

1 AN ACT in relation to public aid.

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

4 Section 5. The Illinois Public Aid Code is amended by
5 adding Section 12-4.25d as follows:

6 (305 ILCS 5/12-4.25d new)

7 Sec. 12-4.25d. Medical assistance vendors; unionization
8 activities.

9 (a) In this Section:

10 "Vendor" means a vendor of goods or services
11 provided to recipients of medical assistance under
12 Article V, except that the term does not include a
13 facility licensed under the Nursing Home Care Act.

14 "Vendor reimbursements" means moneys paid to a
15 vendor for goods or services provided to recipients of
16 medical assistance under Article V.

17 (b) A vendor may not use vendor reimbursements to pay for
18 activities directly related to influencing employees of the
19 vendor regarding their decision to organize or not to
20 organize and to form a union or to join an existing union,
21 because these activities are not directly related to the
22 purchase of goods or services for recipients. Vendor
23 reimbursements may not be used for these activities by
24 officers or employees of the vendor, or by an independent
25 contractor, consultant, or attorney with whom the vendor has
26 entered into a contract. Vendor reimbursements may not be
27 used to litigate the issue of the application of the National
28 Labor Relations Act to, nor the jurisdiction of the National
29 Labor Relations Board over, a vendor. Nothing in this
30 Section shall be construed as limiting an employer's rights
31 under Section 8(c) of the National Labor Relations Act.

1 Nothing in this Section shall be construed as limiting the
2 use of State funds by a vendor in the employment of, or for
3 contracting for, assistance in good faith collective
4 bargaining or in handling employee grievances, including
5 arbitration, under an employee-employer contract.

6 (c) If a vendor engages in activities directly related to
7 influencing employees of the vendor regarding their decision
8 to organize or not to organize and to form a union or to join
9 an existing union, the vendor must document the cost of those
10 activities and show that no vendor reimbursements were used
11 to pay for those activities in whole or in part. If the
12 vendor engages in those activities during a time when the
13 vendor's employees are ordinarily performing their normal
14 duties, the vendor must maintain records showing (i) the
15 date, time, and length of each meeting with employees held in
16 connection with those activities and (ii) the identity of all
17 participants in those meetings.

18 (d) If (i) a vendor engages in activities directly
19 related to influencing employees of the vendor regarding
20 their decision to organize or not to organize and to form a
21 union or to join an existing union, (ii) those activities
22 involved employees of the vendor whose normal duties involve
23 providing goods or services to recipients of medical
24 assistance, and (iii) those activities were conducted during
25 a period of time during which the employee would ordinarily
26 perform the employee's normal duties, then there is an
27 irrebuttable presumption that vendor reimbursements were used
28 to pay for a proportionate share of those activities. If it
29 is determined that a vendor improperly used vendor
30 reimbursements to pay for activities as described in this
31 subsection, then the vendor is subject to a civil penalty in
32 an amount equal to the proportion of the total cost of those
33 activities that represents the proportion of the vendor's
34 total revenues that were vendor reimbursements in the State

1 fiscal year in which the vendor engaged in those activities.

2 (e) If it is determined that a vendor improperly used
3 vendor reimbursements to pay for activities other than as
4 described in subsection (d), then:

5 (1) the vendor must repay to the State the amount of
6 moneys spent on activities in violation of this Section;
7 and

8 (2) the vendor is subject to a civil penalty in an
9 amount equal to twice the amount of moneys spent on
10 activities in violation of this Section.

11 (f) The Department of Public Aid may impose a demand for
12 repayment or a civil penalty under this Section after notice
13 and an opportunity for the vendor to be heard on the matter.
14 The Attorney General may bring a civil action on behalf of
15 the Department of Public Aid to enforce the collection of any
16 repayment or civil penalty imposed under this Section. If
17 the Attorney General declines to bring such an action, any
18 person may bring such an action on behalf of the Department.

19 (g) If an agent of a vendor knowingly violates this
20 Section, the agent is jointly and severally liable with the
21 vendor for the violation and subject to imposition of demand
22 for repayment or a civil penalty under this Section.