement to benefits as set forth in this Act are null and void. Nothing in this Section shall be construed as creating a mandatory subject of bargaining.

(d) Form of Agreement.

The agreement reached herein shall demonstrate that:

(1) the construction employer or group of employers and the recognized or certified exclusive bargaining representative have entered into a binding collective bargaining agreement adopting the ADR plan for a period of no less than 2 years;

(2) contractual agreements have been reached with the construction employer's workers' compensation carrier, group self-insurance fund, and any excess carriers relating to the ADR plan;

(3) procedures have been established by which claims for benefits by employees will be lodged, administered and decided while affording procedural due process;

(4) the plan has designated forms upon which claims for benefits shall be made;

(5) the system and means by which the construction employer's obligation to furnish medical services and vocational rehabilitation and retraining benefits shall be fulfilled and provider selected;

(6) the method by which mediators or arbitrators are to be selected.

(e) Filing.

A copy of the agreement and a statement identifying the parties to the agreement shall be filed with the Commission. Within 21 days of receipt of an agreement, the Chairman shall review the agreement for compliance with this Section and notify the parties of its acceptance, or notify the parties of any additional information required, or any recommended modification that would bring the agreement into compliance. If no additional information or modification is required, the agreement shall be valid and binding from the time the parties receive acceptance of the agreement from the Chairman. Upon receipt of any requested information or modification, the Chairman shall notify the parties within 21 days whether the agreement is in compliance with this Section. If no additional information or modification is required, the agreement shall be valid and binding from the time the parties receive acceptance of the agreement from the Chairman. All rejections made by the Chairman under this subsection shall be subject to review by the courts of this State, said review to be taken in the same manner and within the same time as provided by Section 19 of this Act for review of awards and decisions of the Commission. Upon the review, the Circuit Court shall have power to review all questions of fact as well as of law.

(f) Notice to Insurance carrier.

If the construction employer is insured under this Act, he, she, or it shall provide notice to and obtain consent from his, her, or its insurance carrier, in the manner provided in the insurance contract, of his, her, or its intent to enter into an agreement as provided in this Section with his, her, or its employees.

(g) Employees' Claims for Workers' Compensation Benefits.

(1) claims for benefits shall be filed with the ADR plan administrator within those periods of limitation prescribed by this Act. Within 10 days of the filing of a claim, the ADR plan administrator shall serve a copy of the claim application upon the Commission, which shall maintain records of all ADR claims and resolutions.

(2) settlements of claims presented to the ADR plan administrator shall be evidenced by a settlement agreement. All such settlements shall be filed with the ADR plan administrator, who within 10 days shall forward a copy to the Commission for recording.

(3) upon assignment of claims, unless settled, mediators and arbitrators shall render final orders containing essential findings of fact, rulings of law and referring to other matters as pertinent to the questions at issue. The ADR plan administrator shall maintain a record of the proceedings.

(h) Reporting Requirements.

Annually, each ADR plan administrator shall submit a report to the Commission containing the following information:

- (1) the number of employees within the ADR program;
- (2) the number of occurrences of work-related injuries or diseases;
- (3) the breakdown within the ADR program of injuries and diseases treated;
- (4) the total amount of disability benefits paid within the ADR program;
- (5) the total medical treatment cost paid within the ADR program;
- (6) the number of claims filed within the ADR program; and
- (7) the disposition of all claims.

(820 ILCS 305/8) (from Ch. 48, par. 138.8)

Sec. 8. The amount of compensation which shall be paid to the employee for an accidental injury not resulting in death is:

(a) The employer shall provide and pay the negotiated rate, if applicable, or the lesser of the health care provider's actual charges or according to a fee schedule, subject to Section 8.2, in effect at the time the service was rendered for all the necessary first aid, medical and surgical services, and all necessary medical, surgical and hospital services thereafter incurred, limited, however, to that which is reasonably required to cure or relieve from the effects of the accidental injury, even if a health care provider sells, transfers, or otherwise assigns an account receivable for procedures, treatments, or services covered under this Act. If the employer does not dispute payment of first aid, medical, surgical, and hospital services, the employer shall make such payment to the provider on behalf of the employee. The employer shall also pay for treatment, instruction and training necessary for the physical, mental and vocational rehabilitation of the employee, including all maintenance costs and expenses incidental thereto. If as a result of the injury the employee is unable to be self-sufficient the employer shall further pay for such maintenance or institutional care as shall be required.

Except as provided in subsection (a-1) of this Section, for up to 60 days from the report of injury to the employer, the employer shall choose all necessary medical, surgical and hospital services reasonably required to cure or relieve from the effects of the accidental injury, at the employer's expense. The employee shall cooperate with and adhere to the plan of care or treatment recommendations of the providers selected by the employer, unless the proposed care and treatment threatens the life, health or recovery of the injured employee. Upon a finding by the Commission, that the employer's choice of medical care is rendering improper or inadequate care, the employee may then choose a second physician, surgeon, and hospital services at the employer's expense. Initial emergency services, taking place within 45 days of the accident, shall not constitute a choice of physician, surgeon, or hospital services by the employer or employee. Except as provided in subsection (a-1) of this Section, the employee may after 60 days from the report of injury at any time elect to secure his own physician, surgeon and hospital services at the employer's expense. ~~or,~~

Upon agreement between the employer and the employees, or the employees' exclusive representative, and subject to the approval of the Illinois Workers' Compensation Commission, the employer shall maintain a list of physicians, to be known as a Panel of Physicians, who are accessible to the employees. The employer shall post this list in a place or places easily accessible to his employees. The employee shall have the right to make an alternative choice of physician from such Panel if he is not satisfied with the physician first selected. If, due to the nature of the injury or its occurrence away from the employer's place of business, the employee is unable to make a selection from the Panel, the selection process from

the Panel shall not apply. The physician selected from the Panel may arrange for any consultation, referral or other specialized medical services outside the Panel at the employer's expense. Provided that, in the event the Commission shall find that a doctor selected by the employee is rendering improper or inadequate care, the Commission may order the employee to select another doctor certified or qualified in the medical field for which treatment is required. If the employee refuses to make such change the Commission may relieve the employer of his obligation to pay the doctor's charges from the date of refusal to the date of compliance.

Any vocational rehabilitation counselors who provide service under this Act shall have appropriate certifications which designate the counselor as qualified to render opinions relating to vocational rehabilitation. Vocational rehabilitation may include, but is not limited to, counseling for job searches, supervising a job search program, and vocational retraining including education at an accredited learning institution. The employee or employer may petition to the Commission to decide disputes relating to vocational rehabilitation and the Commission shall resolve any such dispute, including payment of the vocational rehabilitation program by the employer.

The maintenance benefit shall not be less than the temporary total disability rate determined for the employee. In addition, maintenance shall include costs and expenses incidental to the vocational rehabilitation program.

When the employee is working light duty on a part-time basis or full-time basis and earns less than he or she would be earning if employed in the full capacity of the job or jobs, then the employee shall be entitled to temporary partial disability benefits. Temporary partial disability benefits shall be equal to two-thirds of the difference between the average amount that the employee would be able to earn in the full performance of his or her duties in the occupation in which he or she was engaged at the time of accident and the ~~gross net~~ amount which he or she is earning in the modified job provided to the employee by the employer or in any other job that the employee is working.

No employer shall be required to pay temporary partial disability benefits to an employee who has been discharged for cause on or after the effective date of this amendatory Act of the 97th General Assembly. Upon notification by the employer, the Commission shall suspend temporary partial disability benefits being paid to an employee who has been discharged for cause. Following a hearing, the Commission may reinstate the temporary partial benefits and retroactively restore any benefits the employer should have paid if it finds the employer's discharge of the employee was not for cause. If the Commission determines that the employee was discharged for cause, the temporary partial disability benefit shall be terminated. "Discharge for cause" means a discharge resulting from the employee's voluntary violation of a rule or policy of the employer not caused by the employee's disability.

Every hospital, physician, surgeon or other person rendering treatment or services in accordance with the provisions of this Section shall upon written request furnish full and complete reports thereof to, and permit their records to be copied by, the employer, the employee or his dependents, as the case may be, or any other party to any proceeding for compensation before the Commission, or their attorneys.

When an employee makes a claim for benefits under the Act, he or she waives their privacy privilege with any treating provider to the extent solely to allow the employer to obtain from a treating provider the necessary information to determine whether the condition of ill-being in question for which treatment is sought is work related, what that treatment is for purposes of approval of care, and whether or not, based upon the condition of ill-being, the employee is entitled to other benefits. The employer shall be entitled to contact the treating provider to seek information and answers from the treating provider regarding whether the condition of ill-being in question for which treatment is sought is work related, what that treatment or course of treatment is for purposes of approval of care, and the return to work options that the employer may have for the employee.

Notwithstanding the foregoing, the employer's liability to pay for such medical services selected by the employee shall be limited to:

- (1) all first aid and emergency treatment; plus
- (2) all medical, surgical and hospital services provided by the physician, surgeon or hospital initially chosen by the ~~employer employee~~ or by any other physician, consultant, expert, institution or other provider of services recommended by said initial service provider or any subsequent provider of medical services in the chain of referrals from said initial service provider; plus
- (3) except as provided in subsection (a-1) of this Section, all medical, surgical and hospital services provided by any second physician, surgeon or hospital subsequently chosen by the employee as allowed under this Section or by any other physician, consultant, expert, institution or other provider of services recommended by said second service provider or any subsequent provider of medical services in the chain of referrals from

said second service provider. Thereafter the employer shall select and pay for all necessary medical, surgical and hospital treatment and the employee may not select a provider of medical services at the employer's expense unless the employer agrees to such selection. At any time the employee may obtain any medical treatment he or she desires at his or her own expense. This paragraph shall not affect the duty to pay for rehabilitation referred to above.

Where, as provided in Section 11 of this Act, an employee is determined to be so intoxicated that the intoxication constituted a departure from employment, the employer shall only be liable to pay inpatient and outpatient hospital services furnished by a provider qualified to furnish those services that are needed to evaluate or stabilize an emergency medical condition. Emergency treatment for injuries caused by intoxication does not include post stabilization medical services.

When an employer and employee so agree in writing, nothing in this Act prevents an employee whose injury or disability has been established under this Act, from relying in good faith, on treatment by prayer or spiritual means alone, in accordance with the tenets and practice of a recognized church or religious denomination, by a duly accredited practitioner thereof, and having nursing services appropriate therewith, without suffering loss or diminution of the compensation benefits under this Act. However, the employee shall submit to all physical examinations required by this Act. The cost of such treatment and nursing care shall be paid by the employee unless the employer agrees to make such payment.

Where the accidental injury results in the amputation of an arm, hand, leg or foot, or the enucleation of an eye, or the loss of any of the natural teeth, the employer shall furnish an artificial of any such members lost or damaged in accidental injury arising out of and in the course of employment, and shall also furnish the necessary braces in all proper and necessary cases. In cases of the loss of a member or members by amputation, the employer shall, whenever necessary, maintain in good repair, refit or replace the artificial limbs during the lifetime of the employee. Where the accidental injury accompanied by physical injury results in damage to a denture, eye glasses or contact eye lenses, or where the accidental injury results in damage to an artificial member, the employer shall replace or repair such denture, glasses, lenses, or artificial member.

The furnishing by the employer of any such services or appliances is not an admission of liability on the part of the employer to pay compensation.

The furnishing of any such services or appliances or the servicing thereof by the employer is not the payment of compensation.

Except for the changes to the first paragraph of this subsection (a), the changes to this subsection (a) apply only to accidental injuries that occur on or after the effective date of this amendatory Act of the 97th General Assembly.

(a-1) To satisfy its liabilities under this Section for the provision of medical treatment to injured employees, an employer may utilize a preferred provider program approved by the Illinois Department of Insurance pursuant to Article XX-1/2 of the Illinois Insurance Code. The provider network shall include an adequate number and type of physicians or other providers to treat common injuries experienced by injured employees based on the type of occupation or industry in which the employee is engaged, and the geographic area where the employees are employed.

Medical treatment for injuries shall be readily available at reasonable times to all employees. To the extent feasible, all medical treatment for injuries shall be readily accessible to all employees.

All treatment provided shall be provided in accordance with standards of care of nationally recognized peer review guidelines as well as nationally recognized treatment guidelines and evidence-based medicine, as appropriate.

Notwithstanding the provisions of subsection (a) of this Section and for injuries incurred after the effective day of this amendatory Act of the 97th General Assembly, an employee of an employer utilizing a preferred provider network shall only be allowed to select a participating provider from the network. An employer shall be responsible for all medical care provided by participating providers under this Section determined by the Commission to be reasonable or necessary.

(b) If the period of temporary total incapacity for work lasts more than 3 working days, weekly compensation as hereinafter provided shall be paid beginning on the 4th day of such temporary total incapacity and continuing as long as the total temporary incapacity lasts. In cases where the temporary total incapacity for work continues for a period of 14 days or more from the day of the accident compensation shall commence on the day after the accident.

1. The compensation rate for temporary total incapacity under this paragraph (b) of this

Section shall be equal to 66 2/3% of the employee's average weekly wage computed in accordance with Section 10, provided that it shall be not less than 66 2/3% of the sum of the Federal minimum wage under the Fair Labor Standards Act, or the Illinois minimum wage under the Minimum Wage

Law, whichever is more, multiplied by 40 hours. This percentage rate shall be increased by 10% for each spouse and child, not to exceed 100% of the total minimum wage calculation, nor exceed the employee's average weekly wage computed in accordance with the provisions of

Section 10, whichever is less.

2. The compensation rate in all cases other than for temporary total disability under this paragraph (b), and other than for serious and permanent disfigurement under paragraph (c) and other than for permanent partial disability under subparagraph (2) of paragraph (d) or under paragraph (e), of this Section shall be equal to 66 2/3% of the employee's average weekly wage computed in accordance with the provisions of Section 10, provided that it shall be not less than 66 2/3% of the sum of the Federal minimum wage under the Fair Labor Standards Act, or the Illinois minimum wage under the Minimum Wage Law, whichever is more, multiplied by 40 hours. This percentage rate shall be increased by 10% for each spouse and child, not to exceed 100% of the total minimum wage calculation, nor exceed the employee's average weekly wage computed in accordance with the provisions of Section 10, whichever is less.

No employer shall be required to pay temporary total disability benefits to an employee who has been discharged for cause on or after the effective date of this amendatory Act of the 97th General Assembly. Upon notification by the employer, the Commission shall suspend temporary total disability benefits being paid to an employee who has been discharged for cause. Following a hearing, the Commission may reinstate the temporary total disability benefits and retroactively restore any benefits the employer should have paid if it finds the employer's discharge of the employee was not for cause. If the Commission determines that the employee was discharged for cause, the temporary total disability benefit shall be terminated. "Discharge for cause" means a discharge resulting from the employee's voluntary violation of a rule or policy of the employer not caused by the employee's disability.

2.1. The compensation rate in all cases of serious and permanent disfigurement under paragraph (c) and of permanent partial disability under subparagraph (2) of paragraph (d) or under paragraph (e) of this Section shall be equal to 60% of the employee's average weekly wage computed in accordance with the provisions of Section 10, provided that it shall be not less than 66 2/3% of the sum of the Federal minimum wage under the Fair Labor Standards Act, or the Illinois minimum wage under the Minimum Wage Law, whichever is more, multiplied by 40 hours. This percentage rate shall be increased by 10% for each spouse and child, not to exceed 100% of the total minimum wage calculation,

nor exceed the employee's average weekly wage computed in accordance with the provisions of

Section 10, whichever is less.

3. As used in this Section the term "child" means a child of the employee including any child legally adopted before the accident or whom at the time of the accident the employee was under legal obligation to support or to whom the employee stood in loco parentis, and who at the time of the accident was under 18 years of age and not emancipated. The term "children" means the plural of "child".

4. All weekly compensation rates provided under subparagraphs 1, 2 and 2.1 of this paragraph (b) of this Section shall be subject to the following limitations:

The maximum weekly compensation rate from July 1, 1975, except as hereinafter provided, shall be 100% of the State's average weekly wage in covered industries under the Unemployment Insurance Act, that being the wage that most closely approximates the State's average weekly wage.

The maximum weekly compensation rate, for the period July 1, 1984, through June 30, 1987, except as hereinafter provided, shall be \$293.61. Effective July 1, 1987 and on July 1 of each year thereafter the maximum weekly compensation rate, except as hereinafter provided, shall be determined as follows: if during the preceding 12 month period there shall have been an increase in the State's average weekly wage in covered industries under the Unemployment Insurance Act, the weekly compensation rate shall be proportionately increased by the same percentage as the percentage of increase in the State's average weekly wage in covered industries under the Unemployment Insurance Act during such period.

The maximum weekly compensation rate, for the period January 1, 1981 through December 31, 1983, except as hereinafter provided, shall be 100% of the State's average weekly wage in covered industries under the Unemployment Insurance Act in effect on January 1, 1981. Effective January 1, 1984 and on January 1, of each year thereafter the maximum weekly compensation rate, except as hereinafter provided, shall be determined as follows: if during the preceding 12 month period there shall have been an increase in the State's average weekly wage in covered industries under the Unemployment Insurance Act, the weekly compensation rate shall be proportionately increased by the same percentage as the percentage of increase in the State's average weekly wage in covered

industries under the Unemployment Insurance Act during such period.

From July 1, 1977 and thereafter such maximum weekly compensation rate in death cases under Section 7, and permanent total disability cases under paragraph (f) or subparagraph 18 of paragraph (3) of this Section and for temporary total disability under paragraph (b) of this Section and for amputation of a member or enucleation of an eye under paragraph (e) of this Section shall be increased to 133-1/3% of the State's average weekly wage in covered industries under the Unemployment Insurance Act.

For injuries occurring on or after February 1, 2006, the maximum weekly benefit under paragraph (d)1 of this Section shall be 100% of the State's average weekly wage in covered industries under the Unemployment Insurance Act.

4.1. Any provision herein to the contrary notwithstanding, the weekly compensation rate for compensation payments under subparagraph 18 of paragraph (e) of this Section and under paragraph (f) of this Section and under paragraph (a) of Section 7 and for amputation of a member or enucleation of an eye under paragraph (e) of this Section, shall in no event be less than 50% of the State's average weekly wage in covered industries under the Unemployment Insurance Act.

4.2. Any provision to the contrary notwithstanding, the total compensation payable under Section 7 shall not exceed the greater of \$500,000 or 25 years.

5. For the purpose of this Section this State's average weekly wage in covered industries under the Unemployment Insurance Act on July 1, 1975 is hereby fixed at \$228.16 per week and the computation of compensation rates shall be based on the aforesaid average weekly wage until modified as hereinafter provided.

6. The Department of Employment Security of the State shall on or before the first day of December, 1977, and on or before the first day of June, 1978, and on the first day of each December and June of each year thereafter, publish the State's average weekly wage in covered industries under the Unemployment Insurance Act and the Illinois Workers' Compensation Commission shall on the 15th day of January, 1978 and on the 15th day of July, 1978 and on the 15th day of each January and July of each year thereafter, post and publish the State's average weekly wage in covered industries under the Unemployment Insurance Act as last determined and published by the Department of Employment Security. The amount when so posted and published shall be conclusive and shall be applicable as the basis of computation of compensation rates until the next posting and publication as aforesaid.

7. The payment of compensation by an employer or his insurance carrier to an injured employee shall not constitute an admission of the employer's liability to pay compensation.

(c) For any serious and permanent disfigurement to the hand, head, face, neck, arm, leg below the knee or the chest above the axillary line, the employee is entitled to compensation for such disfigurement, the amount determined by agreement at any time or by arbitration under this Act, at a hearing not less than 6 months after the date of the accidental injury, which amount shall not exceed 150 weeks (if the accidental injury occurs on or after the effective date of this amendatory Act of the 94th General Assembly but before February 1, 2006) or 162 weeks (if the accidental injury occurs on or after February 1, 2006) at the applicable rate provided in subparagraph 2.1 of paragraph (b) of this Section.

No compensation is payable under this paragraph where compensation is payable under paragraphs (d), (e) or (f) of this Section.

A duly appointed member of a fire department in a city, the population of which exceeds 200,000 according to the last federal or State census, is eligible for compensation under this paragraph only where such serious and permanent disfigurement results from burns.

(d) 1. If, after the accidental injury has been sustained, the employee as a result thereof becomes partially incapacitated from pursuing his usual and customary line of employment, he shall, except in cases compensated under the specific schedule set forth in paragraph (e) of this Section, receive compensation for the duration of his disability, subject to the limitations as to maximum amounts fixed in paragraph (b) of this Section, equal to 66-2/3% of the difference between the average amount which he would be able to earn in the full performance of his duties in the occupation in which he was engaged at the time of the accident and the average amount which he is earning or is able to earn in some suitable employment or business after the accident. For accidental injuries that occur on and after the effective date of this amendatory Act of the 97th General Assembly, an award for wage differential under this subsection shall be effective only until the employee reaches the age of 67 or 5 years from the date the award becomes final, whichever is later.

2. If, as a result of the accident, the employee sustains serious and permanent injuries not covered by paragraphs (c) and (e) of this Section or having sustained injuries covered by the aforesaid paragraphs (c) and (e), he shall have sustained in addition thereto other injuries which injuries do not incapacitate

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him from pursuing the duties of his employment but which would disable him from pursuing other suitable occupations, or which have otherwise resulted in physical impairment; or if such injuries partially incapacitate him from pursuing the duties of his usual and customary line of employment but do not result in an impairment of earning capacity, or having resulted in an impairment of earning capacity, the employee elects to waive his right to recover under the foregoing subparagraph 1 of paragraph (d) of this Section then in any of the foregoing events, he shall receive in addition to compensation for temporary total disability under paragraph (b) of this Section, compensation at the rate provided in subparagraph 2.1 of paragraph (b) of this Section for that percentage of 500 weeks that the partial disability resulting from the injuries covered by this paragraph bears to total disability. If the employee shall have sustained a fracture of one or more vertebra or fracture of the skull, the amount of compensation allowed under this Section shall be not less than 6 weeks for a fractured skull and 6 weeks for each fractured vertebra, and in the event the employee shall have sustained a fracture of any of the following facial bones: nasal, lachrymal, vomer, zygoma, maxilla, palatine or mandible, the amount of compensation allowed under this Section shall be not less than 2 weeks for each such fractured bone, and for a fracture of each transverse process not less than 3 weeks. In the event such injuries shall result in the loss of a kidney, spleen or lung, the amount of compensation allowed under this Section shall be not less than 10 weeks for each such organ. Compensation awarded under this subparagraph 2 shall not take into consideration injuries covered under paragraphs (c) and (e) of this Section and the compensation provided in this paragraph shall not affect the employee's right to compensation payable under paragraphs (b), (c) and (e) of this Section for the disabilities therein covered.

(e) For accidental injuries in the following schedule, the employee shall receive compensation for the period of temporary total incapacity for work resulting from such accidental injury, under subparagraph 1 of paragraph (b) of this Section, and shall receive in addition thereto compensation for a further period for the specific loss herein mentioned, but shall not receive any compensation under any other provisions of this Act. The following listed amounts apply to either the loss of or the permanent and complete loss of use of the member specified, such compensation for the length of time as follows:

1. Thumb-
 - 70 weeks if the accidental injury occurs on or after the effective date of this amendatory Act of the 94th General Assembly but before February 1, 2006.
 - 76 weeks if the accidental injury occurs on or after February 1, 2006.
2. First, or index finger-
 - 40 weeks if the accidental injury occurs on or after the effective date of this amendatory Act of the 94th General Assembly but before February 1, 2006.
 - 43 weeks if the accidental injury occurs on or after February 1, 2006.
3. Second, or middle finger-
 - 35 weeks if the accidental injury occurs on or after the effective date of this amendatory Act of the 94th General Assembly but before February 1, 2006.
 - 38 weeks if the accidental injury occurs on or after February 1, 2006.
4. Third, or ring finger-
 - 25 weeks if the accidental injury occurs on or after the effective date of this amendatory Act of the 94th General Assembly but before February 1, 2006.
 - 27 weeks if the accidental injury occurs on or after February 1, 2006.
5. Fourth, or little finger-
 - 20 weeks if the accidental injury occurs on or after the effective date of this amendatory Act of the 94th General Assembly but before February 1, 2006.
 - 22 weeks if the accidental injury occurs on or after February 1, 2006.
6. Great toe-
 - 35 weeks if the accidental injury occurs on or after the effective date of this amendatory Act of the 94th General Assembly but before February 1, 2006.
 - 38 weeks if the accidental injury occurs on or after February 1, 2006.
7. Each toe other than great toe-
 - 12 weeks if the accidental injury occurs on or after the effective date of this amendatory Act of the 94th General Assembly but before February 1, 2006.
 - 13 weeks if the accidental injury occurs on or after February 1, 2006.
8. The loss of the first or distal phalanx of the thumb or of any finger or toe shall be considered to be equal to the loss of one-half of such thumb, finger or toe and the compensation payable shall be one-half of the amount above specified. The loss of more than one phalanx shall be considered as the loss of the entire thumb, finger or toe. In no case shall the amount received for more than one finger exceed the amount provided in this schedule for the loss of a hand.

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9. Hand-

190 weeks if the accidental injury occurs on or after the effective date of this amendatory Act of the 94th General Assembly but before February 1, 2006.

205 weeks if the accidental injury occurs on or after February 1, 2006.

The loss of 2 or more digits, or one or more phalanges of 2 or more digits, of a hand may be compensated on the basis of partial loss of use of a hand, provided, further, that the loss of 4 digits, or the loss of use of 4 digits, in the same hand shall constitute the complete loss of a hand.

10. Arm-

235 weeks if the accidental injury occurs on or after the effective date of this amendatory Act of the 94th General Assembly but before February 1, 2006.

253 weeks if the accidental injury occurs on or after February 1, 2006.

Where an accidental injury results in the amputation of an arm below the elbow, such injury shall be compensated as a loss of an arm. Where an accidental injury results in the amputation of an arm above the elbow, compensation for an additional 15 weeks (if the accidental injury occurs on or after the effective date of this amendatory Act of the 94th General Assembly but before February 1, 2006) or an additional 17 weeks (if the accidental injury occurs on or after February 1, 2006) shall be paid, except where the accidental injury results in the amputation of an arm at the shoulder joint, or so close to shoulder joint that an artificial arm cannot be used, or results in the disarticulation of an arm at the shoulder joint, in which case compensation for an additional 65 weeks (if the accidental injury occurs on or after the effective date of this amendatory Act of the 94th General Assembly but before February 1, 2006) or an additional 70 weeks (if the accidental injury occurs on or after February 1, 2006) shall be paid.

11. Foot-

155 weeks if the accidental injury occurs on or after the effective date of this amendatory Act of the 94th General Assembly but before February 1, 2006.

167 weeks if the accidental injury occurs on or after February 1, 2006.

12. Leg-

200 weeks if the accidental injury occurs on or after the effective date of this amendatory Act of the 94th General Assembly but before February 1, 2006.

215 weeks if the accidental injury occurs on or after February 1, 2006.

Where an accidental injury results in the amputation of a leg below the knee, such injury shall be compensated as loss of a leg. Where an accidental injury results in the amputation of a leg above the knee, compensation for an additional 25 weeks (if the accidental injury occurs on or after the effective date of this amendatory Act of the 94th General Assembly but before February 1, 2006) or an additional 27 weeks (if the accidental injury occurs on or after February 1, 2006) shall be paid, except where the accidental injury results in the amputation of a leg at the hip joint, or so close to the hip joint that an artificial leg cannot be used, or results in the disarticulation of a leg at the hip joint, in which case compensation for an additional 75 weeks (if the accidental injury occurs on or after the effective date of this amendatory Act of the 94th General Assembly but before February 1, 2006) or an additional 81 weeks (if the accidental injury occurs on or after February 1, 2006) shall be paid.

13. Eye-

150 weeks if the accidental injury occurs on or after the effective date of this amendatory Act of the 94th General Assembly but before February 1, 2006.

162 weeks if the accidental injury occurs on or after February 1, 2006.

Where an accidental injury results in the enucleation of an eye, compensation for an additional 10 weeks (if the accidental injury occurs on or after the effective date of this amendatory Act of the 94th General Assembly but before February 1, 2006) or an additional 11 weeks (if the accidental injury occurs on or after February 1, 2006) shall be paid.

14. Loss of hearing of one ear-

50 weeks if the accidental injury occurs on or after the effective date of this amendatory Act of the 94th General Assembly but before February 1, 2006.

54 weeks if the accidental injury occurs on or after February 1, 2006.

Total and permanent loss of hearing of both ears-

200 weeks if the accidental injury occurs on or after the effective date of this amendatory Act of the 94th General Assembly but before February 1, 2006.

215 weeks if the accidental injury occurs on or after February 1, 2006.

15. Testicle-

50 weeks if the accidental injury occurs on or after the effective date of this

amendatory Act of the 94th General Assembly but before February 1, 2006.

54 weeks if the accidental injury occurs on or after February 1, 2006.

Both testicles-

150 weeks if the accidental injury occurs on or after the effective date of this

amendatory Act of the 94th General Assembly but before February 1, 2006.

162 weeks if the accidental injury occurs on or after February 1, 2006.

16. For the permanent partial loss of use of a member or sight of an eye, or hearing of an ear, compensation during that proportion of the number of weeks in the foregoing schedule provided for the loss of such member or sight of an eye, or hearing of an ear, which the partial loss of use thereof bears to the total loss of use of such member, or sight of eye, or hearing of an ear.

(a) Loss of hearing for compensation purposes shall be confined to the frequencies of 1,000, 2,000 and 3,000 cycles per second. Loss of hearing ability for frequency tones above 3,000 cycles per second are not to be considered as constituting disability for hearing.

(b) The percent of hearing loss, for purposes of the determination of compensation claims for occupational deafness, shall be calculated as the average in decibels for the thresholds of hearing for the frequencies of 1,000, 2,000 and 3,000 cycles per second. Pure tone air conduction audiometric instruments, approved by nationally recognized authorities in this field, shall be used for measuring hearing loss. If the losses of hearing average 30 decibels or less in the 3 frequencies, such losses of hearing shall not then constitute any compensable hearing disability. If the losses of hearing average 85 decibels or more in the 3 frequencies, then the same shall constitute and be total or 100% compensable hearing loss.

(c) In measuring hearing impairment, the lowest measured losses in each of the 3 frequencies shall be added together and divided by 3 to determine the average decibel loss. For every decibel of loss exceeding 30 decibels an allowance of 1.82% shall be made up to the maximum of 100% which is reached at 85 decibels.

(d) If a hearing loss is established to have existed on July 1, 1975 by audiometric testing the employer shall not be liable for the previous loss so established nor shall he be liable for any loss for which compensation has been paid or awarded.

(e) No consideration shall be given to the question of whether or not the ability of an employee to understand speech is improved by the use of a hearing aid.

(f) No claim for loss of hearing due to industrial noise shall be brought against an employer or allowed unless the employee has been exposed for a period of time sufficient to cause permanent impairment to noise levels in excess of the following:

Sound Level DBA Slow Response	Hours Per Day
90	8
92	6
95	4
97	3
100	2
102	1-1/2
105	1
110	1/2
115	1/4

This subparagraph (f) shall not be applied in cases of hearing loss resulting from trauma or explosion.

17. In computing the compensation to be paid to any employee who, before the accident for which he claims compensation, had before that time sustained an injury resulting in the loss by amputation or partial loss by amputation of any member, including hand, arm, thumb or fingers, leg, foot or any toes, such loss or partial loss of any such member shall be deducted from any award made for the subsequent injury. For the permanent loss of use or the permanent partial loss of use of any such member or the partial loss of sight of an eye, for which compensation has been paid, then such loss shall be taken into consideration and deducted from any award for the subsequent injury.

18. The specific case of loss of both hands, both arms, or both feet, or both legs, or both eyes, or of any two thereof, or the permanent and complete loss of the use thereof, constitutes total and permanent disability, to be compensated according to the compensation fixed by paragraph (f) of this Section. These specific cases of total and permanent disability do not exclude other cases.

Any employee who has previously suffered the loss or permanent and complete loss of the

use of any of such members, and in a subsequent independent accident loses another or suffers the permanent and complete loss of the use of any one of such members the employer for whom the injured employee is working at the time of the last independent accident is liable to pay compensation only for the loss or permanent and complete loss of the use of the member occasioned by the last independent accident.

19. In a case of specific loss and the subsequent death of such injured employee from other causes than such injury leaving a widow, widower, or dependents surviving before payment or payment in full for such injury, then the amount due for such injury is payable to the widow or widower and, if there be no widow or widower, then to such dependents, in the proportion which such dependency bears to total dependency.

Beginning July 1, 1980, and every 6 months thereafter, the Commission shall examine the Second Injury Fund and when, after deducting all advances or loans made to such Fund, the amount therein is \$500,000 then the amount required to be paid by employers pursuant to paragraph (f) of Section 7 shall be reduced by one-half. When the Second Injury Fund reaches the sum of \$600,000 then the payments shall cease entirely. However, when the Second Injury Fund has been reduced to \$400,000, payment of one-half of the amounts required by paragraph (f) of Section 7 shall be resumed, in the manner herein provided, and when the Second Injury Fund has been reduced to \$300,000, payment of the full amounts required by paragraph (f) of Section 7 shall be resumed, in the manner herein provided. The Commission shall make the changes in payment effective by general order, and the changes in payment become immediately effective for all cases coming before the Commission thereafter either by settlement agreement or final order, irrespective of the date of the accidental injury.

On August 1, 1996 and on February 1 and August 1 of each subsequent year, the Commission shall examine the special fund designated as the "Rate Adjustment Fund" and when, after deducting all advances or loans made to said fund, the amount therein is \$4,000,000, the amount required to be paid by employers pursuant to paragraph (f) of Section 7 shall be reduced by one-half. When the Rate Adjustment Fund reaches the sum of \$5,000,000 the payment therein shall cease entirely. However, when said Rate Adjustment Fund has been reduced to \$3,000,000 the amounts required by paragraph (f) of Section 7 shall be resumed in the manner herein provided.

(f) In case of complete disability, which renders the employee wholly and permanently incapable of work, or in the specific case of total and permanent disability as provided in subparagraph 18 of paragraph (e) of this Section, compensation shall be payable at the rate provided in subparagraph 2 of paragraph (b) of this Section for life.

An employee entitled to benefits under paragraph (f) of this Section shall also be entitled to receive from the Rate Adjustment Fund provided in paragraph (f) of Section 7 of the supplementary benefits provided in paragraph (g) of this Section 8.

If any employee who receives an award under this paragraph afterwards returns to work or is able to do so, and earns or is able to earn as much as before the accident, payments under such award shall cease. If such employee returns to work, or is able to do so, and earns or is able to earn part but not as much as before the accident, such award shall be modified so as to conform to an award under paragraph (d) of this Section. If such award is terminated or reduced under the provisions of this paragraph, such employees have the right at any time within 30 months after the date of such termination or reduction to file petition with the Commission for the purpose of determining whether any disability exists as a result of the original accidental injury and the extent thereof.

Disability as enumerated in subdivision 18, paragraph (e) of this Section is considered complete disability.

If an employee who had previously incurred loss or the permanent and complete loss of use of one member, through the loss or the permanent and complete loss of the use of one hand, one arm, one foot, one leg, or one eye, incurs permanent and complete disability through the loss or the permanent and complete loss of the use of another member, he shall receive, in addition to the compensation payable by the employer and after such payments have ceased, an amount from the Second Injury Fund provided for in paragraph (f) of Section 7, which, together with the compensation payable from the employer in whose employ he was when the last accidental injury was incurred, will equal the amount payable for permanent and complete disability as provided in this paragraph of this Section.

The custodian of the Second Injury Fund provided for in paragraph (f) of Section 7 shall be joined with the employer as a party respondent in the application for adjustment of claim. The application for adjustment of claim shall state briefly and in general terms the approximate time and place and manner of the loss of the first member.

In its award the Commission or the Arbitrator shall specifically find the amount the injured employee shall be weekly paid, the number of weeks compensation which shall be paid by the employer, the date

upon which payments begin out of the Second Injury Fund provided for in paragraph (f) of Section 7 of this Act, the length of time the weekly payments continue, the date upon which the pension payments commence and the monthly amount of the payments. The Commission shall 30 days after the date upon which payments out of the Second Injury Fund have begun as provided in the award, and every month thereafter, prepare and submit to the State Comptroller a voucher for payment for all compensation accrued to that date at the rate fixed by the Commission. The State Comptroller shall draw a warrant to the injured employee along with a receipt to be executed by the injured employee and returned to the Commission. The endorsed warrant and receipt is a full and complete acquittance to the Commission for the payment out of the Second Injury Fund. No other appropriation or warrant is necessary for payment out of the Second Injury Fund. The Second Injury Fund is appropriated for the purpose of making payments according to the terms of the awards.

As of July 1, 1980 to July 1, 1982, all claims against and obligations of the Second Injury Fund shall become claims against and obligations of the Rate Adjustment Fund to the extent there is insufficient money in the Second Injury Fund to pay such claims and obligations. In that case, all references to "Second Injury Fund" in this Section shall also include the Rate Adjustment Fund.

(g) Every award for permanent total disability entered by the Commission on and after July 1, 1965 under which compensation payments shall become due and payable after the effective date of this amendatory Act, and every award for death benefits or permanent total disability entered by the Commission on and after the effective date of this amendatory Act shall be subject to annual adjustments as to the amount of the compensation rate therein provided. Such adjustments shall first be made on July 15, 1977, and all awards made and entered prior to July 1, 1975 and on July 15 of each year thereafter. In all other cases such adjustment shall be made on July 15 of the second year next following the date of the entry of the award and shall further be made on July 15 annually thereafter. If during the intervening period from the date of the entry of the award, or the last periodic adjustment, there shall have been an increase in the State's average weekly wage in covered industries under the Unemployment Insurance Act, the weekly compensation rate shall be proportionately increased by the same percentage as the percentage of increase in the State's average weekly wage in covered industries under the Unemployment Insurance Act. The increase in the compensation rate under this paragraph shall in no event bring the total compensation rate to an amount greater than the prevailing maximum rate at the time that the annual adjustment is made. Such increase shall be paid in the same manner as herein provided for payments under the Second Injury Fund to the injured employee, or his dependents, as the case may be, out of the Rate Adjustment Fund provided in paragraph (f) of Section 7 of this Act. Payments shall be made at the same intervals as provided in the award or, at the option of the Commission, may be made in quarterly payment on the 15th day of January, April, July and October of each year. In the event of a decrease in such average weekly wage there shall be no change in the then existing compensation rate. The within paragraph shall not apply to cases where there is disputed liability and in which a compromise lump sum settlement between the employer and the injured employee, or his dependents, as the case may be, has been duly approved by the Illinois Workers' Compensation Commission.

Provided, that in cases of awards entered by the Commission for injuries occurring before July 1, 1975, the increases in the compensation rate adjusted under the foregoing provision of this paragraph (g) shall be limited to increases in the State's average weekly wage in covered industries under the Unemployment Insurance Act occurring after July 1, 1975.

For every accident occurring on or after July 20, 2005 but before the effective date of this amendatory Act of the 94th General Assembly (Senate Bill 1283 of the 94th General Assembly), the annual adjustments to the compensation rate in awards for death benefits or permanent total disability, as provided in this Act, shall be paid by the employer. The adjustment shall be made by the employer on July 15 of the second year next following the date of the entry of the award and shall further be made on July 15 annually thereafter. If during the intervening period from the date of the entry of the award, or the last periodic adjustment, there shall have been an increase in the State's average weekly wage in covered industries under the Unemployment Insurance Act, the employer shall increase the weekly compensation rate proportionately by the same percentage as the percentage of increase in the State's average weekly wage in covered industries under the Unemployment Insurance Act. The increase in the compensation rate under this paragraph shall in no event bring the total compensation rate to an amount greater than the prevailing maximum rate at the time that the annual adjustment is made. In the event of a decrease in such average weekly wage there shall be no change in the then existing compensation rate. Such increase shall be paid by the employer in the same manner and at the same intervals as the payment of compensation in the award. This paragraph shall not apply to cases where there is disputed liability and in which a compromise lump sum settlement between the employer and the injured employee, or his

or her dependents, as the case may be, has been duly approved by the Illinois Workers' Compensation Commission.

The annual adjustments for every award of death benefits or permanent total disability involving accidents occurring before July 20, 2005 and accidents occurring on or after the effective date of this amendatory Act of the 94th General Assembly (Senate Bill 1283 of the 94th General Assembly) shall continue to be paid from the Rate Adjustment Fund pursuant to this paragraph and Section 7(f) of this Act.

(h) In case death occurs from any cause before the total compensation to which the employee would have been entitled has been paid, then in case the employee leaves any widow, widower, child, parent (or any grandchild, grandparent or other lineal heir or any collateral heir dependent at the time of the accident upon the earnings of the employee to the extent of 50% or more of total dependency) such compensation shall be paid to the beneficiaries of the deceased employee and distributed as provided in paragraph (g) of Section 7.

(h-1) In case an injured employee is under legal disability at the time when any right or privilege accrues to him or her under this Act, a guardian may be appointed pursuant to law, and may, on behalf of such person under legal disability, claim and exercise any such right or privilege with the same effect as if the employee himself or herself had claimed or exercised the right or privilege. No limitations of time provided by this Act run so long as the employee who is under legal disability is without a conservator or guardian.

(i) In case the injured employee is under 16 years of age at the time of the accident and is illegally employed, the amount of compensation payable under paragraphs (b), (c), (d), (e) and (f) of this Section is increased 50%.

However, where an employer has on file an employment certificate issued pursuant to the Child Labor Law or work permit issued pursuant to the Federal Fair Labor Standards Act, as amended, or a birth certificate properly and duly issued, such certificate, permit or birth certificate is conclusive evidence as to the age of the injured minor employee for the purposes of this Section.

Nothing herein contained repeals or amends the provisions of the Child Labor Law relating to the employment of minors under the age of 16 years.

(j) 1. In the event the injured employee receives benefits, including medical, surgical or hospital benefits under any group plan covering non-occupational disabilities contributed to wholly or partially by the employer, which benefits should not have been payable if any rights of recovery existed under this Act, then such amounts so paid to the employee from any such group plan as shall be consistent with, and limited to, the provisions of paragraph 2 hereof, shall be credited to or against any compensation payment for temporary total incapacity for work or any medical, surgical or hospital benefits made or to be made under this Act. In such event, the period of time for giving notice of accidental injury and filing application for adjustment of claim does not commence to run until the termination of such payments. This paragraph does not apply to payments made under any group plan which would have been payable irrespective of an accidental injury under this Act. Any employer receiving such credit shall keep such employee safe and harmless from any and all claims or liabilities that may be made against him by reason of having received such payments only to the extent of such credit.

Any excess benefits paid to or on behalf of a State employee by the State Employees' Retirement System under Article 14 of the Illinois Pension Code on a death claim or disputed disability claim shall be credited against any payments made or to be made by the State of Illinois to or on behalf of such employee under this Act, except for payments for medical expenses which have already been incurred at the time of the award. The State of Illinois shall directly reimburse the State Employees' Retirement System to the extent of such credit.

2. Nothing contained in this Act shall be construed to give the employer or the insurance carrier the right to credit for any benefits or payments received by the employee other than compensation payments provided by this Act, and where the employee receives payments other than compensation payments, whether as full or partial salary, group insurance benefits, bonuses, annuities or any other payments, the employer or insurance carrier shall receive credit for each such payment only to the extent of the compensation that would have been payable during the period covered by such payment.

3. The extension of time for the filing of an Application for Adjustment of Claim as provided in paragraph 1 above shall not apply to those cases where the time for such filing had expired prior to the date on which payments or benefits enumerated herein have been initiated or resumed. Provided however that this paragraph 3 shall apply only to cases wherein the payments or benefits hereinabove enumerated shall be received after July 1, 1969.

(Source: P.A. 93-721, eff. 1-1-05; 94-277, eff. 7-20-05; 94-695, eff. 11-16-05.)

[April 14, 2011]

(820 ILCS 305/8.1 new)

Sec. 8.1. Determination of permanent partial disability. For accidental injuries that occur on or after December 31, 2011, permanent partial disability shall be established using the following criteria:

(a) A physician licensed to practice medicine in all of its branches shall certify the level of impairment in writing. The certification shall include a demonstration using medically defined objective measurements of impairment that include, but are not limited to: loss of range of motion, loss of strength, and measured atrophy of tissue mass consistent with the injury. The most current edition of the American Medical Association's "Guides to the Evaluation of Permanent Impairment" shall be applied in determining the level of impairment.

(b) The certification of the physician shall establish the level of impairment.

(c) In determining the level of disability, the Commission shall base their determination on the level of impairment as certified by the physician. The Commission may deviate from the level of impairment only using the following additional factors: (i) the occupation of the injured employee, including whether the injured employee is able to perform their previous work activities, and (ii) the employee's future earning capacity. In determining the level of disability, the reasons for any deviation from the level of impairment as certified by the physician licensed to practice medicine in all of its branches must be explained in detail in a written order and proven by a preponderance of the evidence.

(820 ILCS 305/8.2)

Sec. 8.2. Fee schedule.

(a) Except as provided for in subsection (c), for procedures, treatments, or services covered under this Act and rendered or to be rendered on and after February 1, 2006, the maximum allowable payment shall be 90% of the 80th percentile of charges and fees as determined by the Commission utilizing information provided by employers' and insurers' national databases, with a minimum of 12,000,000 Illinois line item charges and fees comprised of health care provider and hospital charges and fees as of August 1, 2004 but not earlier than August 1, 2002. These charges and fees are provider billed amounts and shall not include discounted charges. The 80th percentile is the point on an ordered data set from low to high such that 80% of the cases are below or equal to that point and at most 20% are above or equal to that point. The Commission shall adjust these historical charges and fees as of August 1, 2004 by the Consumer Price Index-U for the period August 1, 2004 through September 30, 2005. The Commission shall establish fee schedules for procedures, treatments, or services for hospital inpatient, hospital outpatient, emergency room and trauma, ambulatory surgical treatment centers, and professional services.

(a-1) These charges and fees shall be designated by geozip or any smaller geographic unit. The data shall in no way identify or tend to identify any patient, employer, or health care provider. As used in this Section, "geozip" means a three-digit zip code based on data similarities, geographical similarities, and frequencies. A geozip does not cross state boundaries. As used in this Section, "three-digit zip code" means a geographic area in which all zip codes have the same first 3 digits. If a geozip does not have the necessary number of charges and fees to calculate a valid percentile for a specific procedure, treatment, or service, the Commission may combine data from the geozip with up to 4 other geozips that are demographically and economically similar and exhibit similarities in data and frequencies until the Commission reaches 9 charges or fees for that specific procedure, treatment, or service. In cases where the compiled data contains less than 9 charges or fees for a procedure, treatment, or service, reimbursement shall occur at 76% of charges and fees as determined by the Commission in a manner consistent with the provisions of this paragraph. This subsection shall apply until July 1, 2011.

(a-2) Providers of out-of-state procedures, treatments, services, products, or supplies shall be reimbursed at the lesser of that state's fee schedule amount or the fee schedule amount that would apply to the region where the employer is located. If no fee schedule exists in that state, the provider shall be reimbursed at the lesser of the actual charge or the fee schedule amount that would apply to the region where the employer is located. If out-of-state treatment is being undertaken and the employer is also located outside the State of Illinois, the provider shall be reimbursed at the lesser of the actual charge or the fee schedule amount that would apply to the location of the accident. ~~The Commission has the authority to set the maximum allowable payment to providers of out of state procedures, treatments, or services covered under this Act in a manner consistent with this Section.~~

(a-3) Not later than September 30 in 2006 and each year thereafter, the Commission shall automatically increase or decrease the maximum allowable payment for a procedure, treatment, or service established and in effect on January 1 of that year by the percentage change in the Consumer Price Index-U for the 12 month period ending August 31 of that year. The increase or decrease shall become effective on January 1 of the following year. As used in this Section, "Consumer Price Index-U" means the index published by the Bureau of Labor Statistics of the U.S. Department of Labor, that

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measures the average change in prices of all goods and services purchased by all urban consumers, U.S. city average, all items, 1982-84=100.

(a-4) Notwithstanding the provisions of subsection (a), the following provisions shall apply to the medical fee schedule starting on July 1, 2011:

(1) The Commission shall establish and maintain fee schedules for procedures, treatments, products, services, or supplies for hospital inpatient, hospital outpatient, emergency room, accredited ambulatory surgical treatment facilities, prescriptions filled and dispensed outside of a licensed pharmacy, dental services, and professional services. An accredited ambulatory surgical treatment facility is one defined by the Illinois Department of Public Health or by accreditation organizations determined by the Commission. Services provided at an unaccredited ambulatory surgical treatment facilities shall not be compensated under the Illinois Workers' Compensation Medical Fee Schedules.

This fee schedule shall be based on the fee schedule amounts already established by the Commission pursuant to subsection (a) of this Section. However, these fee schedule amounts shall be grouped into regions consistent with nationally recognized reimbursement zip codes in Illinois and shall represent the average amount for a procedure, treatment or service for all the geozips reorganized into the new region.

(2) In cases where the compiled data contains less than 9 charges or fees for a procedure, treatment, product, supply, or service or where the fee schedule amount cannot be determined by the non-discounted charge data, non-Medicare relative values and conversion factors derived from established fee schedule amounts, coding crosswalks, or other data as determined by the Commission, reimbursement shall occur at 76% of charges and fees until July 1, 2011 and 53.2% of charges and fees thereafter as determined by the Commission in a manner consistent with the provisions of this paragraph.

(3) To establish additional fee schedule amounts, the Commission shall utilize provider non-discounted charge data, non-Medicare relative values and conversion factors derived from established fee schedule amounts, and coding crosswalks. The Commission may establish additional fee schedule amounts based on either the charge or cost of the procedure, treatment, product, supply, or service.

(4) Implants shall be reimbursed at 25% above the net manufacturer's invoice price less rebates, plus actual reasonable and customary shipping charges whether or not the implant charge is submitted by a provider in conjunction with a bill for all other services associated with the implant, submitted by a provider on a separate claim form, submitted by a distributor, or submitted by the manufacturer of the implant. "Implants" include the following codes or any substantially similar updated code as determined by the Commission: 0274 (prosthetics/orthotics); 0275 (pacemaker); 0276 (lens implant); 0278 (implants); 0540 and 0545 (ambulance); 0624 (investigational devices); and 0636 (drugs requiring detailed coding). Non-implantable devices or supplies within these codes shall be reimbursed at 65% of actual charge, which is the provider's normal rates under its standard chargemaster. A standard chargemaster is the provider's list of charges for procedures, treatments, products, supplies, or services used to bill payers in a consistent manner.

(5) The Commission shall automatically update all codes and associated rules with the version of the codes and rules valid on January 1 of that year, including the most current version of the National Correct Coding Initiative Edits as published by the Center for Medicare and Medicaid Services.

(a-5) For procedures, treatments, services, or supplies covered under this Act and rendered or to be rendered on or after July 1, 2011, the maximum allowable payment shall be 70% of the fee schedule amounts in place as of June 30, 2011, which shall be adjusted yearly by the Consumer Price Index-U, as described in subsection (a) of this Section.

(a-6) Prescriptions filled and dispensed outside of a licensed pharmacy shall be subject to a fee schedule that shall not exceed the Average Wholesale Price (AWP) plus a dispensing fee of \$4.18. AWP or its equivalent as registered by the National Drug Code shall be set forth for that drug on that date as published in Medispan.

(b) Notwithstanding the provisions of subsection (a), if the Commission finds that there is a significant limitation on access to quality health care in either a specific field of health care services or a specific geographic limitation on access to health care, it may change the Consumer Price Index-U increase or decrease for that specific field or specific geographic limitation on access to health care to address that limitation.

(c) The Commission shall establish by rule a process to review those medical cases or outliers that involve extra-ordinary treatment to determine whether to make an additional adjustment to the maximum payment within a fee schedule for a procedure, treatment, or service.

(d) When a patient notifies a provider that the treatment, procedure, or service being sought is for a work-related illness or injury and furnishes the provider the name and address of the responsible employer, the provider shall bill the employer directly. The employer shall make payment and providers

shall submit bills and records in accordance with the provisions of this Section.

(1) All payments to providers for treatment provided pursuant to this Act shall be made within 60 days of receipt of the bills as long as the claim contains substantially all the required data elements necessary to adjudicate the bills.

(2) In the case of nonpayment to a provider within 60 days of receipt of the bill which contained substantially all of the required data elements necessary to adjudicate the bill or nonpayment to a provider of a portion of such a bill up to the lesser of the actual charge or the payment level set by the Commission in the fee schedule established in this Section, the bill, or portion of the bill, shall incur interest at a rate of 1% per month payable to the provider.

(e) Except as provided in subsections (e-5), (e-10), and (e-15), a provider shall not hold an employee liable for costs related to a non-disputed procedure, treatment, or service rendered in connection with a compensable injury. The provisions of subsections (e-5), (e-10), (e-15), and (e-20) shall not apply if an employee provides information to the provider regarding participation in a group health plan. If the employee participates in a group health plan, the provider may submit a claim for services to the group health plan. If the claim for service is covered by the group health plan, the employee's responsibility shall be limited to applicable deductibles, co-payments, or co-insurance. Except as provided under subsections (e-5), (e-10), (e-15), and (e-20), a provider shall not bill or otherwise attempt to recover from the employee the difference between the provider's charge and the amount paid by the employer or the insurer on a compensable injury, or for medical services or treatment determined by the Commission to be excessive or unnecessary.

(e-5) If an employer notifies a provider that the employer does not consider the illness or injury to be compensable under this Act, the provider may seek payment of the provider's actual charges from the employee for any procedure, treatment, or service rendered. Once an employee informs the provider that there is an application filed with the Commission to resolve a dispute over payment of such charges, the provider shall cease any and all efforts to collect payment for the services that are the subject of the dispute. Any statute of limitations or statute of repose applicable to the provider's efforts to collect payment from the employee shall be tolled from the date that the employee files the application with the Commission until the date that the provider is permitted to resume collection efforts under the provisions of this Section.

(e-10) If an employer notifies a provider that the employer will pay only a portion of a bill for any procedure, treatment, or service rendered in connection with a compensable illness or disease, the provider may seek payment from the employee for the remainder of the amount of the bill up to the lesser of the actual charge, negotiated rate, if applicable, or the payment level set by the Commission in the fee schedule established in this Section. Once an employee informs the provider that there is an application filed with the Commission to resolve a dispute over payment of such charges, the provider shall cease any and all efforts to collect payment for the services that are the subject of the dispute. Any statute of limitations or statute of repose applicable to the provider's efforts to collect payment from the employee shall be tolled from the date that the employee files the application with the Commission until the date that the provider is permitted to resume collection efforts under the provisions of this Section.

(e-15) When there is a dispute over the compensability of or amount of payment for a procedure, treatment, or service, and a case is pending or proceeding before an Arbitrator or the Commission, the provider may mail the employee reminders that the employee will be responsible for payment of any procedure, treatment or service rendered by the provider. The reminders must state that they are not bills, to the extent practicable include itemized information, and state that the employee need not pay until such time as the provider is permitted to resume collection efforts under this Section. The reminders shall not be provided to any credit rating agency. The reminders may request that the employee furnish the provider with information about the proceeding under this Act, such as the file number, names of parties, and status of the case. If an employee fails to respond to such request for information or fails to furnish the information requested within 90 days of the date of the reminder, the provider is entitled to resume any and all efforts to collect payment from the employee for the services rendered to the employee and the employee shall be responsible for payment of any outstanding bills for a procedure, treatment, or service rendered by a provider.

(e-20) Upon a final award or judgment by an Arbitrator or the Commission, or a settlement agreed to by the employer and the employee, a provider may resume any and all efforts to collect payment from the employee for the services rendered to the employee and the employee shall be responsible for payment of any outstanding bills for a procedure, treatment, or service rendered by a provider as well as the interest awarded under subsection (d) of this Section. In the case of a procedure, treatment, or service deemed compensable, the provider shall not require a payment rate, excluding the interest provisions under subsection (d), greater than the lesser of the actual charge or the payment level set by the

Commission in the fee schedule established in this Section. Payment for services deemed not covered or not compensable under this Act is the responsibility of the employee unless a provider and employee have agreed otherwise in writing. Services not covered or not compensable under this Act are not subject to the fee schedule in this Section.

(f) Nothing in this Act shall prohibit an employer or insurer from contracting with a health care provider or group of health care providers for reimbursement levels for benefits under this Act different from those provided in this Section.

(g) On or before January 1, 2010 the Commission shall provide to the Governor and General Assembly a report regarding the implementation of the medical fee schedule and the index used for annual adjustment to that schedule as described in this Section.

(Source: P.A. 94-277, eff. 7-20-05; 94-695, eff. 11-16-05.)

(820 ILCS 305/8.3)

Sec. 8.3. Workers' Compensation Medical Fee Advisory Board. There is created a Workers' Compensation Medical Fee Advisory Board consisting of 9 members appointed by the Governor with the advice and consent of the Senate. Three members of the Advisory Board shall be representative citizens chosen from the employee class, 3 members shall be representative citizens chosen from the employing class, and 3 members shall be representative citizens chosen from the medical provider class. Each member shall serve a 4-year term and shall continue to serve until a successor is appointed. A vacancy on the Advisory Board shall be filled by the Governor for the unexpired term.

Members of the Advisory Board shall receive no compensation for their services but shall be reimbursed for expenses incurred in the performance of their duties by the Commission from appropriations made to the Commission for that purpose.

The Advisory Board shall advise the Commission on establishment of fees for medical services and accessibility of medical treatment. Additionally, by December 31, 2011, the Board shall issue a written report, to be delivered to the Chairman of the Commission and the General Assembly, containing (i) recommendations on how to streamline the process under which workers' compensation medical providers bill for their services, insurers process and issue payments and health care providers receive such payments and (ii) a recommended set of best practices for workers' compensation insurers and medical providers to transition from a paper-based payment system to an electronic-based billing and payment system.

(Source: P.A. 94-277, eff. 7-20-05.)

(820 ILCS 305/8.7)

Sec. 8.7. Utilization review programs.

(a) As used in this Section:

"Utilization review" means the evaluation of proposed or provided health care services to determine the appropriateness of both the level of health care services medically necessary and the quality of health care services provided to a patient, including evaluation of their efficiency, efficacy, and appropriateness of treatment, hospitalization, or office visits based on medically accepted standards. The evaluation must be accomplished by means of a system that identifies the utilization of health care services based on standards of care of or nationally recognized peer review guidelines as well as nationally recognized treatment guidelines and evidence-based medicine ~~evidence-based upon standards as provided in this Act~~. Utilization techniques may include prospective review, second opinions, concurrent review, discharge planning, peer review, independent medical examinations, and retrospective review (for purposes of this sentence, retrospective review shall be applicable to services rendered on or after July 20, 2005). Nothing in this Section applies to prospective review of necessary first aid or emergency treatment.

(b) No person may conduct a utilization review program for workers' compensation services in this State unless once every 2 years the person registers the utilization review program with the Department of ~~Insurance Financial and Professional Regulation~~ and certifies compliance with the Workers' Compensation Utilization Management standards or Health Utilization Management Standards of URAC sufficient to achieve URAC accreditation or submits evidence of accreditation by URAC for its Workers' Compensation Utilization Management Standards or Health Utilization Management Standards. Nothing in this Act shall be construed to require an employer or insurer or its subcontractors to become URAC accredited.

(c) In addition, the ~~Director Secretary~~ of ~~Insurance Financial and Professional Regulation~~ may certify alternative utilization review standards of national accreditation organizations or entities in order for plans to comply with this Section. Any alternative utilization review standards shall meet or exceed those standards required under subsection (b).

(d) This registration shall include submission of all of the following information regarding utilization

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review program activities:

- (1) The name, address, and telephone number of the utilization review programs.
- (2) The organization and governing structure of the utilization review programs.
- (3) The number of lives for which utilization review is conducted by each utilization review program.
- (4) Hours of operation of each utilization review program.
- (5) Description of the grievance process for each utilization review program.
- (6) Number of covered lives for which utilization review was conducted for the previous calendar year for each utilization review program.
- (7) Written policies and procedures for protecting confidential information according to applicable State and federal laws for each utilization review program.

(e) A utilization review program shall have written procedures to ensure that patient-specific information obtained during the process of utilization review will be:

- (1) kept confidential in accordance with applicable State and federal laws; and
- (2) shared only with the employee, the employee's designee, and the employee's health care provider, and those who are authorized by law to receive the information. Summary data shall not be considered confidential if it does not provide information to allow identification of individual patients or health care providers.

Only a health care professional may make determinations regarding the medical necessity of health care services during the course of utilization review.

When making retrospective reviews, utilization review programs shall base reviews solely on the medical information available to the attending physician or ordering provider at the time the health care services were provided.

(f) If the Department of ~~Insurance Financial and Professional Regulation~~ finds that a utilization review program is not in compliance with this Section, the Department shall issue a corrective action plan and allow a reasonable amount of time for compliance with the plan. If the utilization review program does not come into compliance, the Department may issue a cease and desist order. Before issuing a cease and desist order under this Section, the Department shall provide the utilization review program with a written notice of the reasons for the order and allow a reasonable amount of time to supply additional information demonstrating compliance with the requirements of this Section and to request a hearing. The hearing notice shall be sent by certified mail, return receipt requested, and the hearing shall be conducted in accordance with the Illinois Administrative Procedure Act.

(g) A utilization review program subject to a corrective action may continue to conduct business until a final decision has been issued by the Department.

(h) The ~~Department of Insurance Secretary of Financial and Professional Regulation~~ may by rule establish a registration fee for each person conducting a utilization review program.

(i) Upon receipt of written notice that the employer or the employer's agent or insurer wishes to invoke the utilization review process, the provider of medical, surgical or hospital services shall submit to the utilization review, following URAC procedural guidelines and appeal process. If the provider fails to submit to utilization review of proposed treatment or services, the charges for the treatment or service shall not be compensable or collectible against the employer, the employer's agent or insurer, or the employee. When an employer denies payment of or refuses to authorize payment of first aid, medical, surgical, or hospital services under Section 8(a) of this Act that complies with subsection (b) of this Section, that denial or refusal to authorize shall create a rebuttable presumption that the extent and scope of medical treatment is excessive or unnecessary. That presumption may be rebutted by establishing by a preponderance of the evidence that a variance from the standards of care or guidelines used pursuant to subsection (a) of this Section is reasonably required to cure and relieve the employee from the effects of his or her injury or that the utilization review did not comply with subsection (b) of this Section.

⊕ A utilization review will be considered by the Commission, along with all other evidence and in the same manner as all other evidence, in the determination of the reasonableness and necessity of the medical bills or treatment. Nothing in this Section shall be construed to diminish the rights of employees to reasonable and necessary medical treatment or employee choice of health care provider under Section 8(a) or the rights of employers to medical examinations under Section 12.

(j) When an employer denies payment of or refuses to authorize payment of first aid, medical, surgical, or hospital services under Section 8(a) of this Act, if that denial or refusal to authorize complies with a utilization review program registered under this Section and complies with all other requirements of this Section, then there shall be a rebuttable presumption that the employer

shall not be responsible for payment of additional compensation pursuant to Section 19(k) of this Act and if that denial or refusal to authorize does not comply with a utilization review program registered under this Section and does not comply with all other requirements of this Section, then that will be considered by the Commission, along with all other evidence and in the same manner as all other evidence, in the determination of whether the employer may be responsible for the payment of additional compensation pursuant to Section 19(k) of this Act.

The changes to this Section made by this amendatory Act of the 97th General Assembly apply only to medical services provided on or after the effective date of this amendatory Act of the 97th General Assembly.

(Source: P.A. 94-277, eff. 7-20-05; 94-695, eff. 11-16-05.)

(820 ILCS 305/11) (from Ch. 48, par. 138.11)

Sec. 11. The compensation herein provided, together with the provisions of this Act, shall be the measure of the responsibility of any employer engaged in any of the enterprises or businesses enumerated in Section 3 of this Act, or of any employer who is not engaged in any such enterprises or businesses, but who has elected to provide and pay compensation for accidental injuries sustained by any employee arising out of and in the course of the employment according to the provisions of this Act, and whose election to continue under this Act, has not been nullified by any action of his employees as provided for in this Act.

Accidental injuries incurred while participating in voluntary recreational programs including but not limited to athletic events, parties and picnics do not arise out of and in the course of the employment even though the employer pays some or all of the cost thereof. This exclusion shall not apply in the event that the injured employee was ordered or assigned by his employer to participate in the program.

Accidental injuries incurred while participating as a patient in a drug or alcohol rehabilitation program do not arise out of and in the course of employment even though the employer pays some or all of the costs thereof.

Any injury to or disease or death of an employee arising from the administration of a vaccine, including without limitation smallpox vaccine, to prepare for, or as a response to, a threatened or potential bioterrorist incident to the employee as part of a voluntary inoculation program in connection with the person's employment or in connection with any governmental program or recommendation for the inoculation of workers in the employee's occupation, geographical area, or other category that includes the employee is deemed to arise out of and in the course of the employment for all purposes under this Act. This paragraph added by this amendatory Act of the 93rd General Assembly is declarative of existing law and is not a new enactment.

No compensation shall be payable if (i) the employee's intoxication is the proximate cause of the employee's accidental injury or (ii) at the time the employee incurred accidental injury, the employee was so intoxicated that the intoxication constituted a departure from the employment. Admissible evidence of the concentration of (1) alcohol, (2) cannabis as defined in the Cannabis Control Act, (3) a controlled substance listed in the Illinois Controlled Substances Act, or (4) an intoxicating compound listed in the Use of Intoxicating Compounds Act in the employee's blood, breath, or urine at the time the employee incurred the accidental injury shall be considered in any hearing under this Act to determine whether the employee was intoxicated at the time the employee incurred the accidental injuries. If at the time of the accidental injuries, there was 0.08% or more by weight of alcohol in the employee's blood, breath, or urine or if there is any evidence of impairment due to the unlawful or unauthorized use of (1) cannabis as defined in the Cannabis Control Act, (2) a controlled substance listed in the Illinois Controlled Substances Act, or (3) an intoxicating compound listed in the Use of Intoxicating Compounds Act or if the employee refuses to submit to testing of blood, breath, or urine, then there shall be a rebuttable presumption that the employee was intoxicated and that the intoxication was the proximate cause of the employee's injury. The employee may overcome the rebuttable presumption by the preponderance of the admissible evidence that the intoxication was not the proximate cause of the accidental injuries. Percentage by weight of alcohol in the blood shall be based on grams of alcohol per 100 milliliters of blood. Percentage by weight of alcohol in the breath shall be based upon grams of alcohol per 210 liters of breath. Any testing that has not been performed by an accredited or certified testing laboratory shall not be admissible in any hearing under this Act to determine whether the employee was intoxicated at the time the employee incurred the accidental injury.

All sample collection and testing for alcohol and drugs under this Section shall be performed in accordance with rules to be adopted by the Commission. These rules shall ensure:

(1) compliance with the National Labor Relations Act regarding collective bargaining agreements or regulations promulgated by the United States Department of Transportation;

(2) that samples are collected and tested in conformance with national and State legal and

regulatory standards for the privacy of the individual being tested, and in a manner reasonably calculated to prevent substitutions or interference with the collection or testing of reliable sample;

(3) that split testing procedures are utilized;

(4) sample collection is documented, and the documentation procedures include:

(A) the labeling of samples in a manner so as to reasonably preclude the probability of erroneous identification of test result; and

(B) an opportunity for the employee to provide notification of any information which he or she considers relevant to the test, including identification of currently or recently used prescription or nonprescription drugs and other relevant medical information;

(5) that sample collection, storage, and transportation to the place of testing is performed in a manner so as to reasonably preclude the probability of sample contamination or adulteration; and

(6) that chemical analyses of blood, urine, breath, or other bodily substance are performed according to nationally scientifically accepted analytical methods and procedures.

The changes to this Section made by this amendatory Act of the 97th General Assembly apply only to accidental injuries that occur on or after the effective date of this amendatory Act of the 97th General Assembly.

(Source: P.A. 93-829, eff. 7-28-04.)

(820 ILCS 305/16) (from Ch. 48, par. 138.16)

Sec. 16. The Commission shall make and publish procedural rules and orders for carrying out the duties imposed upon it by law and for determining the extent of disability sustained, which rules and orders shall be deemed prima facie reasonable and valid.

The process and procedure before the Commission shall be as simple and summary as reasonably may be.

The Commission upon application of either party may issue dedimus potestatem directed to a commissioner, notary public, justice of the peace or any other officer authorized by law to administer oaths, to take the depositions of such witness or witnesses as may be necessary in the judgment of such applicant. Such dedimus potestatem may issue to any of the officers aforesaid in any state or territory of the United States. When the deposition of any witness resident of a foreign country is desired to be taken, the dedimus shall be directed to and the deposition taken before a consul, vice consul or other authorized representative of the government of the United States of America, whose station is in the country where the witness whose deposition is to be taken resides. In countries where the government of the United States has no consul or other diplomatic representative, then depositions in such case shall be taken through the appropriate judicial authority of that country; or where treaties provide for other methods of taking depositions, then the same may be taken as in such treaties provided. The Commission shall have the power to adopt necessary rules to govern the issue of such dedimus potestatem.

The Commission, or any member thereof, or any Arbitrator designated by the Commission shall have the power to administer oaths, subpoena and examine witnesses; to issue subpoenas duces tecum, requiring the production of such books, papers, records and documents as may be evidence of any matter under inquiry and to examine and inspect the same and such places or premises as may relate to the question in dispute. The Commission, or any member thereof, or any Arbitrator designated by the Commission, shall on written request of either party to the dispute, issue subpoenas for the attendance of such witnesses and production of such books, papers, records and documents as shall be designated in the applications, and the parties applying for such subpoena shall advance the officer and witness fees provided for in civil actions pending in circuit courts of this State, except as otherwise provided by Section 20 of this Act. Service of such subpoena shall be made by any sheriff or other person. In case any person refuses to comply with an order of the Commission or subpoenas issued by it or by any member thereof, or any Arbitrator designated by the Commission or to permit an inspection of places or premises, or to produce any books, papers, records or documents, or any witness refuses to testify to any matters regarding which he or she may be lawfully interrogated, the Circuit Court of the county in which the hearing or matter is pending, on application of any member of the Commission or any Arbitrator designated by the Commission, shall compel obedience by attachment proceedings, as for contempt, as in a case of disobedience of the requirements of a subpoena from such court on a refusal to testify therein.

The records, reports, and bills kept by a treating hospital, treating physician, or other treating healthcare provider that renders treatment to the employee as a result of accidental injuries in question, certified to as true and correct by the hospital, physician, or other healthcare provider or by designated agents of the hospital, physician, or other healthcare provider, showing the medical and surgical treatment given an injured employee by such hospital, physician, or other healthcare provider, shall be admissible without any further proof as evidence of the medical and surgical matters stated therein, but

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shall not be conclusive proof of such matters. Any records, reports and bills submitted under this Section shall be limited for the purpose of establishing that the care and treatment was rendered and shall not be for the purpose of establishing causal connection, need for care or degree of disability. There shall be a rebuttable presumption that any such records, reports, and bills received in response to Commission subpoena are certified to be true and correct. This paragraph does not restrict, limit, or prevent the admissibility of records, reports, or bills that are otherwise admissible. This provision does not apply to reports prepared by treating providers for use in litigation.

The Commission at its expense shall provide an official court reporter to take the testimony and record of proceedings at the hearings before an Arbitrator or the Commission, who shall furnish a transcript of such testimony or proceedings to either party requesting it, upon payment therefor at the rate of \$1.00 per page for the original and 35 cents per page for each copy of such transcript. Payment for photostatic copies of exhibits shall be extra. If the Commission has determined, as provided in Section 20 of this Act, that the employee is a poor person, a transcript of such testimony and proceedings, including photostatic copies of exhibits, shall be furnished to such employee at the Commission's expense.

The Commission shall have the power to determine the reasonableness and fix the amount of any fee of compensation charged by any person, including attorneys, physicians, surgeons and hospitals, for any service performed in connection with this Act, or for which payment is to be made under this Act or rendered in securing any right under this Act.

Whenever the Commission shall find that the employer, his or her agent, service company or insurance carrier has been guilty of delay or unfairness towards an employee in the adjustment, settlement or payment of benefits due such employee within the purview of the provisions of paragraph (c) of Section 4 of this Act; or has been guilty of unreasonable or vexatious delay, intentional under-payment of compensation benefits, or has engaged in frivolous defenses which do not present a real controversy, within the purview of the provisions of paragraph (k) of Section 19 of this Act, the Commission may assess all or any part of the attorney's fees and costs against such employer and his or her insurance carrier.

(Source: P.A. 94-277, eff. 7-20-05.)

(820 ILCS 305/16b new)

Sec. 16b. Signature constitutes certification. The signature of an attorney on any petition, motion, or other paper filed with the Commission constitutes a certification by he or she that he or she has read the petition, motion, or other paper, and, that to the best of his or her knowledge, information, and belief formed after reasonable inquiry that it is well grounded in fact, that it is warranted by existing law or a good faith argument for an extension, modification, or reversal of existing law, and that it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation. If a petition, motion, or other paper is signed in violation of this Section, the Commission, upon motion or upon its own initiative, may impose on the attorney an appropriate penalty or may order him or her to pay the other party the amount of reasonable expenses incurred because of the filing of the petition, motion, or other paper, including reasonable attorneys' fees.

(820 ILCS 305/16c new)

Sec. 16c. Gift Ban.

(a) An attorney appearing before the Commission shall not provide compensation or any gift to any person in exchange for the referral of a client involving a matter to be heard before the Commission except for a division of a fee between lawyers who are not in the same firm in accordance with Rule 1.5 of the Code of Professional Responsibility. For purposes of this Section, "gift" means any gratuity, discount, entertainment, hospitality, loan, forbearance, or any other tangible or intangible item having monetary value including, but not limited to, cash food and drink and honoraria except for up to \$75 per day per person for food and beverage.

(b) Violation of this Section is a Class A misdemeanor.

(820 ILCS 305/19) (from Ch. 48, par. 138.19)

Sec. 19. Any disputed questions of law or fact shall be determined as herein provided.

(a) It shall be the duty of the Commission upon notification that the parties have failed to reach an agreement, to designate an Arbitrator.

1. Whenever any claimant misconceives his remedy and files an application for adjustment of claim under this Act and it is subsequently discovered, at any time before final disposition of such cause, that the claim for disability or death which was the basis for such application should properly have been made under the Workers' Occupational Diseases Act, then the provisions of Section 19, paragraph (a-1) of the Workers' Occupational Diseases Act having reference to such application shall apply.

2. Whenever any claimant misconceives his remedy and files an application for

adjustment of claim under the Workers' Occupational Diseases Act and it is subsequently discovered, at any time before final disposition of such cause that the claim for injury or death which was the basis for such application should properly have been made under this Act, then the application so filed under the Workers' Occupational Diseases Act may be amended in form, substance or both to assert claim for such disability or death under this Act and it shall be deemed to have been so filed as amended on the date of the original filing thereof, and such compensation may be awarded as is warranted by the whole evidence pursuant to this Act. When such amendment is submitted, further or additional evidence may be heard by the Arbitrator or Commission when deemed necessary. Nothing in this Section contained shall be construed to be or permit a waiver of any provisions of this Act with reference to notice but notice if given shall be deemed to be a notice under the provisions of this Act if given within the time required herein.

(b) The Arbitrator shall make such inquiries and investigations as he or they shall deem necessary and may examine and inspect all books, papers, records, places, or premises relating to the questions in dispute and hear such proper evidence as the parties may submit.

The hearings before the Arbitrator shall be held in the vicinity where the injury occurred after 10 days' notice of the time and place of such hearing shall have been given to each of the parties or their attorneys of record.

The Arbitrator may find that the disabling condition is temporary and has not yet reached a permanent condition and may order the payment of compensation up to the date of the hearing, which award shall be reviewable and enforceable in the same manner as other awards, and in no instance be a bar to a further hearing and determination of a further amount of temporary total compensation or of compensation for permanent disability, but shall be conclusive as to all other questions except the nature and extent of said disability.

The decision of the Arbitrator shall be filed with the Commission which Commission shall immediately send to each party or his attorney a copy of such decision, together with a notification of the time when it was filed. As of the effective date of this amendatory Act of the 94th General Assembly, all decisions of the Arbitrator shall set forth in writing findings of fact and conclusions of law, separately stated, if requested by either party. Unless a petition for review is filed by either party within 30 days after the receipt by such party of the copy of the decision and notification of time when filed, and unless such party petitioning for a review shall within 35 days after the receipt by him of the copy of the decision, file with the Commission either an agreed statement of the facts appearing upon the hearing before the Arbitrator, or if such party shall so elect a correct transcript of evidence of the proceedings at such hearings, then the decision shall become the decision of the Commission and in the absence of fraud shall be conclusive. The Petition for Review shall contain a statement of the petitioning party's specific exceptions to the decision of the arbitrator. The jurisdiction of the Commission to review the decision of the arbitrator shall not be limited to the exceptions stated in the Petition for Review. The Commission, or any member thereof, may grant further time not exceeding 30 days, in which to file such agreed statement or transcript of evidence. Such agreed statement of facts or correct transcript of evidence, as the case may be, shall be authenticated by the signatures of the parties or their attorneys, and in the event they do not agree as to the correctness of the transcript of evidence it shall be authenticated by the signature of the Arbitrator designated by the Commission.

Whether the employee is working or not, if the employee is not receiving or has not received medical, surgical, or hospital services or other services or compensation as provided in paragraph (a) of Section 8, or compensation as provided in paragraph (b) of Section 8, the employee may at any time petition for an expedited hearing by an Arbitrator on the issue of whether or not he or she is entitled to receive payment of the services or compensation. Provided the employer continues to pay compensation pursuant to paragraph (b) of Section 8, the employer may at any time petition for an expedited hearing on the issue of whether or not the employee is entitled to receive medical, surgical, or hospital services or other services or compensation as provided in paragraph (a) of Section 8, or compensation as provided in paragraph (b) of Section 8. When an employer has petitioned for an expedited hearing, the employer shall continue to pay compensation as provided in paragraph (b) of Section 8 unless the arbitrator renders a decision that the employee is not entitled to the benefits that are the subject of the expedited hearing or unless the employee's treating physician has released the employee to return to work at his or her regular job with the employer or the employee actually returns to work at any other job. If the arbitrator renders a decision that the employee is not entitled to the benefits that are the subject of the expedited hearing, a petition for review filed by the employee shall receive the same priority as if the employee had filed a petition for an expedited hearing by an Arbitrator. Neither party shall be entitled to an expedited hearing when the employee has returned to work and the sole issue in dispute amounts to less than 12 weeks of unpaid compensation pursuant to paragraph (b) of Section 8.

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Expedited hearings shall have priority over all other petitions and shall be heard by the Arbitrator and Commission with all convenient speed. Any party requesting an expedited hearing shall give notice of a request for an expedited hearing under this paragraph. A copy of the Application for Adjustment of Claim shall be attached to the notice. The Commission shall adopt rules and procedures under which the final decision of the Commission under this paragraph is filed not later than 180 days from the date that the Petition for Review is filed with the Commission.

Where 2 or more insurance carriers, private self-insureds, or a group workers' compensation pool under Article V 3/4 of the Illinois Insurance Code dispute coverage for the same injury, any such insurance carrier, private self-insured, or group workers' compensation pool may request an expedited hearing pursuant to this paragraph to determine the issue of coverage, provided coverage is the only issue in dispute and all other issues are stipulated and agreed to and further provided that all compensation benefits including medical benefits pursuant to Section 8(a) continue to be paid to or on behalf of petitioner. Any insurance carrier, private self-insured, or group workers' compensation pool that is determined to be liable for coverage for the injury in issue shall reimburse any insurance carrier, private self-insured, or group workers' compensation pool that has paid benefits to or on behalf of petitioner for the injury.

(b-1) If the employee is not receiving medical, surgical or hospital services as provided in paragraph (a) of Section 8 or compensation as provided in paragraph (b) of Section 8, the employee, in accordance with Commission Rules, may file a petition for an emergency hearing by an Arbitrator on the issue of whether or not he is entitled to receive payment of such compensation or services as provided therein. Such petition shall have priority over all other petitions and shall be heard by the Arbitrator and Commission with all convenient speed.

Such petition shall contain the following information and shall be served on the employer at least 15 days before it is filed:

- (i) the date and approximate time of accident;
- (ii) the approximate location of the accident;
- (iii) a description of the accident;
- (iv) the nature of the injury incurred by the employee;
- (v) the identity of the person, if known, to whom the accident was reported and the date on which it was reported;
- (vi) the name and title of the person, if known, representing the employer with whom the employee conferred in any effort to obtain compensation pursuant to paragraph (b) of Section 8 of this Act or medical, surgical or hospital services pursuant to paragraph (a) of Section 8 of this Act and the date of such conference;
- (vii) a statement that the employer has refused to pay compensation pursuant to paragraph (b) of Section 8 of this Act or for medical, surgical or hospital services pursuant to paragraph (a) of Section 8 of this Act;
- (viii) the name and address, if known, of each witness to the accident and of each other person upon whom the employee will rely to support his allegations;
- (ix) the dates of treatment related to the accident by medical practitioners, and the names and addresses of such practitioners, including the dates of treatment related to the accident at any hospitals and the names and addresses of such hospitals, and a signed authorization permitting the employer to examine all medical records of all practitioners and hospitals named pursuant to this paragraph;
- (x) a copy of a signed report by a medical practitioner, relating to the employee's current inability to return to work because of the injuries incurred as a result of the accident or such other documents or affidavits which show that the employee is entitled to receive compensation pursuant to paragraph (b) of Section 8 of this Act or medical, surgical or hospital services pursuant to paragraph (a) of Section 8 of this Act. Such reports, documents or affidavits shall state, if possible, the history of the accident given by the employee, and describe the injury and medical diagnosis, the medical services for such injury which the employee has received and is receiving, the physical activities which the employee cannot currently perform as a result of any impairment or disability due to such injury, and the prognosis for recovery;
- (xi) complete copies of any reports, records, documents and affidavits in the possession of the employee on which the employee will rely to support his allegations, provided that the employer shall pay the reasonable cost of reproduction thereof;
- (xii) a list of any reports, records, documents and affidavits which the employee has demanded by subpoena and on which he intends to rely to support his allegations;
- (xiii) a certification signed by the employee or his representative that the employer

has received the petition with the required information 15 days before filing.

Fifteen days after receipt by the employer of the petition with the required information the employee may file said petition and required information and shall serve notice of the filing upon the employer. The employer may file a motion addressed to the sufficiency of the petition. If an objection has been filed to the sufficiency of the petition, the arbitrator shall rule on the objection within 2 working days. If such an objection is filed, the time for filing the final decision of the Commission as provided in this paragraph shall be tolled until the arbitrator has determined that the petition is sufficient.

The employer shall, within 15 days after receipt of the notice that such petition is filed, file with the Commission and serve on the employee or his representative a written response to each claim set forth in the petition, including the legal and factual basis for each disputed allegation and the following information: (i) complete copies of any reports, records, documents and affidavits in the possession of the employer on which the employer intends to rely in support of his response, (ii) a list of any reports, records, documents and affidavits which the employer has demanded by subpoena and on which the employer intends to rely in support of his response, (iii) the name and address of each witness on whom the employer will rely to support his response, and (iv) the names and addresses of any medical practitioners selected by the employer pursuant to Section 12 of this Act and the time and place of any examination scheduled to be made pursuant to such Section.

Any employer who does not timely file and serve a written response without good cause may not introduce any evidence to dispute any claim of the employee but may cross examine the employee or any witness brought by the employee and otherwise be heard.

No document or other evidence not previously identified by either party with the petition or written response, or by any other means before the hearing, may be introduced into evidence without good cause. If, at the hearing, material information is discovered which was not previously disclosed, the Arbitrator may extend the time for closing proof on the motion of a party for a reasonable period of time which may be more than 30 days. No evidence may be introduced pursuant to this paragraph as to permanent disability. No award may be entered for permanent disability pursuant to this paragraph. Either party may introduce into evidence the testimony taken by deposition of any medical practitioner.

The Commission shall adopt rules, regulations and procedures whereby the final decision of the Commission is filed not later than 90 days from the date the petition for review is filed but in no event later than 180 days from the date the petition for an emergency hearing is filed with the Illinois Workers' Compensation Commission.

All service required pursuant to this paragraph (b-1) must be by personal service or by certified mail and with evidence of receipt. In addition for the purposes of this paragraph, all service on the employer must be at the premises where the accident occurred if the premises are owned or operated by the employer. Otherwise service must be at the employee's principal place of employment by the employer. If service on the employer is not possible at either of the above, then service shall be at the employer's principal place of business. After initial service in each case, service shall be made on the employer's attorney or designated representative.

(c) (1) At a reasonable time in advance of and in connection with the hearing under Section 19(e) or 19(h), the Commission may on its own motion order an impartial physical or mental examination of a petitioner whose mental or physical condition is in issue, when in the Commission's discretion it appears that such an examination will materially aid in the just determination of the case. The examination shall be made by a member or members of a panel of physicians chosen for their special qualifications by the Illinois State Medical Society. The Commission shall establish procedures by which a physician shall be selected from such list.

(2) Should the Commission at any time during the hearing find that compelling considerations make it advisable to have an examination and report at that time, the commission may in its discretion so order.

(3) A copy of the report of examination shall be given to the Commission and to the attorneys for the parties.

(4) Either party or the Commission may call the examining physician or physicians to testify. Any physician so called shall be subject to cross-examination.

(5) The examination shall be made, and the physician or physicians, if called, shall testify, without cost to the parties. The Commission shall determine the compensation and the pay of the physician or physicians. The compensation for this service shall not exceed the usual and customary amount for such service.

(6) The fees and payment thereof of all attorneys and physicians for services authorized by the Commission under this Act shall, upon request of either the employer or the employee or the beneficiary affected, be subject to the review and decision of the Commission.

(d) If any employee shall persist in insanitary or injurious practices which tend to either imperil or

retard his recovery or shall refuse to submit to such medical, surgical, or hospital treatment as is reasonably essential to promote his recovery, the Commission may, in its discretion, reduce or suspend the compensation of any such injured employee. However, when an employer and employee so agree in writing, the foregoing provision shall not be construed to authorize the reduction or suspension of compensation of an employee who is relying in good faith, on treatment by prayer or spiritual means alone, in accordance with the tenets and practice of a recognized church or religious denomination, by a duly accredited practitioner thereof.

(e) This paragraph shall apply to all hearings before the Commission. Such hearings may be held in its office or elsewhere as the Commission may deem advisable. The taking of testimony on such hearings may be had before any member of the Commission. If a petition for review and agreed statement of facts or transcript of evidence is filed, as provided herein, the Commission shall promptly review the decision of the Arbitrator and all questions of law or fact which appear from the statement of facts or transcript of evidence.

In all cases in which the hearing before the arbitrator is held after December 18, 1989, no additional evidence shall be introduced by the parties before the Commission on review of the decision of the Arbitrator. In reviewing decisions of an arbitrator the Commission shall award such temporary compensation, permanent compensation and other payments as are due under this Act. The Commission shall file in its office its decision thereon, and shall immediately send to each party or his attorney a copy of such decision and a notification of the time when it was filed. Decisions shall be filed within 60 days after the Statement of Exceptions and Supporting Brief and Response thereto are required to be filed or oral argument whichever is later.

In the event either party requests oral argument, such argument shall be had before a panel of 3 members of the Commission (or before all available members pursuant to the determination of 7 members of the Commission that such argument be held before all available members of the Commission) pursuant to the rules and regulations of the Commission. A panel of 3 members, which shall be comprised of not more than one representative citizen of the employing class and not more than one representative citizen of the employee class, shall hear the argument; provided that if all the issues in dispute are solely the nature and extent of the permanent partial disability, if any, a majority of the panel may deny the request for such argument and such argument shall not be held; and provided further that 7 members of the Commission may determine that the argument be held before all available members of the Commission. A decision of the Commission shall be approved by a majority of Commissioners present at such hearing if any; provided, if no such hearing is held, a decision of the Commission shall be approved by a majority of a panel of 3 members of the Commission as described in this Section. The Commission shall give 10 days' notice to the parties or their attorneys of the time and place of such taking of testimony and of such argument.

In any case the Commission in its decision may find specially upon any question or questions of law or fact which shall be submitted in writing by either party whether ultimate or otherwise; provided that on issues other than nature and extent of the disability, if any, the Commission in its decision shall find specially upon any question or questions of law or fact, whether ultimate or otherwise, which are submitted in writing by either party; provided further that not more than 5 such questions may be submitted by either party. Any party may, within 20 days after receipt of notice of the Commission's decision, or within such further time, not exceeding 30 days, as the Commission may grant, file with the Commission either an agreed statement of the facts appearing upon the hearing, or, if such party shall so elect, a correct transcript of evidence of the additional proceedings presented before the Commission, in which report the party may embody a correct statement of such other proceedings in the case as such party may desire to have reviewed, such statement of facts or transcript of evidence to be authenticated by the signature of the parties or their attorneys, and in the event that they do not agree, then the authentication of such transcript of evidence shall be by the signature of any member of the Commission.

If a reporter does not for any reason furnish a transcript of the proceedings before the Arbitrator in any case for use on a hearing for review before the Commission, within the limitations of time as fixed in this Section, the Commission may, in its discretion, order a trial de novo before the Commission in such case upon application of either party. The applications for adjustment of claim and other documents in the nature of pleadings filed by either party, together with the decisions of the Arbitrator and of the Commission and the statement of facts or transcript of evidence hereinbefore provided for in paragraphs (b) and (c) shall be the record of the proceedings of the Commission, and shall be subject to review as hereinafter provided.

At the request of either party or on its own motion, the Commission shall set forth in writing the reasons for the decision, including findings of fact and conclusions of law separately stated. The

Commission shall by rule adopt a format for written decisions for the Commission and arbitrators. The written decisions shall be concise and shall succinctly state the facts and reasons for the decision. The Commission may adopt in whole or in part, the decision of the arbitrator as the decision of the Commission. When the Commission does so adopt the decision of the arbitrator, it shall do so by order. Whenever the Commission adopts part of the arbitrator's decision, but not all, it shall include in the order the reasons for not adopting all of the arbitrator's decision. When a majority of a panel, after deliberation, has arrived at its decision, the decision shall be filed as provided in this Section without unnecessary delay, and without regard to the fact that a member of the panel has expressed an intention to dissent. Any member of the panel may file a dissent. Any dissent shall be filed no later than 10 days after the decision of the majority has been filed.

Decisions rendered by the Commission and dissents, if any, shall be published together by the Commission. The conclusions of law set out in such decisions shall be regarded as precedents by arbitrators for the purpose of achieving a more uniform administration of this Act.

(f) The decision of the Commission acting within its powers, according to the provisions of paragraph (e) of this Section shall, in the absence of fraud, be conclusive unless reviewed as in this paragraph hereinafter provided. However, the Arbitrator or the Commission may on his or its own motion, or on the motion of either party, correct any clerical error or errors in computation within 15 days after the date of receipt of any award by such Arbitrator or any decision on review of the Commission and shall have the power to recall the original award on arbitration or decision on review, and issue in lieu thereof such corrected award or decision. Where such correction is made the time for review herein specified shall begin to run from the date of the receipt of the corrected award or decision.

(1) Except in cases of claims against the State of Illinois, in which case the decision

of the Commission shall not be subject to judicial review, the Circuit Court of the county where any of the parties defendant may be found, or if none of the parties defendant can be found in this State then the Circuit Court of the county where the accident occurred, shall by summons to the Commission have power to review all questions of law and fact presented by such record.

A proceeding for review shall be commenced within 20 days of the receipt of notice of the decision of the Commission. The summons shall be issued by the clerk of such court upon written request returnable on a designated return day, not less than 10 or more than 60 days from the date of issuance thereof, and the written request shall contain the last known address of other parties in interest and their attorneys of record who are to be served by summons. Service upon any member of the Commission or the Secretary or the Assistant Secretary thereof shall be service upon the Commission, and service upon other parties in interest and their attorneys of record shall be by summons, and such service shall be made upon the Commission and other parties in interest by mailing notices of the commencement of the proceedings and the return day of the summons to the office of the Commission and to the last known place of residence of other parties in interest or their attorney or attorneys of record. The clerk of the court issuing the summons shall on the day of issue mail notice of the commencement of the proceedings which shall be done by mailing a copy of the summons to the office of the Commission, and a copy of the summons to the other parties in interest or their attorney or attorneys of record and the clerk of the court shall make certificate that he has so sent said notices in pursuance of this Section, which shall be evidence of service on the Commission and other parties in interest.

The Commission shall not be required to certify the record of their proceedings to the Circuit Court, unless the party commencing the proceedings for review in the Circuit Court as above provided, shall pay to the Commission the sum of 80¢ per page of testimony taken before the Commission, and 35¢ per page of all other matters contained in such record, except as otherwise provided by Section 20 of this Act. Payment for photostatic copies of exhibit shall be extra. It shall be the duty of the Commission upon such payment, or failure to pay as permitted under Section 20 of this Act, to prepare a true and correct typewritten copy of such testimony and a true and correct copy of all other matters contained in such record and certified to by the Secretary or Assistant Secretary thereof.

In its decision on review the Commission shall determine in each particular case the amount of the probable cost of the record to be filed as a part of the summons in that case and no request for a summons may be filed and no summons shall issue unless the party seeking to review the decision of the Commission shall exhibit to the clerk of the Circuit Court proof of payment by filing a receipt showing payment or an affidavit of the attorney setting forth that payment has been made of the sums so determined to the Secretary or Assistant Secretary of the Commission, except as otherwise provided by Section 20 of this Act.

(2) No such summons shall issue unless the one against whom the Commission shall have rendered an award for the payment of money shall upon the filing of his written request for such

summons file with the clerk of the court a bond conditioned that if he shall not successfully prosecute the review, he will pay the award and the costs of the proceedings in the courts. The amount of the bond shall be fixed by any member of the Commission and the surety or sureties of the bond shall be approved by the clerk of the court. The acceptance of the bond by the clerk of the court shall constitute evidence of his approval of the bond.

Every county, city, town, township, incorporated village, school district, body politic or municipal corporation against whom the Commission shall have rendered an award for the payment of money shall not be required to file a bond to secure the payment of the award and the costs of the proceedings in the court to authorize the court to issue such summons.

The court may confirm or set aside the decision of the Commission. If the decision is set aside and the facts found in the proceedings before the Commission are sufficient, the court may enter such decision as is justified by law, or may remand the cause to the Commission for further proceedings and may state the questions requiring further hearing, and give such other instructions as may be proper. Appeals shall be taken to the Appellate Court in accordance with Supreme Court Rules 22(g) and 303. Appeals shall be taken from the Appellate Court to the Supreme Court in accordance with Supreme Court Rule 315.

It shall be the duty of the clerk of any court rendering a decision affecting or affirming an award of the Commission to promptly furnish the Commission with a copy of such decision, without charge.

The decision of a majority of the members of the panel of the Commission, shall be considered the decision of the Commission.

(g) Except in the case of a claim against the State of Illinois, either party may present a certified copy of the award of the Arbitrator, or a certified copy of the decision of the Commission when the same has become final, when no proceedings for review are pending, providing for the payment of compensation according to this Act, to the Circuit Court of the county in which such accident occurred or either of the parties are residents, whereupon the court shall enter a judgment in accordance therewith. In a case where the employer refuses to pay compensation according to such final award or such final decision upon which such judgment is entered the court shall in entering judgment thereon, tax as costs against him the reasonable costs and attorney fees in the arbitration proceedings and in the court entering the judgment for the person in whose favor the judgment is entered, which judgment and costs taxed as therein provided shall, until and unless set aside, have the same effect as though duly entered in an action duly tried and determined by the court, and shall with like effect, be entered and docketed. The Circuit Court shall have power at any time upon application to make any such judgment conform to any modification required by any subsequent decision of the Supreme Court upon appeal, or as the result of any subsequent proceedings for review, as provided in this Act.

Judgment shall not be entered until 15 days' notice of the time and place of the application for the entry of judgment shall be served upon the employer by filing such notice with the Commission, which Commission shall, in case it has on file the address of the employer or the name and address of its agent upon whom notices may be served, immediately send a copy of the notice to the employer or such designated agent.

(h) An agreement or award under this Act providing for compensation in installments, may at any time within 18 months after such agreement or award be reviewed by the Commission at the request of either the employer or the employee, on the ground that the disability of the employee has subsequently recurred, increased, diminished or ended.

However, as to accidents occurring subsequent to July 1, 1955, which are covered by any agreement or award under this Act providing for compensation in installments made as a result of such accident, such agreement or award may at any time within 30 months, or 60 months in the case of an award under Section 8(d)1, after such agreement or award be reviewed by the Commission at the request of either the employer or the employee on the ground that the disability of the employee has subsequently recurred, increased, diminished or ended.

On such review, compensation payments may be re-established, increased, diminished or ended. The Commission shall give 15 days' notice to the parties of the hearing for review. Any employee, upon any petition for such review being filed by the employer, shall be entitled to one day's notice for each 100 miles necessary to be traveled by him in attending the hearing of the Commission upon the petition, and 3 days in addition thereto. Such employee shall, at the discretion of the Commission, also be entitled to 5 cents per mile necessarily traveled by him within the State of Illinois in attending such hearing, not to exceed a distance of 300 miles, to be taxed by the Commission as costs and deposited with the petition of the employer.

When compensation which is payable in accordance with an award or settlement contract approved by

the Commission, is ordered paid in a lump sum by the Commission, no review shall be had as in this paragraph mentioned.

(i) Each party, upon taking any proceedings or steps whatsoever before any Arbitrator, Commission or court, shall file with the Commission his address, or the name and address of any agent upon whom all notices to be given to such party shall be served, either personally or by registered mail, addressed to such party or agent at the last address so filed with the Commission. In the event such party has not filed his address, or the name and address of an agent as above provided, service of any notice may be had by filing such notice with the Commission.

(j) Whenever in any proceeding testimony has been taken or a final decision has been rendered and after the taking of such testimony or after such decision has become final, the injured employee dies, then in any subsequent proceedings brought by the personal representative or beneficiaries of the deceased employee, such testimony in the former proceeding may be introduced with the same force and effect as though the witness having so testified were present in person in such subsequent proceedings and such final decision, if any, shall be taken as final adjudication of any of the issues which are the same in both proceedings.

(k) In case where there has been any unreasonable or vexatious delay of payment or intentional underpayment of compensation, or proceedings have been instituted or carried on by the one liable to pay the compensation, which do not present a real controversy, but are merely frivolous or for delay, then the Commission may award compensation additional to that otherwise payable under this Act equal to 50% of the amount payable at the time of such award. Failure to pay compensation in accordance with the provisions of Section 8, paragraph (b) of this Act, shall be considered unreasonable delay.

When determining whether this subsection (k) shall apply, the Commission shall consider whether an Arbitrator has determined that the claim is not compensable or whether the employer has made payments under Section 8(j).

(l) If the employee has made written demand for payment of benefits under Section 8(a) or Section 8(b), the employer shall have 14 days after receipt of the demand to set forth in writing the reason for the delay. In the case of demand for payment of medical benefits under Section 8(a), the time for the employer to respond shall not commence until the expiration of the allotted 60 days specified under Section 8.2(d). In case the employer or his or her insurance carrier shall without good and just cause fail, neglect, refuse, or unreasonably delay the payment of benefits under Section 8(a) or Section 8(b), the Arbitrator or the Commission shall allow to the employee additional compensation in the sum of \$30 per day for each day that the benefits under Section 8(a) or Section 8(b) have been so withheld or refused, not to exceed \$10,000. A delay in payment of 14 days or more shall create a rebuttable presumption of unreasonable delay. Notwithstanding the foregoing, any such additional compensation awarded on or after the effective date of this amendatory Act of the 97th General Assembly that is awarded because the benefits under Section 8(a) have been so withheld or refused shall be distributed first to the provider of medical services to pay any unpaid amounts due and any interest due under Section 8.2.

(m) If the commission finds that an accidental injury was directly and proximately caused by the employer's wilful violation of a health and safety standard under the Health and Safety Act in force at the time of the accident, the arbitrator or the Commission shall allow to the injured employee or his dependents, as the case may be, additional compensation equal to 25% of the amount which otherwise would be payable under the provisions of this Act exclusive of this paragraph. The additional compensation herein provided shall be allowed by an appropriate increase in the applicable weekly compensation rate.

(n) After June 30, 1984, decisions of the Illinois Workers' Compensation Commission reviewing an award of an arbitrator of the Commission shall draw interest at a rate equal to the yield on indebtedness issued by the United States Government with a 26-week maturity next previously auctioned on the day on which the decision is filed. Said rate of interest shall be set forth in the Arbitrator's Decision. Interest shall be drawn from the date of the arbitrator's award on all accrued compensation due the employee through the day prior to the date of payments. However, when an employee appeals an award of an Arbitrator or the Commission, and the appeal results in no change or a decrease in the award, interest shall not further accrue from the date of such appeal.

The employer or his insurance carrier may tender the payments due under the award to stop the further accrual of interest on such award notwithstanding the prosecution by either party of review, certiorari, appeal to the Supreme Court or other steps to reverse, vacate or modify the award.

(o) By the 15th day of each month each insurer providing coverage for losses under this Act shall notify each insured employer of any compensable claim incurred during the preceding month and the amounts paid or reserved on the claim including a summary of the claim and a brief statement of the reasons for compensability. A cumulative report of all claims incurred during a calendar year or

continued from the previous year shall be furnished to the insured employer by the insurer within 30 days after the end of that calendar year.

The insured employer may challenge, in proceeding before the Commission, payments made by the insurer without arbitration and payments made after a case is determined to be noncompensable. If the Commission finds that the case was not compensable, the insurer shall purge its records as to that employer of any loss or expense associated with the claim, reimburse the employer for attorneys' fees arising from the challenge and for any payment required of the employer to the Rate Adjustment Fund or the Second Injury Fund, and may not reflect the loss or expense for rate making purposes. The employee shall not be required to refund the challenged payment. The decision of the Commission may be reviewed in the same manner as in arbitrated cases. No challenge may be initiated under this paragraph more than 3 years after the payment is made. An employer may waive the right of challenge under this paragraph on a case by case basis.

(p) After filing an application for adjustment of claim but prior to the hearing on arbitration the parties may voluntarily agree to submit such application for adjustment of claim for decision by an arbitrator under this subsection (p) where such application for adjustment of claim raises only a dispute over temporary total disability, permanent partial disability or medical expenses. Such agreement shall be in writing in such form as provided by the Commission. Applications for adjustment of claim submitted for decision by an arbitrator under this subsection (p) shall proceed according to rule as established by the Commission. The Commission shall promulgate rules including, but not limited to, rules to ensure that the parties are adequately informed of their rights under this subsection (p) and of the voluntary nature of proceedings under this subsection (p). The findings of fact made by an arbitrator acting within his or her powers under this subsection (p) in the absence of fraud shall be conclusive. However, the arbitrator may on his own motion, or the motion of either party, correct any clerical errors or errors in computation within 15 days after the date of receipt of such award of the arbitrator and shall have the power to recall the original award on arbitration, and issue in lieu thereof such corrected award. The decision of the arbitrator under this subsection (p) shall be considered the decision of the Commission and proceedings for review of questions of law arising from the decision may be commenced by either party pursuant to subsection (f) of Section 19. The Advisory Board established under Section 13.1 shall compile a list of certified Commission arbitrators, each of whom shall be approved by at least 7 members of the Advisory Board. The chairman shall select 5 persons from such list to serve as arbitrators under this subsection (p). By agreement, the parties shall select one arbitrator from among the 5 persons selected by the chairman except that if the parties do not agree on an arbitrator from among the 5 persons, the parties may, by agreement, select an arbitrator of the American Arbitration Association, whose fee shall be paid by the State in accordance with rules promulgated by the Commission. Arbitration under this subsection (p) shall be voluntary.

(Source: P.A. 93-721, eff. 1-1-05; 94-277, eff. 7-20-05.)

(820 ILCS 305/25.5)

Sec. 25.5. Unlawful acts; penalties.

(a) It is unlawful for any person, company, corporation, insurance carrier, healthcare provider, or other entity to:

- (1) Intentionally present or cause to be presented any false or fraudulent claim for the payment of any workers' compensation benefit.
- (2) Intentionally make or cause to be made any false or fraudulent material statement or material representation for the purpose of obtaining or denying any workers' compensation benefit.
- (3) Intentionally make or cause to be made any false or fraudulent statements with regard to entitlement to workers' compensation benefits with the intent to prevent an injured worker from making a legitimate claim for any workers' compensation benefits.
- (4) Intentionally prepare or provide an invalid, false, or counterfeit certificate of insurance as proof of workers' compensation insurance.
- (5) Intentionally make or cause to be made any false or fraudulent material statement or material representation for the purpose of obtaining workers' compensation insurance at less than the proper rate for that insurance.
- (6) Intentionally make or cause to be made any false or fraudulent material statement or material representation on an initial or renewal self-insurance application or accompanying financial statement for the purpose of obtaining self-insurance status or reducing the amount of security that may be required to be furnished pursuant to Section 4 of this Act.
- (7) Intentionally make or cause to be made any false or fraudulent material statement to the Division of Insurance's fraud and insurance non-compliance unit in the course of an investigation of fraud or insurance non-compliance.

(8) Intentionally assist, abet, solicit, or conspire with any person, company, or other entity to commit any of the acts in paragraph (1), (2), (3), (4), (5), (6), or (7) of this subsection (a).

~~(9) Intentionally present a bill or statement for the payment for medical services that were not provided.~~

For the purposes of paragraphs (2), (3), (5), (6), ~~and (7), and (9)~~, the term "statement" includes any writing, notice, proof of injury, bill for services, hospital or doctor records and reports, or X-ray and test results.

~~(b) Sentence for violations of subsection (a): Any person violating subsection (a) is guilty of a Class 4 felony. Any person or entity convicted of any violation of this Section shall be ordered to pay complete restitution to any person or entity so defrauded in addition to any fine or sentence imposed as a result of the conviction.~~

~~(1) A violation in which the value of the property obtained or attempted to be obtained is \$300 or less is a Class A misdemeanor.~~

~~(2) A violation in which the value of the property obtained or attempted to be obtained is more than \$300 but not more than \$10,000 is a Class 3 felony.~~

~~(3) A violation in which the value of the property obtained or attempted to be obtained is more than \$10,000 but not more than \$100,000 is a Class 2 felony.~~

~~(4) A violation in which the value of the property obtained or attempted to be obtained is more than \$100,000 is a Class 1 felony.~~

~~(5) A person convicted under this Section shall be ordered to pay monetary restitution to the insurance company or self-insured entity or any other person for any financial loss sustained as a result of a violation of this Section, including any court costs and attorney fees. An order of restitution also includes expenses incurred and paid by the State of Illinois or an insurance company or self-insured entity in connection with any medical evaluation or treatment services.~~

~~(6) For the purposes of this Section, where the exact value of property obtained or attempted to be obtained is either not alleged or is not specifically set by the terms of a policy of insurance, the value of the property shall be the fair market replacement value of the property claimed to be lost, the reasonable costs of reimbursing a vendor or other claimant for services to be rendered, or both.~~

~~(c) The Department Division of Insurance of the Department of Financial and Professional Regulation shall establish a fraud and insurance non-compliance unit responsible~~

~~for investigating incidences of fraud and insurance non-compliance pursuant to this Section. The size of the staff of the unit shall be subject to appropriation by the General Assembly. It shall be the duty of the fraud and insurance non-compliance unit to determine the identity of insurance carriers, employers, employees, or other persons or entities who have violated the fraud and insurance non-compliance provisions of this Section. The fraud and insurance non-compliance unit shall report violations of the fraud and insurance non-compliance provisions of this Section to the Special Prosecutions Bureau of the Criminal Division of the Office of the Attorney General or to the State's Attorney of the county in which the offense allegedly occurred, either of whom has the authority to prosecute violations under this Section.~~

~~With respect to the subject of any investigation being conducted, the fraud and insurance non-compliance unit shall have the general power of subpoena of the Department Division of Insurance.~~

~~(d) Any person may report allegations of insurance non-compliance and fraud pursuant to this Section to the Division of Insurance's fraud and insurance non-compliance unit whose duty it shall be to investigate the report. The unit shall notify the Commission of reports of insurance non-compliance. Any person reporting an allegation of insurance non-compliance or fraud against either an employee or employer under this Section must identify himself. Except as provided in this subsection and in subsection (e), all reports shall remain confidential except to refer an investigation to the Attorney General or State's Attorney for prosecution or if the fraud and insurance non-compliance unit's investigation reveals that the conduct reported may be in violation of other laws or regulations of the State of Illinois, the unit may report such conduct to the appropriate governmental agency charged with administering such laws and regulations. Any person who intentionally makes a false report under this Section to the fraud and insurance non-compliance unit is guilty of a Class A misdemeanor.~~

~~(e) In order for the fraud and insurance non-compliance unit to investigate a report of fraud related to an employee's claim by an employee, (i) the employee must have filed with the Commission an Application for Adjustment of Claim and the employee must have either received or attempted to receive benefits under this Act that are related to the reported fraud or (ii) the employee must have made a written demand for the payment of benefits that are related to the reported fraud. Upon receipt of a report of fraud, the employee or employer shall receive immediate notice of the reported conduct, including the verified name and address of the complainant if that complainant is connected to the case and the nature~~

~~of the reported conduct. The fraud and insurance non-compliance unit shall resolve all reports of fraud against employees or employers within 120 days of receipt of the report. There shall be no immunity, under this Act or otherwise, for any person who files a false report or who files a report without good and just cause. Confidentiality of medical information shall be strictly maintained. Investigations that are not referred for prosecution shall be destroyed upon the expiration of the statute of limitations for the acts under investigation immediately expunged and shall not be disclosed except that the ~~employee or employer who was the subject of the report and the person making the report shall be notified that the investigation is being closed, at which time the name of any complainant not connected to the case shall be disclosed to the employee or the employer.~~ It is unlawful for any employer, insurance carrier, or service adjustment company, third party administrator, self-insured, or similar entity to file or threaten to file a report of fraud against an employee because of the exercise by the employee of the rights and remedies granted to the employee by this Act.~~

~~For purposes of this subsection (e), "employer" means any employer, insurance carrier, third party administrator, self-insured, or similar entity.~~

~~For purposes of this subsection (e), "complainant" refers to the person contacting the fraud and insurance non-compliance unit to initiate the complaint.~~

(f) Any person convicted of fraud related to workers' compensation pursuant to this Section shall be subject to the penalties prescribed in the Criminal Code of 1961 and shall be ineligible to receive or retain any compensation, disability, or medical benefits as defined in this Act if the compensation, disability, or medical benefits were owed or received as a result of fraud for which the recipient of the compensation, disability, or medical benefit was convicted. This subsection applies to accidental injuries or diseases that occur on or after the effective date of this amendatory Act of the 94th General Assembly.

(g) Civil liability. Any person convicted of fraud who knowingly obtains, attempts to obtain, or causes to be obtained any benefits under this Act by the making of a false claim or who knowingly misrepresents any material fact shall be civilly liable to the payor of benefits or the insurer or the payor's or insurer's subrogee or assignee in an amount equal to 3 times the value of the benefits or insurance coverage wrongfully obtained or twice the value of the benefits or insurance coverage attempted to be obtained, plus reasonable attorney's fees and expenses incurred by the payor or the payor's subrogee or assignee who successfully brings a claim under this subsection. This subsection applies to accidental injuries or diseases that occur on or after the effective date of this amendatory Act of the 94th General Assembly.

(h) ~~The All proceedings under this Section shall be reported by the fraud and insurance non-compliance unit shall submit a written report on an annual basis to the Workers' Compensation Advisory Board the General Assembly, the Governor, and the Attorney General by January 1st and July 1st of each year. This report shall include, at the minimum, the following information:~~

~~(1) The number of allegations of insurance non-compliance and fraud reported to the fraud and insurance non-compliance unit.~~

~~(2) The source of the reported allegations (individual, employer, or other).~~

~~(3) The number of allegations investigated by the fraud and insurance non-compliance unit.~~

~~(4) The number of criminal referrals made in accordance with this Section and the entity to which the referral was made.~~

~~(5) All proceedings under this Section.~~

(Source: P.A. 94-277, eff. 7-20-05.)

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

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING BILL OF THE SENATE A THIRD TIME

On motion of Senator McCarter, **Senate Bill No. 1349**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the negative by the following vote:

[April 14, 2011]

YEAS 25; NAYS 6; Present 28.

The following voted in the affirmative:

Althoff	Jacobs	McCann	Righter
Bivins	Johnson, C.	McCarter	Sandack
Bomke	Johnson, T.	Millner	Schmidt
Brady	Jones, J.	Murphy	Syverson
Cultra	LaHood	Pankau	
Dillard	Lauzen	Radogno	
Duffy	Luechtefeld	Rezin	

The following voted in the negative:

Collins, A.	Kotowski	Lightford
Delgado	Landek	Sandoval

The following voted present:

Clayborne	Holmes	Meeks	Sullivan
Collins, J.	Hunter	Mulroe	Trotter
Crotty	Hutchinson	Muñoz	Wilhelmi
Forby	Jones, E.	Noland	Mr. President
Frerichs	Koehler	Raoul	
Garrett	Link	Schoenberg	
Haine	Maloney	Silverstein	
Harmon	Martinez	Steans	

This bill, having failed to receive the vote of a constitutional majority of the members elected, was declared lost, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

SENATE BILL RECALLED

On motion of Senator Lightford, **Senate Bill No. 630** was recalled from the order of third reading to the order of second reading.

Senator Lightford offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO SENATE BILL 630

AMENDMENT NO. 1. Amend Senate Bill 630 by replacing everything after the enacting clause with the following:

"Section 3. The Illinois Pension Code is amended by changing Section 17-130 as follows:

(40 ILCS 5/17-130) (from Ch. 108 1/2, par. 17-130)

Sec. 17-130. Participants' contributions by payroll deductions.

(a) There shall be deducted from the salary of each teacher 7.50% of his salary for service or disability retirement pension and 0.5% of salary for the annual increase in base pension.

In addition, there shall be deducted from the salary of each teacher 1% of his salary for survivors' and children's pensions.

(b) An Employer and any employer of eligible contributors as defined in Section 17-106 is authorized to make the necessary deductions from the salaries of its teachers. Such amounts shall be included as a part of the Fund. An Employer and any employer of eligible contributors as defined in Section 17-106 shall formulate such rules and regulations as may be necessary to give effect to the provisions of this Section.

(c) All persons employed as teachers shall, by such employment, accept the provisions of this Article and of Sections 34-83 to ~~34-85~~ ~~34-85b~~, inclusive, of "The School Code", approved March 18, 1961, as amended, and thereupon become contributors to the Fund in accordance with the terms thereof. The provisions of this Article and of those Sections shall become a part of the contract of employment.

(d) A person who (i) was a member before July 1, 1998, (ii) retires with more than 34 years of

[April 14, 2011]

creditable service, and (iii) does not elect to qualify for the augmented rate under Section 17-119.1 shall be entitled, at the time of retirement, to receive a partial refund of contributions made under this Section for service occurring after the later of June 30, 1998 or attainment of 34 years of creditable service, in an amount equal to 1.00% of the salary upon which those contributions were based.

(Source: P.A. 94-1105, eff. 6-1-07.)

Section 5. The School Code is amended by changing Sections 10-22.4, 21-23, 24-11, 24-12, 24-16, 24A-2.5, 24A-5, 34-84, 34-85, and 34-85c and by adding Sections 2-3.153, 10-16a, 24-1.5, and 24-16.5 as follows:

(105 ILCS 5/2-3.153 new)

Sec. 2-3.153. Survey of learning conditions. The State Board of Education shall select for statewide administration an instrument to provide feedback from, at a minimum, students in grades 6 through 12 and teachers on the instructional environment within a school after giving consideration to the recommendations of the Performance Evaluation Advisory Council made pursuant to subdivision (6) of subsection (a) of Section 24A-20 of this Code. Subject to appropriation to the State Board of Education for the State's cost of development and administration and commencing with the 2012-2013 school year, each school district shall administer, at least biannually, the instrument in every public school attendance center by a date specified by the State Superintendent of Education, and data resulting from the instrument's administration must be provided to the State Board of Education. The survey component that requires completion by the teachers must be administered during teacher meetings or professional development days or at other times that would not interfere with the teachers' regular classroom and direct instructional duties. The State Superintendent, following consultation with teachers, principals, and other appropriate stakeholders, shall publicly report on selected indicators of learning conditions resulting from administration of the instrument at the individual school, district, and State levels and shall identify whether the indicators result from an anonymous administration of the instrument. If in any year the appropriation to the State Board of Education is insufficient for the State's costs associated with statewide administration of the instrument, the State Board of Education shall give priority to districts with low-performing schools and a representative sample of other districts.

(105 ILCS 5/10-16a new)

Sec. 10-16a. School board member's leadership training.

(a) This Section applies to all school board members serving pursuant to Section 10-10 of this Code who have been elected after the effective date of this amendatory Act of the 97th General Assembly or appointed to fill a vacancy of at least one year's duration after the effective date of this amendatory Act of the 97th General Assembly.

(b) Every voting member of a school board of a school district elected or appointed for a term beginning after the effective date of this amendatory Act of the 97th General Assembly, within a year after the effective date of this amendatory Act of the 97th General Assembly or the first year of his or her term, shall complete a minimum of 4 hours of professional development leadership training covering topics in education and labor law, financial oversight and accountability, and fiduciary responsibilities of a school board member. The school district shall maintain on its Internet website, if any, the names of all voting members of the school board who have successfully completed the training.

(c) The training on financial oversight, accountability, and fiduciary responsibilities may be provided by an association established under this Code for the purpose of training school board members or by other qualified providers approved by the State Board of Education, in conjunction with an association so established.

(105 ILCS 5/10-22.4) (from Ch. 122, par. 10-22.4)

Sec. 10-22.4. Dismissal of teachers. To dismiss a teacher for incompetency, cruelty, negligence, immorality or other sufficient cause, to dismiss any teacher on the basis of performance who fails to complete a 1 year remediation plan with a "satisfactory" or better rating and to dismiss any teacher whenever, in its opinion, he is not qualified to teach, or whenever, in its opinion, the interests of the schools require it, subject, however, to the provisions of Sections 24-10 to ~~24-16.5~~ 24-15, inclusive. Temporary mental or physical incapacity to perform teaching duties, as found by a medical examination, is not a cause for dismissal. Marriage is not a cause of removal.

(Source: P.A. 85-248.)

(105 ILCS 5/21-23) (from Ch. 122, par. 21-23)

Sec. 21-23. Suspension or revocation of certificate.

(a) The State Superintendent of Education has the exclusive authority, in accordance with this Section and any rules adopted by the State Board of Education, to initiate the suspension of up to 5 calendar years or revocation of any certificate issued pursuant to this Article, including but not limited to any

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administrative certificate or endorsement, for abuse or neglect of a child, immorality, a condition of health detrimental to the welfare of pupils, incompetency, unprofessional conduct (which includes the failure to disclose on an employment application any previous conviction for a sex offense, as defined in Section 21-23a of this Code, or any other offense committed in any other state or against the laws of the United States that, if committed in this State, would be punishable as a sex offense, as defined in Section 21-23a of this Code), the neglect of any professional duty, willful failure to report an instance of suspected child abuse or neglect as required by the Abused and Neglected Child Reporting Act, failure to establish satisfactory repayment on an educational loan guaranteed by the Illinois Student Assistance Commission, or other just cause. Unprofessional conduct shall include refusal to attend or participate in, institutes, teachers' meetings, professional readings, or to meet other reasonable requirements of the regional superintendent or State Superintendent of Education. Unprofessional conduct also includes conduct that violates the standards, ethics, or rules applicable to the security, administration, monitoring, or scoring of, or the reporting of scores from, any assessment test or the Prairie State Achievement Examination administered under Section 2-3.64 or that is known or intended to produce or report manipulated or artificial, rather than actual, assessment or achievement results or gains from the administration of those tests or examinations. It shall also include neglect or unnecessary delay in making of statistical and other reports required by school officers. Incompetency shall include, without limitation, 2 or more school terms of service for which the certificate holder has received an unsatisfactory rating on a performance evaluation conducted pursuant to Article 24A of this Code within a period of 7 school terms of service. In determining whether to initiate action against one or more certificates based on incompetency and the recommended sanction for such action, the State Superintendent shall consider factors that include without limitation all of the following:

(1) Whether the unsatisfactory evaluation ratings occurred prior to the effective date of this amendatory Act of the 97th General Assembly.

(2) Whether the unsatisfactory evaluation ratings occurred prior to or after the implementation date, as defined in Section 24A-2.5 of this Code, of an evaluation system for teachers in a school district.

(3) Whether the evaluator or evaluators who performed an unsatisfactory evaluation met the pre-certification and training requirements set forth in Section 24A-3 of this Code.

(4) The time between the unsatisfactory evaluation ratings.

(5) The quality of the remediation plans associated with the unsatisfactory evaluation ratings and whether the certificate holder successfully completed the remediation plans.

(6) Whether the unsatisfactory evaluation ratings were related to the same or different assignments performed by the certificate holder.

(7) Whether one or more of the unsatisfactory evaluation ratings occurred in the first year of a teaching or administrative assignment.

When initiating an action against one or more certificates, the State Superintendent may seek required professional development as a sanction in lieu of or in addition to suspension or revocation. Any such required professional development must be at the expense of the certificate holder, who may use, if available and applicable to the requirements established by administrative or court order, training, coursework, or other professional development funds in accordance with the terms of an applicable collective bargaining agreement entered into after the effective date of this amendatory Act of the 97th General Assembly, unless that agreement specifically precludes use of funds for such purpose.

(a-5) The State Superintendent of Education shall, upon receipt of evidence of abuse or neglect of a child, immorality, a condition of health detrimental to the welfare of pupils, incompetency (subject to subsection (a) of this Section), unprofessional conduct, the neglect of any professional duty or other just cause, further investigate and, if and as appropriate, serve written notice to the individual and afford the individual opportunity for a hearing prior to suspension, ~~or~~ revocation, ~~or other sanction~~; provided that the State Superintendent is under no obligation to initiate such an investigation if the Department of Children and Family Services is investigating the same or substantially similar allegations and its child protective service unit has not made its determination as required under Section 7.12 of the Abused and Neglected Child Reporting Act. If the State Superintendent of Education does not receive from an individual a request for a hearing within 10 days after the individual receives notice, the suspension, ~~or~~ revocation, ~~or other sanction~~ shall immediately take effect in accordance with the notice. If a hearing is requested within 10 days of notice of opportunity for hearing, it shall act as a stay of proceedings until the State Teacher Certification Board issues a decision. Any hearing shall take place in the educational service region wherein the educator is or was last employed and in accordance with rules adopted by the State Board of Education, in consultation with the State Teacher Certification Board, which rules shall include without limitation provisions for discovery and the sharing of information between parties prior to the hearing. The standard of proof for any administrative hearing held pursuant to this Section shall be

by the preponderance of the evidence. The decision of the State Teacher Certification Board is a final administrative decision and is subject to judicial review by appeal of either party.

The State Board may refuse to issue or may suspend the certificate of any person who fails to file a return, or to pay the tax, penalty or interest shown in a filed return, or to pay any final assessment of tax, penalty or interest, as required by any tax Act administered by the Illinois Department of Revenue, until such time as the requirements of any such tax Act are satisfied.

The exclusive authority of the State Superintendent of Education to initiate suspension or revocation of a certificate pursuant to this Section does not preclude a regional superintendent of schools from cooperating with the State Superintendent or a State's Attorney with respect to an investigation of alleged misconduct.

(b) (Blank).

(b-5) The State Superintendent of Education or his or her designee may initiate and conduct such investigations as may be reasonably necessary to establish the existence of any alleged misconduct. At any stage of the investigation, the State Superintendent may issue a subpoena requiring the attendance and testimony of a witness, including the certificate holder, and the production of any evidence, including files, records, correspondence, or documents, relating to any matter in question in the investigation. The subpoena shall require a witness to appear at the State Board of Education at a specified date and time and shall specify any evidence to be produced. The certificate holder is not entitled to be present, but the State Superintendent shall provide the certificate holder with a copy of any recorded testimony prior to a hearing under this Section. Such recorded testimony must not be used as evidence at a hearing, unless the certificate holder has adequate notice of the testimony and the opportunity to cross-examine the witness. Failure of a certificate holder to comply with a duly-issued, investigatory subpoena may be grounds for revocation, suspension, or denial of a certificate.

(b-10) All correspondence, documentation, and other information so received by the regional superintendent of schools, the State Superintendent of Education, the State Board of Education, or the State Teacher Certification Board under this Section is confidential and must not be disclosed to third parties, except (i) as necessary for the State Superintendent of Education or his or her designee to investigate and prosecute pursuant to this Article, (ii) pursuant to a court order, (iii) for disclosure to the certificate holder or his or her representative, or (iv) as otherwise required in this Article and provided that any such information admitted into evidence in a hearing shall be exempt from this confidentiality and non-disclosure requirement.

(c) The State Superintendent of Education or a person designated by him shall have the power to administer oaths to witnesses at any hearing conducted before the State Teacher Certification Board pursuant to this Section. The State Superintendent of Education or a person designated by him is authorized to subpoena and bring before the State Teacher Certification Board any person in this State and to take testimony either orally or by deposition or by exhibit, with the same fees and mileage and in the same manner as prescribed by law in judicial proceedings in the civil cases in circuit courts of this State.

(c-5) Any circuit court, upon the application of the State Superintendent of Education or the certificate holder, may, by order duly entered, require the attendance of witnesses and the production of relevant books and papers as part of any investigation or at any hearing the State Teacher Certification Board is authorized to conduct pursuant to this Section, and the court may compel obedience to its orders by proceedings for contempt.

(c-10) The State Board of Education shall receive an annual line item appropriation to cover fees associated with the investigation and prosecution of alleged educator misconduct and hearings related thereto.

(d) As used in this Section, "teacher" means any school district employee regularly required to be certified, as provided in this Article, in order to teach or supervise in the public schools.

(Source: P.A. 96-431, eff. 8-13-09.)

(105 ILCS 5/24-1.5 new)

Sec. 24-1.5. New or vacant teaching positions. A school district's selection of a candidate for a new or vacant teaching position not otherwise required to be filled pursuant to Section 24-12 of this Code must be based upon the consideration of factors that include without limitation certifications, qualifications, merit and ability (including performance evaluations, if available), and relevant experience, provided that the length of continuing service with the school district must not be considered as a factor, unless all other factors are determined by the school district to be equal. A school district's decision to select a particular candidate to fill a new or vacant position is not subject to review under grievance resolution procedures adopted pursuant to subsection (c) of Section 10 of the Illinois Educational Labor Relations Act, provided that, in making such a decision, the district does not fail to adhere to procedural

requirements in a collective bargaining agreement relating to the filling of new or vacant teaching positions. Provisions regarding the filling of new and vacant positions in a collective bargaining agreement between a school district and the exclusive bargaining representative of its teachers in existence on the effective date of this amendatory Act of the 97th General Assembly shall remain in full force and effect for the term of the agreement, unless terminated by mutual agreement.

Nothing in this amendatory Act of the 97th General Assembly (i) limits or otherwise impacts school districts' management right to hire new employees, (ii) affects what currently is or may be a mandatory subject of bargaining under the Illinois Educational Labor Relations Act, or (iii) creates a statutory cause of action for a candidate or a candidate's representative to challenge a school district's selection decision based on the school district's failure to adhere to the requirements of this Section.

(105 ILCS 5/24-11) (from Ch. 122, par. 24-11)

Sec. 24-11. Boards of Education - Boards of School Inspectors - Contractual continued service.

(a) As used in this and the succeeding Sections of this Article:

"Teacher" means any or all school district employees regularly required to be certified under laws relating to the certification of teachers.

"Board" means board of directors, board of education, or board of school inspectors, as the case may be.

"School term" means that portion of the school year, July 1 to the following June 30, when school is in actual session.

"Program" means a program of a special education joint agreement.

"Program of a special education joint agreement" means instructional, consultative, supervisory, administrative, diagnostic, and related services that are managed by a special educational joint agreement designed to service 2 or more school districts that are members of the joint agreement.

"PERA implementation date" means the implementation date of an evaluation system for teachers as specified by Section 24A-2.5 of this Code for all schools within a school district or all programs of a special education joint agreement.

(b) This Section and Sections 24-12 through 24-16 of this Article apply only to school districts having less than 500,000 inhabitants.

(c) Any teacher who is first employed as a full-time teacher in a school district or program prior to the PERA implementation date and ~~any teacher who is has been employed in that any district or program as a full-time teacher~~ for a probationary period of 4 ~~2~~ consecutive school terms shall enter upon contractual continued service in the district or in all of the programs that the teacher is legally qualified to hold, unless the teacher is given written notice of dismissal ~~stating the specific reason therefor~~, by certified mail, return receipt requested, by the employing board at least 45 days before the end of any school term ~~within such period~~ ~~except that for a teacher who is first employed as a full-time teacher by a school district on or after January 1, 1998 and who has not before that date already entered upon contractual continued service in that district, the probationary period shall be 4 consecutive school terms before the teacher shall enter upon contractual continued service. For the purpose of determining contractual continued service, the first probationary year shall be any full-time employment from a date before November 1 through the end of the school year.~~

(d) For any teacher who is first employed as a full-time teacher in a school district or program on or after the PERA implementation date, the probationary period shall be one of the following periods, based upon the teacher's school terms of service and performance, before the teacher shall enter upon contractual continued service in the district or in all of the programs that the teacher is legally qualified to hold, unless the teacher is given written notice of dismissal by certified mail, return receipt requested, by the employing board at least 45 days before the end of any school term within such period:

(1) 4 consecutive school terms of service in which the teacher receives overall annual evaluation ratings of at least "Proficient" in the last school term and at least "Proficient" in either the second or third school term;

(2) 3 consecutive school terms of service in which the teacher receives 3 overall annual evaluations of "Excellent"; or

(3) 2 consecutive school terms of service in which the teacher receives 2 overall annual evaluations of "Excellent" service, but only if the teacher (i) previously attained contractual continued service in a different school district or program in this State, (ii) voluntarily departed or was honorably dismissed from that school district or program in the school term immediately prior to the teacher's first school term of service applicable to the attainment of contractual continued service under this subdivision (3), and (iii) received, in his or her 2 most recent overall annual or biannual evaluations from the prior school district or program, ratings of "Proficient", with both such ratings occurring after the school district's or program's PERA implementation date.

If the teacher does not receive overall annual evaluations of "Excellent" in the school terms necessary for eligibility to achieve accelerated contractual continued service in subdivisions (2) and (3) of this subsection (d), the teacher shall be eligible for contractual continued service pursuant to subdivision (1) of this subsection (d). If, at the conclusion of 4 consecutive school terms of service that count toward attainment of contractual continued service, the teacher's performance does not qualify the teacher for contractual continued service under subdivision (1) of this subsection (d), then the teacher shall not enter upon contractual continued service and shall be dismissed. If a performance evaluation is not conducted for any school term when such evaluation is required to be conducted under Section 24A-5 of this Code, then the teacher's performance evaluation rating for such school term for purposes of determining the attainment of contractual continued service shall be deemed "Proficient".

(e) For the purposes of determining contractual continued service, a school term shall be counted only toward attainment of contractual continued service if the teacher actually teaches or is otherwise present and participating in the district's or program's educational program for 120 days or more, provided that the days of leave under the federal Family Medical Leave Act that the teacher is required to take until the end of the school term shall be considered days of teaching or participation in the district's or program's educational program. A school term that is not counted toward attainment of contractual continued service shall not be considered a break in service for purposes of determining whether a teacher has been employed for 4 consecutive school terms, provided that the teacher actually teaches or is otherwise present and participating in the district's or program's educational program in the following school term.

(f) If the employing board determines to dismiss the teacher in the last year of the probationary period as provided in subsection (c) of this Section or subdivision (1) or (2) of subsection (d) of this Section, but not subdivision (3) of subsection (d) of this Section, the written notice of dismissal provided by the employing board must contain specific reasons for dismissal. Any full-time teacher who does not receive written notice from the employing board at least 45 days before the end of any school term as provided in this Section and whose performance does not require dismissal after the fourth probationary year pursuant to subsection (d) of this Section shall be re-employed for the following school term.

If, however, a teacher who was first employed prior to January 1, 1998 has not had one school term of full-time teaching experience before the beginning of a probationary period of 2 consecutive school terms, the employing board may at its option extend the probationary period for one additional school term by giving the teacher written notice by certified mail, return receipt requested, at least 45 days before the end of the second school term of the period of 2 consecutive school terms referred to above. This notice must state the reasons for the one year extension and must outline the corrective actions that the teacher must take to satisfactorily complete probation. The changes made by this amendatory Act of 1998 are declaratory of existing law.

Any full-time teacher who is not completing the last year of the probationary period described in the preceding paragraph, or any teacher employed on a full-time basis not later than January 1 of the school term, shall receive written notice from the employing board at least 45 days before the end of any school term whether or not he will be re-employed for the following school term. If the board fails to give such notice, the employee shall be deemed reemployed, and not later than the close of the then current school term the board shall issue a regular contract to the employee as though the board had reemployed him in the usual manner.

(g) Contractual continued service shall continue in effect the terms and provisions of the contract with the teacher during the last school term of the probationary period, subject to this Act and the lawful regulations of the employing board. This Section and succeeding Sections do not modify any existing power of the board except with respect to the procedure of the discharge of a teacher and reductions in salary as hereinafter provided. Contractual continued service status shall not restrict the power of the board to transfer a teacher to a position which the teacher is qualified to fill or to make such salary adjustments as it deems desirable, but unless reductions in salary are uniform or based upon some reasonable classification, any teacher whose salary is reduced shall be entitled to a notice and a hearing as hereinafter provided in the case of certain dismissals or removals.

(h) If, by reason of any change in the boundaries of school districts or by reason of the creation of a new school district, the position held by any teacher having a contractual continued service status is transferred from one board to the control of a new or different board, then the contractual continued service status of the teacher is not thereby lost, and such new or different board is subject to this Code with respect to the teacher in the same manner as if the teacher were its employee and had been its employee during the time the teacher was actually employed by the board from whose control the position was transferred.

(i) The employment of any teacher in a program of a special education joint agreement established

under Section 3-15.14, 10-22.31 or 10-22.31a shall be governed by ~~under~~ this and succeeding Sections of this Article. For purposes of attaining and maintaining contractual continued service and computing length of continuing service as referred to in this Section and Section 24-12, employment in a special educational joint program shall be deemed a continuation of all previous certificated employment of such teacher for such joint agreement whether the employer of the teacher was the joint agreement, the regional superintendent, or one of the participating districts in the joint agreement.

(j) For any teacher employed after July 1, 1987 as a full-time teacher in a program of a special education joint agreement, whether the program is operated by the joint agreement or a member district on behalf of the joint agreement, in the event of a reduction in the number of programs or positions in the joint agreement in which the notice of dismissal is provided on or before the end of the 2010-2011 school term, the teacher in contractual continued service is eligible for employment in the joint agreement programs for which the teacher is legally qualified in order of greater length of continuing service in the joint agreement, unless an alternative method of determining the sequence of dismissal is established in a collective bargaining agreement. For any teacher employed after July 1, 1987 as a full-time teacher in a program of a special education joint agreement, whether the program is operated by the joint agreement or a member district on behalf of the joint agreement, in the event of a reduction in the number of programs or positions in the joint agreement in which the notice of dismissal is provided during the 2011-2012 school term or a subsequent school term, the teacher shall be included on the honorable dismissal lists of all joint agreement programs for positions for which the teacher is qualified and is eligible for employment in such programs in accordance with subsections (b) and (c) of Section 24-12 of this Code and the applicable honorable dismissal policies of the joint agreement.

(k) For any teacher employed after July 1, 1987 as a full-time teacher in a program of a special education joint agreement, whether the program is operated by the joint agreement or a member district on behalf of the joint agreement, in the event of the dissolution of a joint agreement, in which the notice to teachers of the dissolution is provided during the 2010-2011 school term, the teacher in contractual continued service who is legally qualified shall be assigned to any comparable position in a member district currently held by a teacher who has not entered upon contractual continued service or held by a teacher who has entered upon contractual continued service with a shorter length of contractual continued service. Any teacher employed after July 1, 1987 as a full-time teacher in a program of a special education joint agreement, whether the program is operated by the joint agreement or a member district on behalf of the joint agreement, in the event of the dissolution of a joint agreement in which the notice to teachers of the dissolution is provided during the 2011-2012 school term or a subsequent school term, the teacher who is qualified shall be included on the order of honorable dismissal lists of each member district and shall be assigned to any comparable position in any such district in accordance with subsections (b) and (c) of Section 24-12 of this Code and the applicable honorable dismissal policies of each member district.

Any teacher employed after July 1, 1987 as a full-time teacher in a program of a special education joint agreement, whether the program is operated by the joint agreement or a member district on behalf of the joint agreement, for a probationary period of two consecutive years shall enter upon contractual continued service in all of the programs conducted by such joint agreement which the teacher is legally qualified to hold; except that for a teacher who is first employed on or after January 1, 1998 in a program of a special education joint agreement and who has not before that date already entered upon contractual continued service in all of the programs conducted by the joint agreement that the teacher is legally qualified to hold, the probationary period shall be 4 consecutive years before the teacher enters upon contractual continued service in all of those programs. In the event of a reduction in the number of programs or positions in the joint agreement, the teacher on contractual continued service shall be eligible for employment in the joint agreement programs for which the teacher is legally qualified in order of greater length of continuing service in the joint agreement unless an alternative method of determining the sequence of dismissal is established in a collective bargaining agreement. In the event of the dissolution of a joint agreement, the teacher on contractual continued service who is legally qualified shall be assigned to any comparable position in a member district currently held by a teacher who has not entered upon contractual continued service or held by a teacher who has entered upon contractual continued service with shorter length of contractual continued service.

(l) The governing board of the joint agreement, or the administrative district, if so authorized by the articles of agreement of the joint agreement, rather than the board of education of a school district, may carry out employment and termination actions including dismissals under this Section and Section 24-12.

For purposes of this and succeeding Sections of this Article, a program of a special educational joint agreement shall be defined as instructional, consultative, supervisory, administrative, diagnostic, and related services which are managed by the special educational joint agreement designed to service two or

~~more districts which are members of the joint agreement.~~

~~Each joint agreement shall be required to post by February 1, a list of all its employees in order of length of continuing service in the joint agreement, unless an alternative method of determining a sequence of dismissal is established in an applicable collective bargaining agreement.~~

(m) The employment of any teacher in a special education program authorized by Section 14-1.01 through 14-14.01, or a joint educational program established under Section 10-22.31a, shall be under this and the succeeding Sections of this Article, and such employment shall be deemed a continuation of the previous employment of such teacher in any of the participating districts, regardless of the participation of other districts in the program.

(n) Any teacher employed as a full-time teacher in a special education program prior to September 23, 1987 in which 2 or more school districts participate for a probationary period of 2 consecutive years shall enter upon contractual continued service in each of the participating districts, subject to this and the succeeding Sections of this Article, and, ~~notwithstanding~~ Section 24-1.5 of this Code, in the event of the termination of the program shall be eligible for any vacant position in any of such districts for which such teacher is qualified.

(Source: P.A. 90-548, eff. 1-1-98; 90-653, eff. 7-29-98.)

(105 ILCS 5/24-12) (from Ch. 122, par. 24-12)

Sec. 24-12. Removal or dismissal of teachers in contractual continued service.

(a) This subsection (a) applies only to honorable dismissals and recalls in which the notice of dismissal is provided on or before the end of the 2010-2011 school term. If a teacher in contractual continued service is removed or dismissed as a result of a decision of the board to decrease the number of teachers employed by the board or to discontinue some particular type of teaching service, written notice shall be mailed to the teacher and also given the teacher either by certified mail, return receipt requested or personal delivery with receipt at least 60 days before the end of the school term, together with a statement of honorable dismissal and the reason therefor, and in all such cases the board shall first remove or dismiss all teachers who have not entered upon contractual continued service before removing or dismissing any teacher who has entered upon contractual continued service and who is legally qualified to hold a position currently held by a teacher who has not entered upon contractual continued service.

As between teachers who have entered upon contractual continued service, the teacher or teachers with the shorter length of continuing service with the district shall be dismissed first unless an alternative method of determining the sequence of dismissal is established in a collective bargaining agreement or contract between the board and a professional faculty members' organization and except that this provision shall not impair the operation of any affirmative action program in the district, regardless of whether it exists by operation of law or is conducted on a voluntary basis by the board. Any teacher dismissed as a result of such decrease or discontinuance shall be paid all earned compensation on or before the third business day following the last day of pupil attendance in the regular school term.

If the board has any vacancies for the following school term or within one calendar year from the beginning of the following school term, the positions thereby becoming available shall be tendered to the teachers so removed or dismissed so far as they are legally qualified to hold such positions; provided, however, that if the number of honorable dismissal notices based on economic necessity exceeds 15% of the number of full time equivalent positions filled by certified employees (excluding principals and administrative personnel) during the preceding school year, then if the board has any vacancies for the following school term or within 2 calendar years from the beginning of the following school term, the positions so becoming available shall be tendered to the teachers who were so notified and removed or dismissed whenever they are legally qualified to hold such positions. Each board shall, in consultation with any exclusive employee representatives, each year establish a list, categorized by positions, showing the length of continuing service of each teacher who is qualified to hold any such positions, unless an alternative method of determining a sequence of dismissal is established as provided for in this Section, in which case a list shall be made in accordance with the alternative method. Copies of the list shall be distributed to the exclusive employee representative on or before February 1 of each year. Whenever the number of honorable dismissal notices based upon economic necessity exceeds 5, or 150% of the average number of teachers honorably dismissed in the preceding 3 years, whichever is more, then the board also shall hold a public hearing on the question of the dismissals. Following the hearing and board review the action to approve any such reduction shall require a majority vote of the board members.

(b) This subsection (b) applies only to honorable dismissals and recalls in which the notice of dismissal is provided during the 2011-2012 school term or a subsequent school term. If any teacher, whether or not in contractual continued service, is removed or dismissed as a result of a decision of a

school board to decrease the number of teachers employed by the board, a decision of a school board to discontinue some particular type of teaching service, or a reduction in the number of programs or positions in a special education joint agreement, then written notice must be mailed to the teacher and also given to the teacher either by certified mail, return receipt requested, or personal delivery with receipt at least 45 days before the end of the school term, together with a statement of honorable dismissal and the reason therefor, and in all such cases the sequence of dismissal shall occur in accordance with this subsection (b); except that this subsection (b) shall not impair the operation of any affirmative action program in the school district, regardless of whether it exists by operation of law or is conducted on a voluntary basis by the board.

Each teacher must be categorized into one or more positions for which the teacher is qualified to hold, based upon legal qualifications and any other qualifications established in a district or joint agreement job description, on or before the May 10 prior to the school year during which the sequence of dismissal is determined. Within each position and subject to agreements made by the joint committee on honorable dismissals that are authorized by subsection (c) of this Section, the school district or joint agreement must establish 4 groupings of teachers qualified to hold the position as follows:

(1) Grouping one shall consist of each teacher not in contractual continued service who has not received a performance evaluation rating.

(2) Grouping 2 shall consist of each teacher with a Needs Improvement or Unsatisfactory performance evaluation rating on either of the teacher's last 2 performance evaluation ratings.

(3) Grouping 3 shall consist of each teacher with a performance evaluation rating of at least Satisfactory or Proficient on both of the teacher's last 2 performance evaluation ratings, if 2 ratings are available, or on the teacher's last performance evaluation rating, if only one rating is available, unless the teacher qualifies for placement into grouping 4.

(4) Grouping 4 shall consist of each teacher whose last 2 performance evaluation ratings are Excellent and each teacher with 2 Excellent performance evaluation ratings out of the teacher's last 3 performance evaluation ratings with a third rating of Satisfactory or Proficient.

Among teachers qualified to hold a position, teachers must be dismissed in the order of their groupings, with teachers in grouping one dismissed first and teachers in grouping 4 dismissed last.

Within grouping one, the sequence of dismissal must be at the discretion of the school district or joint agreement. Within grouping 2, the sequence of dismissal must be based upon average performance evaluation ratings, with the teacher or teachers with the lowest average performance evaluation rating dismissed first. A teacher's average performance evaluation rating must be calculated using the average of the teacher's last 2 performance evaluation ratings, if 2 ratings are available, or the teacher's last performance evaluation rating, if only one rating is available, using the following numerical values: 4 for Excellent; 3 for Proficient or Satisfactory; 2 for Needs Improvement; and 1 for Unsatisfactory. As between or among teachers in grouping 2 with the same average performance evaluation rating and within each of groupings 3 and 4, the teacher or teachers with the shorter length of continuing service with the school district or joint agreement must be dismissed first unless an alternative method of determining the sequence of dismissal is established in a collective bargaining agreement or contract between the board and a professional faculty members' organization.

Each board, including the governing board of a joint agreement, shall, in consultation with any exclusive employee representatives, each year establish a sequence of honorable dismissal list categorized by positions and the groupings defined in this subsection (b). Copies of the list must be distributed to the exclusive bargaining representative at least 75 days before the end of the school term, provided that the school district or joint agreement may, with notice to any exclusive employee representatives, move teachers from grouping one into another grouping during the period of time from 75 days until 45 days before the end of the school term.

Any teacher dismissed as a result of such decrease or discontinuance must be paid all earned compensation on or before the third business day following the last day of pupil attendance in the regular school term.

If the board or joint agreement has any vacancies for the following school term or within one calendar year from the beginning of the following school term, the positions thereby becoming available must be tendered to the teachers so removed or dismissed who were in groupings 3 or 4 of the sequence of dismissal and are qualified to hold the positions, based upon legal qualifications and any other qualifications established in a district or joint agreement job description, on or before the May 10 prior to the date of the positions becoming available, provided that if the number of honorable dismissal notices based on economic necessity exceeds 15% of the number of full-time equivalent positions filled by certified employees (excluding principals and administrative personnel) during the preceding school year, then the recall period is for the following school term or within 2 calendar years from the

beginning of the following school term. Among teachers eligible for recall pursuant to the preceding sentence, the order of recall must be in inverse order of dismissal, unless an alternative order of recall is established in a collective bargaining agreement or contract between the board and a professional faculty members' organization. Whenever the number of honorable dismissal notices based upon economic necessity exceeds 5 notices or 150% of the average number of teachers honorably dismissed in the preceding 3 years, whichever is more, then the school board or governing board of a joint agreement, as applicable, shall also hold a public hearing on the question of the dismissals. Following the hearing and board review, the action to approve any such reduction shall require a majority vote of the board members.

For purposes of this subsection (b), subject to agreement on an alternative definition reached by the joint committee described in subsection (c) of this Section, a teacher's performance evaluation rating means the overall performance evaluation rating resulting from an annual or biannual performance evaluation conducted pursuant to Article 24A of this Code by the school district or joint agreement determining the sequence of dismissal, not including any performance evaluation conducted during or at the end of a remediation period. For performance evaluation ratings determined prior to September 1, 2012, any school district or joint agreement with a performance evaluation rating system that does not use either of the rating category systems specified in subsection (d) of Section 24A-5 of this Code for all teachers must establish a basis for assigning each teacher a rating that complies with subsection (d) of Section 24A-5 of this Code for all of the performance evaluation ratings that are to be used to determine the sequence of dismissal. A teacher's grouping and ranking on a sequence of honorable dismissal shall be deemed a part of the teacher's performance evaluation, and that information may be disclosed to the exclusive bargaining representative as part of a sequence of honorable dismissal list, notwithstanding any laws prohibiting disclosure of such information. A performance evaluation rating may be used to determine the sequence of dismissal, notwithstanding the pendency of any grievance resolution or arbitration procedures relating to the performance evaluation. If a teacher has received at least one performance evaluation rating conducted by the school district or joint agreement determining the sequence of dismissal and a subsequent performance evaluation is not conducted in any school year in which such evaluation is required to be conducted under Section 24A-5 of this Code, the teacher's performance evaluation rating for that school year for purposes of determining the sequence of dismissal is deemed Proficient. If a performance evaluation rating is nullified as the result of an arbitration determination, then the school district or joint agreement is deemed to have conducted a performance evaluation for that school year, but the performance evaluation rating may not be used in determining the sequence of dismissal.

Nothing in this subsection (b) shall be construed as limiting the right of a school board or governing board of a joint agreement to dismiss a teacher not in contractual continued service in accordance with Section 24-11 of this Code.

Any provisions regarding the sequence of honorable dismissals and recall of honorably dismissed teachers in a collective bargaining agreement entered into on or before January 1, 2011 and in effect on the effective date of this amendatory Act of the 97th General Assembly that may conflict with this amendatory Act of the 97th General Assembly shall remain in effect through the expiration of such agreement or June 30, 2013, whichever is earlier.

(c) Each school district and special education joint agreement must use a joint committee composed of equal representation selected by the school board and its teachers or, if applicable, the exclusive bargaining representative of its teachers, to address the matters described in paragraphs (1) through (5) of this subsection (c) pertaining to honorable dismissals under subsection (b) of this Section.

(1) The joint committee must consider and may agree to criteria for excluding from grouping 2 and placing into grouping 3 a teacher whose last 2 performance evaluations include a Needs Improvement and either a Proficient or Excellent.

(2) The joint committee must consider and may agree to an alternative definition for grouping 4, which definition must take into account prior performance evaluation ratings and may take into account other factors that relate to the school district's or program's educational objectives. An alternative definition for grouping 4 may not permit the inclusion of a teacher in the grouping with a Needs Improvement or Unsatisfactory performance evaluation rating on either of the teacher's last 2 performance evaluation ratings.

(3) The joint committee may agree to including within the definition of a performance evaluation rating a performance evaluation rating administered by a school district or joint agreement other than the school district or joint agreement determining the sequence of dismissal.

(4) For each school district or joint agreement that administers performance evaluation ratings that are inconsistent with either of the rating category systems specified in subsection (d) of Section 24A-5 of

this Code, the school district or joint agreement must consult with the joint committee on the basis for assigning a rating that complies with subsection (d) of Section 24A-5 of this Code to each performance evaluation rating that will be used in a sequence of dismissal.

(5) Upon request by a joint committee member submitted to the employing board by no later than 10 days after the distribution of the sequence of honorable dismissal list, a representative of the employing board shall, within 5 days after the request, provide to members of the joint committee a list showing the most recent and prior performance evaluation ratings of each teacher identified only by length of continuing service in the district or joint agreement and not by name. If, after review of this list, a member of the joint committee has a good faith belief that a disproportionate number of teachers with greater length of continuing service with the district or joint agreement have received a recent performance evaluation rating lower than the prior rating, the member may request that the joint committee review the list to assess whether such a trend may exist. Following the joint committee's review, but by no later than the end of the applicable school term, the joint committee or any member or members of the joint committee may submit a report of the review to the employing board and exclusive bargaining representative, if any. Nothing in this paragraph (5) shall impact the order of honorable dismissal or a school district's or joint agreement's authority to carry out a dismissal in accordance with subsection (b) of this Section.

Agreement by the joint committee as to a matter requires the majority vote of all committee members, and if the joint committee does not reach agreement on a matter, then the otherwise applicable requirements of subsection (b) of this Section shall apply. Except as explicitly set forth in this subsection (c), a joint committee has no authority to agree to any further modifications to the requirements for honorable dismissals set forth in subsection (a) of this Section. The joint committee must be established and the first meeting of the joint committee must occur on or before December 1, 2011 or 30 days after the effective date of this amendatory act of the 97th General Assembly, whichever is later.

The joint committee must reach agreement on a matter on or before February 1 of a school year in order for the agreement of the joint committee to apply to the sequence of dismissal determined during that school year. Subject to the February 1 deadline for agreements, the agreement of a joint committee on a matter shall apply to the sequence of dismissal until the agreement is amended or terminated by the joint committee.

(d) Notwithstanding anything to the contrary in this subsection (d), the requirements and dismissal procedures of Section 24-16.5 of this Code shall apply to any dismissal sought under Section 24-16.5 of this Code.

(1) If a dismissal of a teacher in contractual continued service or removal is sought for any other reason or cause other than an honorable dismissal under subsections (a) or (b) of this Section or a dismissal sought under Section 24-16.5 of this Code, including those under Section

10-22.4, the board must first approve a motion containing specific charges by a majority vote of all its members. Written notice of such charges, including a bill of particulars and the teacher's right to request a hearing, must be mailed to the teacher and also given to the teacher either by certified mail, return receipt requested, or personal delivery with receipt ~~shall be served upon the teacher~~ within 5 days of the adoption of the motion. Any written notice sent on or after July 1, 2012 shall inform the teacher of the right to request a hearing before a mutually-selected hearing officer, with the cost of the hearing officer split equally between the teacher and the board, or a hearing before a board-selected hearing officer, with the cost of the hearing officer paid by the board. Such notice shall contain a bill of particulars.

Before setting a hearing on charges stemming from causes that are considered remediable, a board must give the teacher reasonable warning in writing, stating specifically the causes that, if not removed, may result in charges; however, no such written warning is required if the causes have been the subject of a remediation plan pursuant to Article 24A of this Code.

If, in the opinion of the board, the interests of the school require it, the board may suspend the teacher without pay, pending the hearing, but if the board's dismissal or removal is not sustained, the teacher shall not suffer the loss of any salary or benefits by reason of the suspension.

(2) No hearing upon the charges is required unless the teacher within 17 ~~40~~ days after receiving notice requests in writing of the board that a hearing be scheduled before a mutually-selected hearing officer or a hearing officer selected by the board, ~~in which case the board shall schedule a hearing on those charges before a disinterested hearing officer on a date no less than 15 nor more than 30 days after the enactment of the motion.~~ The secretary of the school board shall forward a copy of the notice to the State Board of Education.

(3) Within 5 business days after receiving a ~~this~~ notice of hearing in which either notice to the teacher was sent before July 1, 2012 or, if the notice was sent on or after July 1, 2012, the teacher has

requested a hearing before a mutually-selected hearing officer, the State Board of Education shall provide a list of 5 prospective, impartial hearing officers from the master list of qualified, impartial hearing officers maintained by the State Board of Education. Each person on the master list must (i) be accredited by a national arbitration organization and have had a minimum of 5 years of experience directly related to labor and employment relations matters between educational employers and educational employees or their exclusive bargaining representatives and (ii) beginning September 1, 2012, have participated in training provided or approved by the State Board of Education for teacher dismissal hearing officers so that he or she is familiar with issues generally involved in evaluative and non-evaluative dismissals.

If notice to the teacher was sent before July 1, 2012 or, if the notice was sent on or after July 1, 2012, the teacher has requested a hearing before a mutually-selected hearing officer, the board –No one on the list may be a resident of the school district. The Board and the teacher or their legal representatives within 3 business days shall alternately strike one name from the list provided by the State Board of Education until only one name remains. Unless waived by the teacher, the teacher shall have the right to proceed first with the striking. Within 3 business days of receipt of the first list provided by the State Board of Education, the board and the teacher or their legal representatives shall each have the right to reject all prospective hearing officers named on the first list and notify the State Board of Education of such rejection to require the State Board of Education to provide a second list of 5 prospective, impartial hearing officers, none of whom were named on the first list. Within 3 business 5 days after receiving this notification request for a second list, the State Board of Education shall appoint a qualified person from the master list who did not appear on the list sent to the parties to serve as the hearing officer, unless the parties notify it that they have chosen to alternatively select a hearing officer under paragraph (4) of this subsection (d) provide the second list of 5 prospective, impartial hearing officers. The procedure for selecting a hearing officer from the second list shall be the same as the procedure for the first list.

If the teacher has requested a hearing before a hearing officer selected by the board, the board shall select one name from the master list of qualified impartial hearing officers maintained by the State Board of Education within 3 business days after receipt and shall notify the State Board of Education of its selection.

A hearing officer mutually selected by the parties, selected by the board, or selected through an alternative selection process under paragraph (4) of this subsection (d) (A) must not be a resident of the school district, (B) must be available to commence the hearing within 75 days and conclude the hearing within 120 days after being selected as the hearing officer, and (C) must issue a decision as to whether the teacher must be dismissed and give a copy of that decision to both the teacher and the board within 30 days from the conclusion of the hearing or closure of the record, whichever is later.

(4) In the alternative to selecting a hearing officer from the first or second list received from the State Board of Education accepting the appointment of a hearing officer by the State Board of Education or if the State Board of Education cannot provide a list or appoint a hearing officer that meets the foregoing requirements, the board and the teacher or their legal representatives may mutually agree to select an impartial hearing officer who is not on the master a list received from the State Board of Education either by direct appointment by the parties or by using procedures for the appointment of an arbitrator established by the Federal Mediation and Conciliation Service or the American Arbitration Association. The parties shall notify the State Board of Education of their intent to select a hearing officer using an alternative procedure within 3 business days of receipt of a list of prospective hearing officers provided by the State Board of Education, notice of appointment of a hearing officer by the State Board of Education, or receipt of notice from the State Board of Education that it cannot provide a list that meets the foregoing requirements, whichever is later.

(5) If the notice of dismissal was sent to the teacher before July 1, 2012, the fees and costs for the hearing officer must be paid by the State Board of Education. If the notice of dismissal was sent to the teacher on or after July 1, 2012, the hearing officer's fees and costs must be paid as follows in this paragraph (5). The fees and permissible costs for the hearing officer must be determined by the State Board of Education. If the board and the teacher or their legal representatives mutually agree to select an impartial hearing officer who is not on a list received from the State Board of Education, they may agree to supplement the fees determined by the State Board to the hearing officer, at a rate consistent with the hearing officer's published professional fees. If the hearing officer is mutually selected by the parties, then the board and the teacher or their legal representatives shall each pay 50% of the fees and costs and any supplemental allowance to which they agree. If the hearing officer is selected by the board, then the board shall pay 100% of the hearing officer's fees and costs. The fees and costs must be paid to the hearing officer within 14 days after the board and the teacher or their legal representatives receive the

hearing officer's decision set forth in paragraph (7) of this subsection (d).

(6) ~~The teacher is required to answer the bill of particulars and aver affirmative matters in his or her defense, and the time for initially doing so and the time for updating such answer and defenses after pre-hearing discovery must be set by the hearing officer. Any person selected by the parties under this alternative procedure for the selection of a hearing officer shall not be a resident of the school district and shall have the same qualifications and authority as a hearing officer selected from a list provided by the State Board of Education. The State Board of Education shall promulgate uniform standards and rules so that each party has a fair opportunity to present its case and to ensure that the dismissal process proceeds in a fair and expeditious manner of procedure for such hearings. These rules shall address, without limitation, discovery and hearing scheduling conferences; the teacher's initial answer and affirmative defenses to the bill of particulars and the updating of that information after pre-hearing discovery; provision for written interrogatories and requests for production of documents; the requirement that each party initially disclose to the other party and then update the disclosure no later than 10 calendar days prior to the commencement of the hearing, the~~ ~~As to prehearing discovery, such rules and regulations shall, at a minimum, allow for: (1) discovery of names and addresses of persons who may be called as expert witnesses at the hearing, a summary of the facts or opinions each witness will testify to, and all other~~ ~~the omission of any such name to result in a preclusion of the testimony of such witness in the absence of a showing of good cause and the express permission of the hearing officer; (2) bills of particulars; (3) written interrogatories; and (4) production of relevant documents and materials, including information maintained electronically, relevant to its own as well as the other party's case (the hearing officer may exclude witnesses and exhibits not identified and shared, except those offered in rebuttal for which the party could not reasonably have anticipated prior to the hearing); pre-hearing discovery and preparation, including provision for written interrogatories and requests for production of documents, provided that discovery depositions are prohibited; the conduct of the hearing; the right of each party to be represented by counsel, the offer of evidence and witnesses and the cross-examination of witnesses; the authority of the hearing officer to issue subpoenas and subpoenas duces tecum, provided that the hearing officer may limit the number of witnesses to be subpoenaed on behalf of each party to no more than 7; the length of post-hearing briefs; and the form, length, and content of hearing officers' decisions. The per diem allowance for the hearing officer shall be determined and paid by the State Board of Education. The hearing officer shall hold a hearing and render a final decision for dismissal pursuant to Article 24A of this Code or shall report to the school board findings of fact and a recommendation as to whether or not the teacher must be dismissed for conduct. The hearing officer shall commence the hearing within 75 days and conclude the hearing within 120 days after being selected as the hearing officer, provided that the hearing officer may modify these timelines upon the showing of good cause or mutual agreement of the parties. Good cause for the purpose of this subsection (d) shall mean the illness or otherwise unavoidable emergency of the teacher, district representative, their legal representatives, the hearing officer, or an essential witness as indicated in each party's pre-hearing submission. In a dismissal hearing pursuant to Article 24A of this Code, the hearing officer shall consider and give weight to all of the teacher's evaluations written pursuant to Article 24A that are relevant to the issues in the hearing.~~

~~Each party shall have no more than 3 days to present its case, unless extended by the hearing officer to enable a party to present adequate evidence and testimony, including due to the other party's cross-examination of the party's witnesses, for good cause or by mutual agreement of the parties. The State Board of Education shall define in rules the meaning of "day" for such purposes. The teacher has the privilege of being present at the hearing with counsel and of cross examining witnesses and may offer evidence and witnesses and present defenses to the charges. The hearing officer may issue subpoenas and subpoenas duces tecum requiring the attendance of witnesses and, at the request of the teacher against whom a charge is made or the board, shall issue such subpoenas, but the hearing officer may limit the number of witnesses to be subpoenaed in behalf of the teacher or the board to not more than 10. All testimony at the hearing shall be taken under oath administered by the hearing~~

~~officer. The hearing officer shall cause a record of the proceedings to be kept and shall employ a competent reporter to take stenographic or stentype notes of all the testimony. The costs of the reporter's attendance and services at the hearing shall be paid by the party or parties who are responsible for paying the fees and costs of the hearing officer State Board of Education. Either party desiring a transcript of the hearing shall pay for the cost thereof. Any post-hearing briefs must be submitted by the parties by no later than 21 days after a party's receipt of the transcript of the hearing, unless extended by the hearing officer for good cause or by mutual agreement of the parties.~~

~~(7) If in the opinion of the board the interests of the school require it, the board may suspend the~~

teacher pending the hearing, but if acquitted the teacher shall not suffer the loss of any salary by reason of the suspension.

~~Before setting a hearing on charges stemming from causes that are considered remediable, a board must give the teacher reasonable warning in writing, stating specifically the causes which, if not removed, may result in charges; however, no such written warning shall be required if the causes have been the subject of a remediation plan pursuant to Article 24A. The hearing officer shall consider and give weight to all of the teacher's evaluations written pursuant to Article 24A. The hearing officer shall, within 30 days from the conclusion of the hearing or closure~~

of the record, whichever is later, make a decision as to whether or not the teacher shall be dismissed pursuant to Article 24A of this Code or report to the school board findings of fact and a recommendation as to whether or not the teacher shall be dismissed for cause and shall give a copy of the decision or findings of fact and recommendation to both the teacher and the school board. If the hearing officer fails to render a decision within 30 days, the State Board of Education shall communicate with the hearing officer to determine the date that the parties can reasonably expect to receive the decision. The State Board of Education shall provide copies of all such communications to the parties. In the event the hearing officer fails without good cause to make a decision within the 30 day period, the name of such hearing officer shall be struck for a period of not more than 24 months from the master list of hearing officers maintained by the State Board of Education. If a hearing officer fails without good cause, specifically provided in writing to both parties and the State Board of Education, to render a decision or findings of fact and recommendation within 30 days 3 months after the hearing is concluded or the record is closed, whichever is later, the State Board of Education shall provide the parties with a new list of prospective, impartial hearing officers, with the same qualifications provided herein, one of whom shall be selected, as provided in this Section, to review the record and render a decision. The parties may mutually agree to select a hearing officer pursuant to the alternative procedure, as provided in this Section, to rehear the charges heard by the hearing officer who failed to render a decision or findings of fact and recommendation or to review the record and render a decision. If any the hearing officer fails without good cause, specifically provided in writing to both parties and the State Board of Education, to render a decision or findings of fact and recommendation within 30 days 3 months after the hearing is concluded or the record is closed, whichever is later, the hearing officer shall be removed from the master list of hearing officers maintained by the State Board of Education for not more than 24 months. The parties and the State Board of Education may also take such other actions as it deems appropriate, including recovering, reducing, or withholding any fees paid or to be paid to the hearing officer. If any hearing officer repeats such failure, he or she must be permanently removed from the master list maintained by the State Board of Education and may not be selected by parties through the alternative selection process under this paragraph (7) or paragraph (4) of this subsection (d). The board shall not lose jurisdiction to discharge a teacher if the hearing officer fails to render a decision or findings of fact and recommendation within the time specified in this Section. If the decision of the hearing officer for dismissal pursuant to Article 24A of this Code or of the school board for dismissal for cause is in favor of the teacher, then the hearing officer or school board shall order reinstatement to the same or substantially equivalent position and shall determine the amount for which the school board is liable, including, but not limited to, loss of income and benefits.

(8) The school board, within 45 days after receipt of the hearing officer's findings of fact and recommendation as to whether (i) the conduct at issue occurred, (ii) the conduct that did occur was remediable, and (iii) the proposed dismissal should be sustained, shall issue a written order as to whether the teacher must be retained or dismissed for cause from its employ. The school board's written order shall incorporate the hearing officer's findings of fact, except that the school board may modify or supplement the findings of fact if, in its opinion, the findings of fact are against the manifest weight of the evidence.

If the school board dismisses the teacher notwithstanding the hearing officer's findings of fact and recommendation, the school board shall make a conclusion in its written order, giving its reasons therefor, and such conclusion and reasons must be included in its written order. The failure of the school board to strictly adhere to the timelines contained in this Section shall not render it without jurisdiction to dismiss the teacher. The school board shall not lose jurisdiction to discharge the teacher for cause if the hearing officer fails to render a recommendation within the time specified in this Section. The decision of the school board is final, unless reviewed as provided in paragraph (9) of this subsection (d).

If the school board retains the teacher, the school board shall enter a written order stating the amount of back pay and lost benefits, less mitigation, to be paid to the teacher, within 45 days after its retention order. Should the teacher object to the amount of the back pay and lost benefits or amount

mitigated, the teacher shall give written objections to the amount within 21 days. If the parties fail to reach resolution within 7 days, the dispute shall be referred to the hearing officer, who shall consider the school board's written order and teacher's written objection and determine the amount to which the school board is liable. The costs of the hearing officer's review and determination must be paid by the board.

(9) The decision of the hearing officer pursuant to Article 24A of this Code or of the school board's decision to dismiss for cause is final unless reviewed as provided in Section

24-16 of this Act. If the school board's decision to dismiss for cause is contrary to the hearing officer's recommendation, the court on review shall give consideration to the school board's decision and its supplemental findings of fact, if applicable, and the hearing officer's findings of fact and recommendation in making its decision. In the event such review is instituted, the school board shall be responsible for ~~any costs of~~ preparing and filing the record of proceedings, and such costs associated therewith must be divided equally between the parties ~~shall be paid by the board.~~

(10) If a decision of the hearing officer for dismissal pursuant to Article 24A of this Code or of the school board for dismissal for cause is adjudicated upon review or appeal in favor of

the teacher, then the trial court shall order reinstatement and shall ~~remand the matter to determine the amount for which the school board with direction for entry of an order setting the amount of back pay, lost benefits, and costs, less mitigation. The teacher may challenge the school board's order setting the amount of back pay, lost benefits, and costs, less mitigation, through an expedited arbitration procedure, with the costs of the arbitrator borne by the school board is liable including but not limited to loss of income and costs incurred therein.~~

Any teacher who is reinstated by any hearing or adjudication brought under this Section shall be assigned by the board to a position substantially similar to the one which that teacher held prior to that teacher's suspension or dismissal.

(11) The changes made by this amendatory Act of the 97th General Assembly shall apply to dismissals instituted on or after September 1, 2011 or the effective date of this amendatory Act of the 97th General Assembly, whichever is later. Any dismissal instituted prior to the effective date of these changes must be carried out in accordance with the requirements of this Section prior to amendment by this amendatory Act of 97th General Assembly.

If, by reason of any change in the boundaries of school districts, or by reason of the creation of a new school district, the position held by any teacher having a contractual continued service status is transferred from one board to the control of a new or different board, the contractual continued service status of such teacher is not thereby lost, and such new or different board is subject to this Act with respect to such teacher in the same manner as if such teacher were its employee and had been its employee during the time such teacher was actually employed by the board from whose control the position was transferred.

(Source: P.A. 89-618, eff. 8-9-96; 90-224, eff. 7-25-97.)

(105 ILCS 5/24-16) (from Ch. 122, par. 24-16)

Sec. 24-16. Judicial review of administrative decision. The provisions of the Administrative Review Law, and all amendments and modifications thereof and the rules adopted pursuant thereto, shall apply to and govern all proceedings instituted for the judicial review of final administrative decisions of the hearing officer for dismissals pursuant to Article 24A of this Code or of a school board for dismissal for cause under Section 24-12 of this Article. The term "administrative decision" is defined as in Section 3-101 of the Code of Civil Procedure.

(Source: P.A. 82-783.)

(105 ILCS 5/24-16.5 new)

Sec. 24-16.5. Optional alternative evaluative dismissal process for PERA evaluations.

(a) As used in this Section:

"Applicable hearing requirements" means, for any school district having less than 500,000 inhabitants or a program of a special education joint agreement, those procedures and requirements relating to a teacher's request for a hearing, selection of a hearing officer, pre-hearing and hearing procedures, and post-hearing briefs set forth in paragraphs (1) through (6) of subsection (d) of Section 24-12 of this Code.

"Board" means, for a school district having less than 500,000 inhabitants or a program of a special education joint agreement, the board of directors, board of education, or board of school inspectors, as the case may be. For a school district having 500,000 inhabitants or more, "board" means the Chicago Board of Education.

"Evaluator" means an evaluator, as defined in Section 24A-2.5 of this Code, who has successfully completed the pre-qualification program described in subsection (b) of Section 24A-3 of this Code.

"Hearing procedures" means, for a school district having 500,000 inhabitants or more, those procedures and requirements relating to a teacher's request for a hearing, selection of a hearing officer, pre-hearing and hearing procedures, and post-hearing briefs set forth in paragraphs (1) through (5) of subsection (a) of Section 34-85 of this Code.

"PERA-trained board member" means a member of a board that has completed a training program on PERA evaluations either administered or approved by the State Board of Education.

"PERA evaluation" means a performance evaluation of a teacher after the implementation date of an evaluation system for teachers, as specified by Section 24A-2.5 of this Code, using a performance evaluation instrument and process that meets the minimum requirements for teacher evaluation instruments and processes set forth in rules adopted by the State Board of Education to implement Public Act 96-861.

"Remediation" means the remediation plan, mid-point and final evaluations, and related processes and requirements set forth in subdivisions (i), (j), and (k) of Section 24A-5 of this Code.

"School district" means a school district or a program of a special education joint agreement.

"Second evaluator" means an evaluator who either conducts the mid-point and final remediation evaluation or conducts an independent assessment of whether the teacher completed the remediation plan with a rating equal to or better than a "Proficient" rating, all in accordance with subdivision (c) of this Section.

"Student growth components" means the components of a performance evaluation plan described in subdivision (c) of Section 24A-5 of this Code, as may be supplemented by administrative rules adopted by the State Board of Education.

"Teacher practice components" means the components of a performance evaluation plan described in subdivisions (a) and (b) of Section 24A-5 of this Code, as may be supplemented by administrative rules adopted by the State Board of Education.

"Teacher representatives" means the exclusive bargaining representative of a school district's teachers or, if no exclusive bargaining representatives exists, a representative committee selected by teachers.

(b) This Section applies to all school districts, including those having 500,000 or more inhabitants. The optional dismissal process set forth in this Section is an alternative to those set forth in Sections 24-12 and 34-85 of this Code. Nothing in this Section is intended to change the existing practices or precedents under Section 24-12 or 34-85 of this Code, nor shall this Section be interpreted as implying standards and procedures that should or must be used as part of a remediation that precedes a dismissal sought under Section 24-12 or 34-85 of this Code.

A board may dismiss a teacher who has entered upon contractual continued service under this Section if the following are met:

(1) the cause of dismissal is that the teacher has failed to complete a remediation plan with a rating equal to or better than a "Proficient" rating;

(2) the "Unsatisfactory" performance evaluation rating that preceded remediation resulted from a PERA evaluation; and

(3) the school district has complied with subsection (c) of this Section.

A school district may not, through agreement with a teacher or its teacher representatives, waive its right to dismiss a teacher under this Section.

(c) Each school district electing to use the dismissal process set forth in this Section must comply with the pre-remediation and remediation activities and requirements set forth in this subsection (c).

(1) Before a school district's first remediation relating to a dismissal under this Section, the school district must create and establish a list of at least 2 evaluators who will be available to serve as second evaluators under this Section. The school district shall provide its teacher representatives with an opportunity to submit additional names of teacher evaluators who will be available to serve as second evaluators and who will be added to the list created and established by the school district, provided that, unless otherwise agreed to by the school district, the teacher representatives may not submit more teacher evaluators for inclusion on the list than the number of evaluators submitted by the school district. Each teacher evaluator must either have (i) National Board of Professional Teaching Standards certification, with no "Unsatisfactory" or "Needs Improvement" performance evaluating ratings in his or her 2 most recent performance evaluation ratings; or (ii) "Excellent" performance evaluation ratings in 2 of his or her 3 most recent performance evaluations, with no "Needs Improvement" or "Unsatisfactory" performance evaluation ratings in his or her last 3 ratings. If the teacher representatives do not submit a list of teacher evaluators within 21 days after the school district's request, the school district may precede with a remediation using a list that includes only the school district's selections. Either the school district or the teacher representatives may revise or add to their selections for the list at any time with notice to the other party, subject to the limitations set forth in this paragraph (1).

(2) Before a school district's first remediation relating to a dismissal under this Section, the school district shall, in good faith cooperation with its teacher representatives, establish a process for the selection of a second evaluator from the list created pursuant to paragraph (1) of this subsection (c). Such process may be amended at any time in good faith cooperation with the teacher representatives. If the teacher representatives are given an opportunity to cooperate with the school district and elect not to do so, the school district may, at its discretion, establish or amend the process for selection. Before the hearing officer and as part of any judicial review of a dismissal under this Section, a teacher may not challenge a remediation or dismissal on the grounds that the process used by the school district to select a second evaluator was not established in good faith cooperation with its teacher representatives.

(3) For each remediation preceding a dismissal under this Section, the school district shall select a second evaluator from the list of second evaluators created pursuant to paragraph (1) of this subsection (c), using the selection process established pursuant to paragraph (2) of this subsection (c). The selected second evaluator may not be the same individual who determined the teacher's "Unsatisfactory" performance evaluation rating preceding remediation, and, if the second evaluator is an administrator, may not be a direct report to the individual who determined the teacher's "Unsatisfactory" performance evaluation rating preceding remediation. The school district's authority to select a second evaluator from the list of second evaluators must not be delegated or limited through any agreement with the teacher representatives, provided that nothing shall prohibit a school district and its teacher representatives from agreeing to a formal peer evaluation process as permitted under Article 24A of this Code that could be used to meet the requirements for the selection of second evaluators under this subsection (c).

(4) The second evaluator selected pursuant to paragraph (3) of this subsection (c) must either (i) conduct the mid-point and final evaluation during remediation or (ii) conduct an independent assessment of whether the teacher completed the remediation plan with a rating equal to or better than a "Proficient" rating, which independent assessment shall include, but is not limited to, personal or video recorded observations of the teacher that relate to the teacher practice components of the remediation plan. Nothing in this subsection (c) shall be construed to limit or preclude the participation of the evaluator who rated a teacher as "Unsatisfactory" in remediation.

(d) To institute a dismissal proceeding under this Section, the board must first provide written notice to the teacher within 30 days after the completion of the final remediation evaluation. The notice shall comply with the applicable hearing requirements and, in addition, must specify that dismissal is sought under this Section and include a copy of each performance evaluation relating to the scope of the hearing as described in this subsection (d).

The applicable hearing requirements shall apply to the teacher's request for a hearing, the selection and qualifications of the hearing officer, and pre-hearing and hearing procedures, except that all of the following must be met:

(1) The hearing officer must, in addition to meeting the qualifications set forth in the applicable hearing requirements, have successfully completed the pre-qualification program described in subsection (b) of Section 24A-3 of this Code, unless the State Board of Education waives this requirement to provide an adequate pool of hearing officers for consideration.

(2) The scope of the hearing must be limited as follows:

(A) The school district must demonstrate the following:

(i) that the "Unsatisfactory" performance evaluation rating that preceded remediation applied the teacher practice components and student growth components and determined an overall evaluation rating of "Unsatisfactory" in accordance with the standards and requirements of the school district's evaluation plan;

(ii) that the remediation plan complied with the requirements of Section 24A-5 of this Code;

(iii) that the teacher failed to complete the remediation plan with a performance evaluation rating equal to or better than a "Proficient" rating, based upon a final remediation evaluation meeting the applicable standards and requirements of the school district's evaluation plan; and

(iv) that if the second evaluator selected pursuant to paragraph (3) of subsection (c) of this Section does not conduct the mid-point and final evaluation and makes an independent assessment that the teacher completed the remediation plan with a rating equal to or better than a "Proficient" rating, the school district must demonstrate that the final remediation evaluation is a more valid assessment of the teacher's performance than the assessment made by the second evaluator.

(B) The teacher may only challenge the substantive and procedural aspects of (i) the "Unsatisfactory" performance evaluation rating that led to the remediation, (ii) the remediation plan, and (iii) the final remediation evaluation. To the extent the teacher challenges procedural aspects, including any in applicable collective bargaining agreement provisions, of a relevant performance evaluation rating or the remediation plan, the teacher must demonstrate how an alleged procedural defect materially

affected the teacher's ability to demonstrate a level of performance necessary to avoid remediation or dismissal or successfully complete the remediation plan. Without any such material effect, a procedural defect shall not impact the assessment by the hearing officer, board, or reviewing court of the validity of a performance evaluation or a remediation plan.

(C) The hearing officer shall only consider and give weight to performance evaluations relevant to the scope of the hearing as described in clauses (A) and (B) of this subdivision (2).

(3) Each party shall be given only 2 days to present evidence and testimony relating to the scope of the hearing, unless a longer period is mutually agreed to by the parties or deemed necessary by the hearing officer to enable a party to present adequate evidence and testimony to address the scope of the hearing, including due to the other party's cross-examination of the party's witnesses.

(e) The provisions of Sections 24-12 and 34-85 pertaining to the decision or recommendation of the hearing officer do not apply to dismissal proceedings under this Section. For any dismissal proceedings under this Section, the hearing officer shall not issue a decision, and shall issue only findings of fact and a recommendation, including the reasons therefor, to the board to either retain or dismiss the teacher and shall give a copy of the report to both the teacher and the superintendent of the school district. The hearing officer's findings of fact and recommendation must be issued within 30 days from the close of the record of the hearing.

The State Board of Education shall adopt rules regarding the length of the hearing officer's findings of fact and recommendation. If a hearing officer fails without good cause, specifically provided in writing to both parties and the State Board of Education, to render a recommendation within 30 days after the hearing is concluded or the record is closed, whichever is later, the parties may mutually agree to select a hearing officer pursuant to the alternative procedure, as provided in Section 24-12 or 34-85, to rehear the charges heard by the hearing officer who failed to render a recommendation or to review the record and render a recommendation. If any hearing officer fails without good cause, specifically provided in writing to both parties and the State Board of Education, to render a recommendation within 30 days after the hearing is concluded or the record is closed, whichever is later, the hearing officer shall be removed from the master list of hearing officers maintained by the State Board of Education for not more than 24 months. The parties and the State Board of Education may also take such other actions as it deems appropriate, including recovering, reducing, or withholding any fees paid or to be paid to the hearing officer. If any hearing officer repeats such failure, he or she shall be permanently removed from the master list of hearing officers maintained by the State Board of Education.

(f) The board, within 45 days after receipt of the hearing officer's findings of fact and recommendation, shall decide, through adoption of a written order, whether the teacher must be dismissed from its employ or retained, provided that only PERA-trained board members may participate in the vote with respect to the decision.

If the board dismisses the teacher notwithstanding the hearing officer's recommendation of retention, the board shall make a conclusion, giving its reasons therefor, and such conclusion and reasons must be included in its written order. The failure of the board to strictly adhere to the timelines contained in this Section does not render it without jurisdiction to dismiss the teacher. The board shall not lose jurisdiction to discharge the teacher if the hearing officer fails to render a recommendation within the time specified in this Section. The decision of the board is final, unless reviewed as provided in subsection (g) of this Section.

If the board retains the teacher, the board shall enter a written order stating the amount of back pay and lost benefits, less mitigation, to be paid to the teacher, within 45 days of its retention order.

(g) A teacher dismissed under this Section may apply for and obtain judicial review of a decision of the board in accordance with the provisions of the Administrative Review Law, except as follows:

(1) for a teacher dismissed by a school district having 500,000 inhabitants or more, such judicial review must be taken directly to the appellate court of the judicial district in which the board maintains its primary administrative office, and any direct appeal to the appellate court must be filed within 35 days from the date that a copy of the decision sought to be reviewed was served upon the teacher;

(2) for a teacher dismissed by a school district having less than 500,000 inhabitants after the hearing officer recommended dismissal, such judicial review must be taken directly to the appellate court of the judicial district in which the board maintains its primary administrative office, and any direct appeal to the appellate court must be filed within 35 days from the date that a copy of the decision sought to be reviewed was served upon the teacher; and

(3) for all school districts, if the hearing officer recommended dismissal, the decision of the board may be reversed only if it is found to be arbitrary, capricious, an abuse of discretion, or not in accordance with law.

In the event judicial review is instituted by a teacher, any costs of preparing and filing the record of

proceedings must be paid by the teacher. If a decision of the board is adjudicated upon judicial review in favor of the teacher, then the court shall remand the matter to the board with direction for entry of an order setting the amount of back pay, lost benefits, and costs, less mitigation. The teacher may challenge the board's order setting the amount of back pay, lost benefits, and costs, less mitigation, through an expedited arbitration procedure with the costs of the arbitrator borne by the board.

(105 ILCS 5/24A-2.5)

Sec. 24A-2.5. Definitions. In this Article:

"Evaluator" means:

- (1) an administrator qualified under Section 24A-3; or
- (2) other individuals qualified under Section 24A-3, provided that, if such other individuals are in the bargaining unit of a district's teachers, the district and the exclusive bargaining representative of that unit must agree to those individuals evaluating other bargaining unit members. Notwithstanding anything to the contrary in item (2) of this definition, a school district operating under Article 34 of this Code may require department chairs qualified under Section 24A-3 to evaluate teachers in their department or departments, provided that the school district shall bargain with the bargaining representative of its teachers over the impact and effects on department chairs of such a requirement.

"Implementation date" means, unless otherwise specified and provided that the requirements set forth in subsection (d) of Section 24A-20 have been met:

- (1) For school districts having 500,000 or more inhabitants, in at least 300 schools by September 1, 2012 and in the remaining schools by September 1, 2013.
- (2) For school districts having less than 500,000 inhabitants and receiving a Race to the Top Grant or School Improvement Grant after the effective date of this amendatory Act of the 96th General Assembly, the date specified in those grants for implementing an evaluation system for teachers and principals incorporating student growth as a significant factor.
- (3) For the lowest performing 20% percent of remaining school districts having less than 500,000 inhabitants (with the measure of and school year or years used for school district performance to be determined by the State Superintendent of Education at a time determined by the State Superintendent), September 1, 2015.
- (4) For all other school districts having less than 500,000 inhabitants, September 1, 2016.

Notwithstanding items (3) and (4) of this definition, a school district and the exclusive bargaining representative of its teachers may jointly agree in writing to an earlier implementation date, provided that such date must not be earlier than September 1, 2013. The written agreement of the district and the exclusive bargaining representative must be transmitted to the State Board of Education.

"Race to the Top Grant" means a grant made by the Secretary of the U.S. Department of Education for the program first funded pursuant to paragraph (2) of Section 14006(a) of the American Recovery and Reinvestment Act of 2009.

"School Improvement Grant" means a grant made by the Secretary of the U.S. Department of Education pursuant to Section 1003(g) of the Elementary and Secondary Education Act.

(Source: P.A. 96-861, eff. 1-15-10.)

(105 ILCS 5/24A-5) (from Ch. 122, par. 24A-5)

Sec. 24A-5. Content of evaluation plans. This Section does not apply to teachers assigned to schools identified in an agreement entered into between the board of a school district operating under Article 34 of this Code and the exclusive representative of the district's teachers in accordance with Section 34-85c of this Code.

Each school district to which this Article applies shall establish a teacher evaluation plan which ensures that each teacher in contractual continued service is evaluated at least once in the course of every 2 school years.

By no later than September 1, 2012, each school district shall establish a teacher evaluation plan that ensures that:

- (1) each teacher not in contractual continued service is evaluated at least once every school year; and
- (2) each teacher in contractual continued service is evaluated at least once in the course of every 2 school years. However, any teacher in contractual continued service whose performance is rated as either "needs improvement" or "unsatisfactory" must be evaluated at least once in the school year following the receipt of such rating.

Notwithstanding anything to the contrary in this Section or any other Section of the School Code, a principal shall not be prohibited from evaluating any teachers within a school during his or

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her first year as principal of such school.

The evaluation plan shall comply with the requirements of this Section and of any rules adopted by the State Board of Education pursuant to this Section.

The plan shall include a description of each teacher's duties and responsibilities and of the standards to which that teacher is expected to conform, and shall include at least the following components:

- (a) personal observation of the teacher in the classroom by the evaluator, unless the teacher has no classroom duties.
- (b) consideration of the teacher's attendance, planning, instructional methods, classroom management, where relevant, and competency in the subject matter taught.
- (c) by no later than the applicable implementation date, consideration of student growth as a significant factor in the rating of the teacher's performance.
- (d) prior to September 1, 2012, rating of the performance of teachers in contractual continued service as either:
 - (i) "excellent", "satisfactory" or "unsatisfactory"; or
 - (ii) "excellent", "proficient", "needs improvement" or "unsatisfactory".
- (e) on and after September 1, 2012, rating of the performance of all teachers ~~in contractual~~ ~~continued service~~ as "excellent", "proficient", "needs improvement" or "unsatisfactory".
- (f) specification as to the teacher's strengths and weaknesses, with supporting reasons for the comments made.
- (g) inclusion of a copy of the evaluation in the teacher's personnel file and provision of a copy to the teacher.
- (h) within 30 school days after the completion of an evaluation rating a teacher in contractual continued service as "needs improvement", development by the evaluator, in consultation with the teacher, and taking into account the teacher's on-going professional responsibilities including his or her regular teaching assignments, of a professional development plan directed to the areas that need improvement and any supports that the district will provide to address the areas identified as needing improvement.
- (i) within 30 school days after completion of an evaluation rating a teacher in contractual continued service as "unsatisfactory", development and commencement by the district of a remediation plan designed to correct deficiencies cited, provided the deficiencies are deemed remediable. In all school districts the remediation plan for unsatisfactory, tenured teachers shall provide for 90 school days of remediation within the classroom, unless an applicable collective bargaining agreement provides for a shorter duration. In all school districts evaluations issued pursuant to this Section shall be issued within 10 days after the conclusion of the respective remediation plan. However, the school board or other governing authority of the district shall not lose jurisdiction to discharge a teacher in the event the evaluation is not issued within 10 days after the conclusion of the respective remediation plan.
- (j) participation in the remediation plan by the teacher in contractual continued service rated "unsatisfactory", an evaluator and a consulting teacher selected by the evaluator of the teacher who was rated "unsatisfactory", which consulting teacher is an educational employee as defined in the Educational Labor Relations Act, has at least 5 years' teaching experience, and a reasonable familiarity with the assignment of the teacher being evaluated, and who received an "excellent" rating on his or her most recent evaluation. Where no teachers who meet these criteria are available within the district, the district shall request and the applicable regional office of education shall supply, to participate in the remediation process, an individual who meets these criteria.

In a district having a population of less than 500,000 with an exclusive bargaining agent, the bargaining agent may, if it so chooses, supply a roster of qualified teachers from whom the consulting teacher is to be selected. That roster shall, however, contain the names of at least 5 teachers, each of whom meets the criteria for consulting teacher with regard to the teacher being evaluated, or the names of all teachers so qualified if that number is less than 5. In the event of a dispute as to qualification, the State Board shall determine qualification.
- (k) a mid-point and final evaluation by an evaluator during and at the end of the remediation period, immediately following receipt of a remediation plan provided for under subsections (i) and (j) of this Section. Each evaluation shall assess the teacher's performance during the time period since the prior evaluation; provided that the last evaluation shall also include an overall evaluation of the teacher's performance during the remediation period. A written copy of the evaluations and ratings, in which any deficiencies in performance and recommendations for correction are identified, shall be provided to and discussed with the teacher within 10 school days after the date

of the evaluation, unless an applicable collective bargaining agreement provides to the contrary. These subsequent evaluations shall be conducted by an evaluator. The consulting teacher shall provide advice to the teacher rated "unsatisfactory" on how to improve teaching skills and to successfully complete the remediation plan. The consulting teacher shall participate in developing the remediation plan, but the final decision as to the evaluation shall be done solely by the evaluator, unless an applicable collective bargaining agreement provides to the contrary. Evaluations at the conclusion of the remediation process shall be separate and distinct from the required annual evaluations of teachers and shall not be subject to the guidelines and procedures relating to those annual evaluations. The evaluator may but is not required to use the forms provided for the annual evaluation of teachers in the district's evaluation plan.

(l) reinstatement to the evaluation schedule set forth in the district's evaluation plan for any teacher in contractual continued service who achieves a rating equal to or better than "satisfactory" or "proficient" in the school year following a rating of "needs improvement" or "unsatisfactory".

(m) dismissal in accordance with subsection (d) of Section 24-12 or Section 24-16.5 or 34-85 of this Code of any teacher who

fails to complete any applicable remediation plan with a rating equal to or better than a "satisfactory" or "proficient" rating. Districts and teachers subject to dismissal hearings are precluded from compelling the testimony of consulting teachers at such hearings under subsection (d) of Section 24-12 or Section 24-16.5 or 34-85 of this Code, either as to the rating process or for opinions of performances by teachers under remediation.

(n) After the implementation date of an evaluation system for teachers in a district as specified in Section 24A-2.5 of this Code, if a teacher in contractual continued service successfully completes a remediation plan following a rating of "unsatisfactory" and receives a subsequent rating of "unsatisfactory" in any of the teacher's annual or biannual overall performance evaluation ratings received during the 36-month period following the teacher's completion of the remediation plan, then the school district may forego remediation and seek dismissal in accordance with subsection (d) of Section 24-12 or Section 34-85 of this Code.

Nothing in this Section or Section 24A-4 shall be construed as preventing immediate dismissal of a teacher for deficiencies which are deemed irremediable or for actions which are injurious to or endanger the health or person of students in the classroom or school, or preventing the dismissal or non-renewal of teachers not in contractual continued service for any reason not prohibited by applicable employment, labor, and civil rights laws. Failure to strictly comply with the time requirements contained in Section 24A-5 shall not invalidate the results of the remediation plan.

(Source: P.A. 95-510, eff. 8-28-07; 96-861, eff. 1-15-10; 96-1423, eff. 8-3-10.)

(105 ILCS 5/34-84) (from Ch. 122, par. 34-84)

Sec. 34-84. Appointments and promotions of teachers. Appointments and promotions of teachers shall be made for merit only, and after satisfactory service for a probationary period of 3 years with respect to probationary employees employed as full-time teachers in the public school system of the district before January 1, 1998 and 4 years with respect to probationary employees who are first employed as full-time teachers in the public school system of the district on or after January 1, 1998, ~~(during which period the board may dismiss or discharge any such probationary employee upon the recommendation, accompanied by the written reasons therefor, of the general superintendent of schools and after which period)~~ appointments of teachers shall become permanent, subject to removal for cause in the manner provided by Section 34-85.

For a probationary-appointed teacher in full-time service who is appointed on or after July 1, 2013 and who receives ratings of "excellent" during his or her first 3 school terms of full-time service, the probationary period shall be 3 school terms of full-time service. For a probationary-appointed teacher in full-time service who is appointed on or after July 1, 2013 and who had previously entered into contractual continued service in another school district in this State or a program of a special education joint agreement in this State, as defined in Section 24-11 of this Code, the probationary period shall be 2 school terms of full-time service, provided that (i) the teacher voluntarily resigned or was honorably dismissed from the prior district or program within the 3-month period preceding his or her appointment date, (ii) the teacher's last 2 ratings in the prior district or program were at least "proficient" and were issued after the prior district's or program's PERA implementation date, as defined in Section 24-11 of this Code, and (iii) the teacher receives ratings of "excellent" during his or her first 2 school terms of full-time service.

For a probationary-appointed teacher in full-time service who is appointed on or after July 1, 2013 and who has not entered into contractual continued service after 2 or 3 school terms of full-time service as

provided in this Section, the probationary period shall be 4 school terms of full-time service, provided that the teacher receives a rating of at least "proficient" in the last school term and a rating of at least "proficient" in either the second or third school term.

As used in this Section, "school term" means the school term established by the board pursuant to Section 10-19 of this Code, and "full-time service" means the teacher has actually worked at least 150 days during the school term. As used in this Article, "teachers" means and includes all members of the teaching force excluding the general superintendent and principals.

There shall be no reduction in teachers because of a decrease in student membership or a change in subject requirements within the attendance center organization after the 20th day following the first day of the school year, except that: (1) this provision shall not apply to desegregation positions, special education positions, or any other positions funded by State or federal categorical funds, and (2) at attendance centers maintaining any of grades 9 through 12, there may be a second reduction in teachers on the first day of the second semester of the regular school term because of a decrease in student membership or a change in subject requirements within the attendance center organization.

The school principal shall make the decision in selecting teachers to fill new and vacant positions consistent with Section 34-8.1.

(Source: P.A. 89-15, eff. 5-30-95; 90-548, eff. 1-1-98.)

(105 ILCS 5/34-85) (from Ch. 122, par. 34-85)

Sec. 34-85. Removal for cause; Notice and hearing; Suspension.

(a) No teacher employed by the board of education shall (after serving the probationary period specified in Section 34-84) be removed except for cause. Teachers (who have completed the probationary period specified in Section 34-84 of this Code) shall be removed for cause in accordance with the procedures set forth in this Section or, at the board's option, the procedures set forth in Section 24-16.5 of this Code or such other procedures established in an agreement entered into between the board and the exclusive representative of the district's teachers under Section 34-85c of this Code for teachers (who have completed the probationary period specified in Section 34-84 of this Code) assigned to schools identified in that agreement. No principal employed by the board of education shall be removed during the term of his or her performance contract except for cause, which may include but is not limited to the principal's repeated failure to implement the school improvement plan or to comply with the provisions of the Uniform Performance Contract, including additional criteria established by the Council for inclusion in the performance contract pursuant to Section 34-2.3.

Before service of notice of charges on account of causes that may be deemed to be remediable, the teacher or principal must be given reasonable warning in writing, stating specifically the causes that, if not removed, may result in charges; however, no such written warning is required if the causes have been the subject of a remediation plan pursuant to Article 24A of this Code or if the board and the exclusive representative of the district's teachers have entered into an agreement pursuant to Section 34-85c of this Code, pursuant to an alternative system of remediation. No written warning shall be required for conduct on the part of a teacher or principal that is cruel, immoral, negligent, or criminal or that in any way causes psychological or physical harm or injury to a student, as that conduct is deemed to be irremediable. No written warning shall be required for a material breach of the uniform principal performance contract, as that conduct is deemed to be irremediable; provided that not less than 30 days before the vote of the local school council to seek the dismissal of a principal for a material breach of a uniform principal performance contract, the local school council shall specify the nature of the alleged breach in writing and provide a copy of it to the principal.

(1) To initiate dismissal proceedings against a teacher or principal, the ~~The~~ general superintendent must first approve written charges and specifications against

the teacher or principal. A local school council may direct the general superintendent to approve written charges against its principal on behalf of the Council upon the vote of 7 members of the Council. The general superintendent must approve those charges within 45 calendar days or provide a written reason for not approving those charges. A written notice of those charges, including specifications, shall be served upon the teacher or principal within 10 business days of the approval of the charges. Any written notice sent on or after July 1, 2012 shall also inform the teacher or principal of the right to request a hearing before a mutually selected hearing officer, with the cost of the hearing officer split equally between the teacher or principal and the board, or a hearing before a qualified hearing officer chosen by the general superintendent, with the cost of the hearing officer paid by the board. If the teacher or principal cannot be found upon diligent inquiry, such charges may be served upon him by mailing a copy thereof in a sealed envelope by prepaid certified mail, return receipt requested, to the teacher's or principal's last known address. A return receipt showing delivery to such address within 20 calendar days after the date of the approval of the charges shall constitute proof of

service.

(2) No hearing upon the charges is required unless the teacher or principal within 17 calendar 40 days

after receiving notice requests in writing of the general superintendent that a hearing be scheduled, ~~in which case the general superintendent shall schedule a hearing on those charges before a disinterested hearing officer on a date no less than 15 nor more than 30 days after the approval of the charges. Pending the hearing of the charges, the general superintendent or his or her designee may suspend the teacher or principal charged without pay in accordance with rules prescribed by the board, provided that if the teacher or principal charged is not dismissed based on the charges, he or must be made whole for lost earnings, less setoffs for mitigation.~~

(3) The board shall maintain a list of at least 9 qualified hearing officers who will conduct hearings on charges and specifications. The list must be developed in good faith consultation with the exclusive representative of the board's teachers and professional associations that represent the board's principals. The list may be revised on July 1st of each year or earlier as needed. To be a qualified hearing officer, the person must (i) ~~The general superintendent shall forward a copy of the notice to the State Board of Education within 5 days from the date of the approval of the charges. Within 10 days after receiving the notice of hearing, the State Board of Education shall provide the teacher or principal and the general superintendent with a list of 5 prospective, impartial hearing officers. Each person on the list must be accredited by a national arbitration organization and have had a minimum of 5 years~~

of experience as an arbitrator in cases involving labor and employment relations matters between educational employers and educational employees or their exclusive bargaining representatives and (ii) beginning September 1, 2012, have participated in training provided or approved by the State Board of Education for teacher dismissal hearing officers so that he or she is familiar with issues generally involved in evaluative and non-evaluative dismissals.

(3) Within 5 business days after receiving the notice of request for a hearing, ~~the~~ The general superintendent and the teacher or principal or their legal representatives within 3 days from receipt of the list

shall alternately strike one name from the list until only one name remains. Unless waived by the teacher, the teacher or principal shall have the right to proceed first with the striking. If the teacher or principal fails to participate in the striking process, the general superintendent shall either select the hearing officer from the list developed pursuant to this paragraph (3) or select another qualified hearing officer from the master list maintained by the State Board of Education pursuant to subsection (c) of Section 24-12 of this Code. Within 3 days of receipt of the first list provided by the State Board of Education, the general superintendent and the teacher or principal or their legal representatives shall each have the right to reject all prospective hearing officers named on the first list and to require the State Board of Education to provide a second list of 5 prospective, impartial hearing officers, none of whom were named on the first list. Within 5 days after receiving this request for a second list, the State Board of Education shall provide the second list of 5 prospective, impartial hearing officers. The procedure for selecting a hearing officer from the second list shall be the same as the procedure for the first list. Each party shall promptly serve written notice on the other of any name stricken from the list. If the teacher or principal fails to do so, the general superintendent may select the hearing officer from any name remaining on the list. The teacher or principal may waive the hearing at any time prior to the appointment of the hearing officer. Notice of the selection of the hearing officer shall be given to the State Board of Education. The hearing officer shall be notified of his selection by the State Board of Education. A signed acceptance shall be filed with the State Board of Education within 5 days of receipt of notice of the selection. The State Board of Education shall notify the teacher or principal and the board of its appointment of the hearing officer. In the alternative to selecting a hearing officer from the first or second list received from the State Board of Education, the general superintendent and the teacher or principal or their legal representatives may mutually agree to select an impartial hearing officer who is not on a list received from the State Board of Education, either by direct appointment by the parties or by using procedures for the appointment of an arbitrator established by the Federal Mediation and Conciliation Service or the American Arbitration Association. The parties shall notify the State Board of Education of their intent to select a hearing officer using an alternative procedure within 3 days of receipt of a list of prospective hearing officers provided by the State Board of Education. Any person selected by the parties under this alternative procedure for the selection of a hearing officer shall have the same qualifications and authority as a hearing officer selected from a list provided by the State Board of Education. The teacher or principal may waive the hearing at any time prior to the appointment of the hearing officer. The State Board of Education shall promulgate uniform standards and rules of procedure for such hearings, including reasonable rules of discovery.

(4) ~~If the notice of dismissal was sent to the teacher or principal before July 1, 2012, the fees and costs The per diem allowance for the hearing officer shall be paid by the State Board of Education. If the notice of dismissal was sent to the teacher or principal on or after July 1, 2012, the hearing officer's fees and costs must be paid as follows in this paragraph (4). The fees and permissible costs for the hearing officer shall be determined by the State Board of Education. If the hearing officer is mutually selected by the parties through alternate striking in accordance with paragraph (3) of this subsection (a), then the board and the teacher or their legal representative shall each pay 50% of the fees and costs and any supplemental allowance to which they agree. If the hearing officer is selected by The hearing officer shall hold a hearing and render findings of fact and a recommendation to the general~~

~~superintendent without the participation of the teacher or principal, then the board shall pay 100% of the hearing officer fees and costs. The hearing officer shall submit for payment a billing statement to the parties that itemizes the charges and expenses and divides them in accordance with this Section.~~

(5) ~~The teacher or the principal charged is required to answer the charges and specifications and aver affirmative matters in his or her defense, and the time for doing so must be set by the hearing officer. The State Board of Education shall adopt rules so that each party has a fair opportunity to present its case and to ensure that the dismissal proceeding is concluded in an expeditious manner. The rules shall address, without limitation, the teacher or principal's answer and affirmative defenses to the charges and specifications; a requirement that each party make mandatory disclosures without request to the other party and then update the disclosure no later than 10 calendar days prior to the commencement of the hearing, including a list of the names and addresses of persons who may be called as witnesses at the hearing, a summary of the facts or opinions each witness will testify to, and all other documents and materials, including information maintained electronically, relevant to its own as well as the other party's case (the hearing officer may exclude witnesses and exhibits not identified and shared, except those offered in rebuttal for which the party could not reasonably have anticipated prior to the hearing); pre-hearing discovery and preparation, including provision for written interrogatories and requests for production of documents, provided that discovery depositions are prohibited; the conduct of the hearing; the right of each party to be represented by counsel, the offer of evidence and witnesses and the cross-examination of witnesses; the authority of the hearing officer to issue subpoenas and subpoenas duces tecum, provided that the hearing officer may limit the number of witnesses to be subpoenaed in behalf of each party to no more than 7; the length of post-hearing briefs; and the form, length, and content of hearing officers' reports and recommendations to the general superintendent.~~

~~The hearing officer shall commence the hearing within 75 calendar days and conclude the hearing within 120 calendar days after being selected by the parties as the hearing officer, provided that these timelines may be modified upon the showing of good cause or mutual agreement of the parties. Good cause for the purposes of this paragraph (5) shall mean the illness or otherwise unavoidable emergency of the teacher, district representative, their legal representatives, the hearing officer, or an essential witness as indicated in each party's pre-hearing submission. In a dismissal hearing, the hearing officer shall consider and give weight to all of the teacher's evaluations written pursuant to Article 24A that are relevant to the issues in the hearing. The teacher or principal has the privilege of being present at the hearing with counsel~~

~~and of cross-examining witnesses and may offer evidence and witnesses and present defenses to the charges. Each party shall have no more than 3 days to present its case, unless extended by the hearing officer to enable a party to present adequate evidence and testimony, including due to the other party's cross-examination of the party's witnesses, for good cause or by mutual agreement of the parties. The State Board of Education shall define in rules the meaning of "day" for such purposes. The hearing officer may issue subpoenas requiring the attendance of witnesses and, at the request of the teacher or principal against whom a charge is made or the general superintendent, shall issue such subpoenas, but the hearing officer may limit the number of witnesses to be subpoenaed in behalf of the teacher or principal or the general superintendent to not more than 10 each. All testimony at the hearing shall be taken under oath administered by the hearing officer. The hearing officer shall cause a record of the proceedings to be kept and shall employ a competent reporter to take stenographic or stenotype notes of all the testimony. The costs of the reporter's attendance and services at the hearing shall be paid by the party or parties who are paying the fees and costs of the hearing officer State Board of Education. Either party desiring a transcript of the hearing shall pay for the cost thereof. At the close of the hearing, the hearing officer shall direct the parties to submit post-hearing briefs no later than 21 calendar days after receipt of the transcript. Either or both parties may waive submission of briefs.~~

~~Pending the hearing of the charges, the person charged may be suspended in accordance with rules prescribed by the board but such person, if acquitted, shall not suffer any loss of salary by reason of the suspension.~~

Before service of notice of charges on account of causes that may be deemed to be remediable, the teacher or principal shall be given reasonable warning in writing, stating specifically the causes which, if not removed, may result in charges; however, no such written warning shall be required if the causes have been the subject of a remediation plan pursuant to Article 24A or where the board of education and the exclusive representative of the district's teachers have entered into an agreement pursuant to Section 34-85e of this Code, pursuant to an alternative system of remediation. No written warning shall be required for conduct on the part of a teacher or principal which is cruel, immoral, negligent, or criminal or which in any way causes psychological or physical harm or injury to a student as that conduct is deemed to be irremediable. No written warning shall be required for a material breach of the uniform principal performance contract as that conduct is deemed to be irremediable; provided however, that not less than 30 days before the vote of the local school council to seek the dismissal of a principal for a material breach of a uniform principal performance contract, the local school council shall specify the nature of the alleged breach in writing and provide a copy of it to the principal.

~~The hearing officer shall consider and give weight to all of the teacher's evaluations written pursuant to Article 24A.~~

(6) The hearing officer shall within 30 calendar 45 days from the conclusion of the hearing report to the

general superintendent findings of fact and a recommendation as to whether or not the teacher or principal shall be dismissed and shall give a copy of the report to both the teacher or principal and the general superintendent. The State Board of Education shall provide by rule the form of the hearing officer's report and recommendation.

(7) The board, within 45 days of receipt of the hearing officer's findings of fact and recommendation, shall make a decision as to whether the teacher or principal shall be dismissed from its employ. The failure of the board to strictly adhere to the timeliness contained herein shall not render it without jurisdiction to dismiss the teacher or principal. In the event that the board declines to dismiss the teacher or principal after review of a hearing officer's recommendation, the board shall set the amount of back pay and benefits to award the teacher or principal, which shall include offsets for interim earnings and failure to mitigate losses. The board shall establish procedures for the teacher's or principal's submission of evidence to it regarding lost earnings, lost benefits, mitigation, and offsets. If the hearing officer fails to render a decision within 45 days, the State Board of Education shall communicate with the hearing officer to determine the date that the parties can reasonably expect to receive the decision. The State Board of Education shall provide copies of all such communications to the parties. In the event the hearing officer fails without good cause to make a decision within the 45 day period, the name of such hearing officer shall be struck for a period not less than 24 months from the master list of hearing officers maintained by the State Board of Education. The board shall not lose jurisdiction to discharge the teacher or principal if the hearing officer fails to render a decision within the time specified in this Section. If a hearing officer fails to render a decision within 3 months after the hearing is declared closed, the State Board of Education shall provide the parties with a new list of prospective, impartial hearing officers, with the same qualifications provided herein, one of whom shall be selected, as provided in this Section, to rehear the charges heard by the hearing officer who failed to render a decision. The parties may also select a hearing officer pursuant to the alternative procedure, as provided in this Section, to rehear the charges heard by the hearing officer who failed to render a decision. A violation of the professional standards set forth in "The Code of Professional Responsibility for Arbitrators of Labor-Management Disputes", of the National Academy of Arbitrators, the American Arbitration Association, and the Federal Mediation and Conciliation Service, or the failure of a hearing officer to render a decision within 3 months after the hearing is declared closed shall be grounds for removal of the hearing officer from the master list of hearing officers maintained by the State Board of Education. The decision of the board is final unless reviewed in accordance with paragraph (8) of this subsection (a) as provided in Section 34-85b of this Act.

(8) The teacher may seek judicial review of the board's decision in accordance with the Administrative Review Law, which is specifically incorporated in this Section, except that the review must be initiated in the Illinois Appellate Court for the First District. In the event judicial review is instituted, any costs of preparing and filing the

record of proceedings shall be paid by the party instituting the review. In the event the appellate court reverses a board decision to dismiss a teacher or principal and directs the board to pay the teacher or the principal back pay and benefits, the appellate court shall remand the matter to the board to issue an administrative decision as to the amount of back pay and benefits, which shall include a calculation of the lost earnings, lost benefits, mitigation, and offsets based on evidence submitted to the board in

accordance with procedures established by the board. If a decision of the board is adjudicated upon review or appeal in favor of the teacher or principal, then the trial court shall order reinstatement and shall determine the amount for which the board is liable including but not limited to loss of income and costs incurred therein.

(b) Nothing in this Section affects the validity of removal for cause hearings commenced prior to the effective date of this amendatory Act of the 97th General Assembly 1978.

The changes made by this amendatory Act of the 97th General Assembly shall apply to dismissals instituted on or after September 1, 2011 or the effective date of this amendatory Act of the 97th General Assembly, whichever is later. Any dismissal instituted prior to the effective date of these changes must be carried out in accordance with the requirements of this Section prior to amendment by this amendatory Act of 97th General Assembly.

(Source: P.A. 95-510, eff. 8-28-07.)

(105 ILCS 5/34-85c)

Sec. 34-85c. Alternative procedures for teacher evaluation, remediation, and removal for cause after remediation.

(a) Notwithstanding any law to the contrary, the board and the exclusive representative of the district's teachers are hereby authorized to enter into an agreement to establish alternative procedures for teacher evaluation, remediation, and removal for cause after remediation, including an alternative system for peer evaluation and recommendations; provided, however, that no later than September 1, 2012: (i) any alternative procedures must include provisions whereby student performance data is a significant factor in teacher evaluation and (ii) teachers are rated as "excellent", "proficient", "needs improvement" or "unsatisfactory". Pursuant exclusively to that agreement, teachers assigned to schools identified in that agreement shall be subject to an alternative performance evaluation plan and remediation procedures in lieu of the plan and procedures set forth in Article 24A of this Code and alternative removal for cause standards and procedures in lieu of the removal standards and procedures set forth in Section Sections 34-85 and 34-85b of this Code. To the extent that the agreement provides a teacher with an opportunity for a hearing on removal for cause before an independent hearing officer in accordance with Section Sections 34-85 and 34-85b or otherwise, the hearing officer shall be governed by the alternative performance evaluation plan, remediation procedures, and removal standards and procedures set forth in the agreement in making findings of fact and a recommendation.

(b) The board and the exclusive representative of the district's teachers shall submit a certified copy of an agreement as provided under subsection (a) of this Section to the State Board of Education.

(Source: P.A. 95-510, eff. 8-28-07; 96-861, eff. 1-15-10.)

Section 10. The Illinois Educational Labor Relations Act is amended by changing Sections 4.5, 12, and 13 as follows:

(115 ILCS 5/4.5)

Sec. 4.5. Subjects of collective bargaining.

(a) Notwithstanding the existence of any other provision in this Act or other law, collective bargaining between an educational employer whose territorial boundaries are coterminous with those of a city having a population in excess of 500,000 and an exclusive representative of its employees may include any of the following subjects:

(1) (Blank).

(2) Decisions to contract with a third party for one or more services otherwise performed by employees in a bargaining unit and the procedures for obtaining such contract or the identity of the third party.

(3) Decisions to layoff or reduce in force employees.

(4) Decisions to determine class size, class staffing and assignment, class schedules, academic calendar, length of the work and school day, length of the work and school year, hours and places of instruction, or pupil assessment policies.

(5) Decisions concerning use and staffing of experimental or pilot programs and decisions concerning use of technology to deliver educational programs and services and staffing to provide the technology.

(b) The subject or matters described in subsection (a) are permissive subjects of bargaining between an educational employer and an exclusive representative of its employees and, for the purpose of this Act, are within the sole discretion of the educational employer to decide to bargain, provided that the educational employer is required to bargain over the impact of a decision concerning such subject or matter on the bargaining unit upon request by the exclusive representative. During this bargaining, the educational employer shall not be precluded from implementing its decision. If, after a reasonable period

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of bargaining, a dispute or impasse exists between the educational employer and the exclusive representative, the dispute or impasse shall be resolved exclusively as set forth in subsection (b) of Section 12 of this Act in lieu of a strike under Section 13 of this Act.

(c) A provision in a collective bargaining agreement that was rendered null and void because it involved a prohibited subject of collective bargaining under this subsection (c) as this subsection (c) existed before the effective date of this amendatory Act of the 93rd General Assembly remains null and void and shall not otherwise be reinstated in any successor agreement unless the educational employer and exclusive representative otherwise agree to include an agreement reached on a subject or matter described in subsection (a) of this Section as subsection (a) existed before this amendatory Act of the 93rd General Assembly.

(Source: P.A. 93-3, eff. 4-16-03.)

(115 ILCS 5/12) (from Ch. 48, par. 1712)

Sec. 12. Impasse procedures.

(a) This subsection (a) applies only to collective bargaining between an educational employer that is not a public school district organized under Article 34 of the School Code and an exclusive representative of its employees.

If the parties engaged in collective bargaining have not reached an agreement by 90 days before the scheduled start of the forthcoming school year, the parties shall notify the Illinois Educational Labor Relations Board concerning the status of negotiations. This notice shall include a statement on whether mediation has been used.

Upon demand of either party, collective bargaining between the employer and an exclusive bargaining representative must begin within 60 days of the date of certification of the representative by the Board, or in the case of an existing exclusive bargaining representative, within 60 days of the receipt by a party of a demand to bargain issued by the other party. Once commenced, collective bargaining must continue for at least a 60 day period, unless a contract is entered into.

Except as otherwise provided in subsection (b) of this Section, if after a reasonable period of negotiation and within 90 ~~45~~ days of the scheduled start of the forth-coming school year, the parties engaged in collective bargaining have reached an impasse, either party may petition the Board to initiate mediation. Alternatively, the Board on its own motion may initiate mediation during this period. However, mediation shall be initiated by the Board at any time when jointly requested by the parties and the services of the mediators shall continuously be made available to the employer and to the exclusive bargaining representative for purposes of arbitration of grievances and mediation or arbitration of contract disputes. If requested by the parties, the mediator may perform fact-finding and in so doing conduct hearings and make written findings and recommendations for resolution of the dispute. Such mediation shall be provided by the Board and shall be held before qualified impartial individuals. Nothing prohibits the use of other individuals or organizations such as the Federal Mediation and Conciliation Service or the American Arbitration Association selected by both the exclusive bargaining representative and the employer.

If the parties engaged in collective bargaining fail to reach an agreement within 45 ~~45~~ days of the scheduled start of the forthcoming school year and have not requested mediation, the Illinois Educational Labor Relations Board shall invoke mediation.

Whenever mediation is initiated or invoked under this subsection (a), the parties may stipulate to defer selection of a mediator in accordance with rules adopted by the Board.

(a-5) This subsection (a-5) applies only to collective bargaining between a public school district or a combination of public school districts, including, but not limited to, joint cooperatives, that is not organized under Article 34 of the School Code and an exclusive representative of its employees.

(1) Any time after 15 days of mediation, either party may declare an impasse. The mediator may declare an impasse at any time during the mediation process. Notification of an impasse must be filed in writing with the Board, and copies of the notification must be submitted to the parties on the same day the notification is filed with the Board.

(2) Within 7 days after the declaration of impasse, each party shall submit to the mediator and the other party in writing the final offer of the party, including a cost summary of the offer. Seven days after receipt of the parties' final offers, the mediator shall make public the final offers and each party's cost summary dealing with those issues on which the parties have failed to reach agreement. The mediator shall make the final offers public by filing them with the Board, which shall immediately post the offers on its Internet website. On the same day of publication by the mediator, at a minimum, the school district shall distribute notice of the availability of the offers on the Board's Internet website to all news media that have filed an annual request for notices from the school district pursuant to Section 2.02 of the Open Meetings Act.

(a-10) This subsection (a-10) applies only to collective bargaining between a public school district organized under Article 34 of the School Code and an exclusive representative of its employees.

(1) For collective bargaining agreements between an educational employer whose territorial boundaries are coterminous with those of a city having a population in excess of 500,000 and an exclusive representative of its employees, if the parties fail to reach an agreement after a reasonable period of mediation, the dispute shall be submitted to fact-finding in accordance with this subsection (a-10). Either the educational employer or the exclusive representative may initiate fact-finding by submitting a written demand to the other party with a copy of the demand submitted simultaneously to the Board.

(2) Within 3 days following a party's demand for fact-finding, each party shall appoint one member of the fact-finding panel, unless the parties agree to proceed without a tri-partite panel. Following these appointments, if any, the parties shall select a qualified impartial individual to serve as the fact-finder and chairperson of the fact-finding panel, if applicable. An individual shall be considered qualified to serve as the fact-finder and chairperson of the fact-finding panel, if applicable, if he or she was not the same individual who was appointed as the mediator and if he or she satisfies the following requirements: membership in good standing with the National Academy of Arbitrators, Federal Mediation and Conciliation Service, or American Arbitration Association for a minimum of 10 years; membership on the mediation roster for the Illinois Labor Relations Board or Illinois Educational Labor Relations Board; issuance of at least 5 interest arbitration awards arising under the Illinois Public Labor Relations Act; and participation in impasse resolution processes arising under private or public sector collective bargaining statutes in other states. If the parties are unable to agree on an fact-finder, the parties shall request a panel of fact-finders who satisfy the requirements set forth in this paragraph (2) from either the Federal Mediation and Conciliation Service or the American Arbitration Association and shall select a fact-finder from such panel in accordance with the procedures established by the organization providing the panel.

(3) The fact-finder shall have the following duties and powers:

(A) to require the parties to submit a statement of disputed issues and their positions regarding each issue either jointly or separately;

(B) to identify disputed issues that are economic in nature;

(C) to meet with the parties either separately or in executive sessions;

(D) to conduct hearings and regulate the time, place, course, and manner of the hearings;

(E) to request the Board to issue subpoenas requiring the attendance and testimony of witnesses or the production of evidence;

(F) to administer oaths and affirmations;

(G) to examine witnesses and documents;

(H) to create a full and complete written record of the hearings;

(I) to attempt mediation or remand a disputed issue to the parties for further collective bargaining;

(J) to require the parties to submit final offers for each disputed issue either individually or as a package or as a combination of both; and

(K) to employ any other measures deemed appropriate to resolve the impasse.

(4) If the dispute is not settled within 75 days after the appointment of the fact-finding panel, the fact-finding panel shall issue a private report to the parties that contains advisory findings of fact and recommended terms of settlement for all disputed issues and that sets forth a rationale for each recommendation. The fact-finding panel, acting by a majority of its members, shall base its findings and recommendations upon the following criteria as applicable:

(A) the lawful authority of the employer;

(B) the federal and State statutes or local ordinances and resolutions applicable to the employer;

(C) prior collective bargaining agreements and the bargaining history between the parties;

(D) stipulations of the parties;

(E) the interests and welfare of the public and the students and families served by the employer;

(F) the employer's financial ability to fund the proposals based on existing available resources, provided that such ability is not predicated on an assumption that lines of credit or reserve funds are available or that the employer may or will receive or develop new sources of revenue or increase existing sources of revenue;

(G) the impact of any economic adjustments on the employer's ability to pursue its educational mission;

(H) the present and future general economic conditions in the locality and State;

(I) a comparison of the wages, hours, and conditions of employment of the employees involved

in the dispute with the wages, hours, and conditions of employment of employees performing similar services in public education in the 10 largest U.S. cities;

(J) the average consumer prices in urban areas for goods and services, which is commonly known as the cost of living;

(K) the overall compensation presently received by the employees involved in the dispute, including direct wage compensation; vacations, holidays, and other excused time; insurance and pensions; medical and hospitalization benefits; the continuity and stability of employment and all other benefits received; and how each party's proposed compensation structure supports the educational goals of the district;

(L) changes in any of the circumstances listed in items (A) through (K) of this paragraph (4) during the fact-finding proceedings;

(M) the effect that any term the parties are at impasse on has or may have on the overall educational environment, learning conditions, and working conditions with the school district; and

(N) the effect that any term the parties are at impasse on has or may have in promoting the public policy of this State.

(5) The fact-finding panel's recommended terms of settlement shall be deemed agreed upon by the parties as the final resolution of the disputed issues and incorporated into the collective bargaining agreement executed by the parties, unless either party tenders to the other party and the chairperson of the fact-finding panel a notice of rejection of the recommended terms of settlement with a rationale for the rejection, within 15 days after the date of issuance of the fact-finding panel's report. If either party submits a notice of rejection, the chairperson of the fact-finding panel shall publish the fact-finding panel's report and the notice of rejection for public information by delivering a copy to all newspapers of general circulation in the community with simultaneous written notice to the parties.

(b) If, after a period of bargaining of at least 60 days, a dispute or impasse exists between an educational employer whose territorial boundaries are coterminous with those of a city having a population in excess of 500,000 and the exclusive bargaining representative over a subject or matter set forth in Section 4.5 of this Act, the parties shall submit the dispute or impasse to the dispute resolution procedure agreed to between the parties. The procedure shall provide for mediation of disputes by a rotating mediation panel and may, at the request of either party, include the issuance of advisory findings of fact and recommendations. A dispute or impasse over any Section 4.5 subject shall not be resolved through the procedures set forth in this Act, and the Board, mediator, or fact-finder has no jurisdiction over any Section 4.5 subject. The changes made to this subsection (b) by this amendatory Act of the 97th General Assembly are declarative of existing law.

(c) The costs of fact finding and mediation shall be shared equally between the employer and the exclusive bargaining agent, provided that, for purposes of mediation under this Act, if either party requests the use of mediation services from the Federal Mediation and Conciliation Service, the other party shall either join in such request or bear the additional cost of mediation services from another source. All other costs and expenses of complying with this Section must be borne by the party incurring them.

(c-5) If an educational employer or exclusive bargaining representative refuses to participate in mediation or fact finding when required by this Section, the refusal shall be deemed a refusal to bargain in good faith.

(d) Nothing in this Act prevents an employer and an exclusive bargaining representative from mutually submitting to final and binding impartial arbitration unresolved issues concerning the terms of a new collective bargaining agreement.

(Source: P.A. 93-3, eff. 4-16-03.)

(115 ILCS 5/13) (from Ch. 48, par. 1713)

Sec. 13. Strikes.

(a) Notwithstanding the existence of any other provision in this Act or other law, educational employees employed in school districts organized under Article 34 of the School Code shall not engage in a strike at any time during the 18 month period that commences on the effective date of this amendatory Act of 1995. An educational employee employed in a school district organized under Article 34 of the School Code who participates in a strike in violation of this Section is subject to discipline by the employer. In addition, no educational employer organized under Article 34 of the School Code may pay or cause to be paid to an educational employee who participates in a strike in violation of this subsection any wages or other compensation for any period during which an educational employee participates in the strike, except for wages or compensation earned before participation in the strike. Notwithstanding the existence of any other provision in this Act or other law, during the 18-month period that strikes are prohibited under this subsection nothing in this subsection shall be construed to

require an educational employer to submit to a binding dispute resolution process.

(b) Notwithstanding the existence of any other provision in this Act or any other law, educational employees other than those employed in a school district organized under Article 34 of the School Code and, after the expiration of the 18 month period that commences on the effective date of this amendatory Act of 1995, educational employees in a school district organized under Article 34 of the School Code shall not engage in a strike except under the following conditions:

(1) they are represented by an exclusive bargaining representative;

(2) mediation has been used without success and, if an impasse has been declared under subsection (a-5) of Section 12 of this Act, at least 14 days have elapsed after the mediator has made public the final offers;

(2.5) if fact-finding was invoked pursuant to subsection (a-10) of Section 12 of this Act, at least 30 days have elapsed after a fact-finding report has been released for public information;

(2.10) for educational employees employed in a school district organized under Article 34 of the School Code, at least three-fourths of all bargaining unit members of the exclusive bargaining representative have affirmatively voted to authorize the strike;

(3) at least 10 days have elapsed after a notice of intent to strike has been given by the exclusive bargaining representative to the educational employer, the regional superintendent and the Illinois Educational Labor Relations Board;

(4) the collective bargaining agreement between the educational employer and educational employees, if any, has expired or been terminated; and

(5) the employer and the exclusive bargaining representative have not mutually submitted the unresolved issues to arbitration.

If, however, in the opinion of an employer the strike is or has become a clear and present danger to the health or safety of the public, the employer may initiate in the circuit court of the county in which such danger exists an action for relief which may include, but is not limited to, injunction. The court may grant appropriate relief upon the finding that such clear and present danger exists. An unfair practice or other evidence of lack of clean hands by the educational employer is a defense to such action. Except as provided for in this paragraph, the jurisdiction of the court under this Section is limited by the Labor Dispute Act.

(Source: P.A. 89-15, eff. 5-30-95; 90-548, eff. 1-1-98.)

(105 ILCS 5/34-85b rep.)

Section 15. The School Code is amended by repealing Section 34-85b.

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

The motion prevailed.

And the amendment was adopted and ordered printed.

Senate Floor Amendment No. 2 was referred to the Committee on Assignments earlier today.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING BILL OF THE SENATE A THIRD TIME

On motion of Senator Lightford, **Senate Bill No. 630**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 59; NAYS None.

The following voted in the affirmative:

Althoff	Haine	Lightford	Raoul
Bivins	Harmon	Link	Rezin
Bomke	Holmes	Luechtefeld	Righter
Brady	Hunter	Maloney	Sandack
Clayborne	Hutchinson	Martinez	Sandoval
Collins, A.	Jacobs	McCann	Schmidt

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Collins, J.	Johnson, C.	McCarter	Schoenberg
Crotty	Johnson, T.	Meeks	Silverstein
Cultra	Jones, E.	Millner	Steans
Delgado	Jones, J.	Mulroe	Sullivan
Dillard	Koehler	Muñoz	Syverson
Duffy	Kotowski	Murphy	Trotter
Forby	LaHood	Noland	Wilhelmi
Frerichs	Landek	Pankau	Mr. President
Garrett	Laufen	Radogno	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

CONSIDERATION OF RESOLUTION ON SECRETARY'S DESK

Senator Lightford moved that **Senate Joint Resolution No. 34**, on the Secretary's Desk, be taken up for immediate consideration.

The motion prevailed.

Senator Lightford moved that Senate Joint Resolution No. 34 be adopted.

The motion prevailed.

And the resolution was adopted.

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

At the hour of 7:53 o'clock p.m., the Chair announced the Senate stand adjourned until Friday, April 15, 2011, at 9:00 o'clock a.m.