

Illinois Regulation is a summary of the weekly regulatory decisions of State agencies published in the Illinois Register and action taken by the Illinois General Assembly's Joint Committee on Administrative Rules. Illinois Regulation is designed to inform and involve the public in changes taking place in agency administration.

New Regulations

STATE EMPLOYEES

The DEPARTMENT OF CENTRAL MANAGEMENT SERVICES adopted amendments to "Pay Plan" (80 Ill Adm Code 310; 37 Ill Reg 10740) effective 10/8/13. A companion emergency rulemaking appeared in the *Illinois Register* at 37 Ill Reg 11395, effective 7/1/13. The rulemaking repeals all remaining provisions instituting a fiscal year 2012 pay freeze for employees of 6 State agencies (Human Rights Commission and the Departments of Corrections, Juvenile Justice, Human Services, Natural Resources, and Public Health) that had not been removed from the freeze by subsequent collective bargaining agreements. The rulemaking allows more than 23,000 State employees (including more than 9,000 each at DOC and DHS) to retroactively receive pay increases due under their previous collective bargaining contracts. The rulemaking also raises maximum broad-band salaries for 6 job titles (Public Service Administrator, Senior Public Service Administrator, Health Information Administrator, Residential Services Supervisor, Human Resources Representa-

tive, and Human Resources Specialist) and removes designated rates for SPSAs at DHS, DPH and the Illinois Gaming Board that have been superseded by the higher maximum pay rate. An out-of-State broad-band rate adjustment for State employees (PSA Option 1 and SPSA) working outside of Illinois is also removed. CMS states that these changes will allow individuals in the affected positions to maintain their current salaries if they are removed from bargaining units and assigned merit compensation system (MS) pay rates pursuant to Public Act 97-1172. The rules also make corrections to pay tables for educators and educator trainees represented by AFSCME and corrections to title codes and midpoint salaries included in the Department of Transportation Technical Pay Plan effective 1/1/12. The rulemaking implements longevity pay provisions included in a recent 3-year contract between Teamsters Local 916 and CMS, DOT and DNR. Finally, the rule changes the bargaining unit for DNR Conservation Police sergeants, lieutenants, and captains from Laborers' International Union of North America-Illinois State

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Proposed Regulations

UNPAID TOLLS

The ILLINOIS STATE TOLL HIGHWAY AUTHORITY proposed amendments to the Part titled "State Toll Highway Rules" (92 Ill Adm Code 2520; 37 Ill Reg 16915) increasing the time toll violators have to pay the additional \$50 fine (separate from unpaid tolls) from 14 days to 30 days. Additionally, the Board is creating the option for a pilot program by resolution to suspend the additional fine for any or all classes of vehicles during the term of the resolution. Motorists who travel on Illinois toll highways may be affected by this rulemaking.

Questions/requests for copies/comments through 12/9/13: David A. Goldberg, ISTHA, 2700 Ogden Ave., Downers Grove IL 60515, 630/241-6800.

STATE ANNUITANT APPEALS

The STATE EMPLOYEES RETIREMENT SYSTEM (SERS) proposed amendments to "The Administration and Operation of the State Employees' Retirement System of Illinois"

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NEW REGULATIONS: Rules adopted by agencies this week.

PROPOSED REGULATIONS: Rules proposed by agencies this week, commencing a 45-day First Notice period. Public comments must be accepted by the agency for the period of time indicated.

☞: Symbol designating rules of special interest to small businesses, small municipalities, and not-for-profit corporations. Agencies are required to consider comments from these groups and minimize the regulatory burden on them.

QUESTIONS/COMMENTS/RULE TEXT: Direct mail or phone calls to the agency personnel listed below each summary. Providing volume and issue number of The Flinn Report or the Illinois Register will expedite the process. Some agencies charge copying fees. However, copy requests do not have to be made under the Freedom of Information Act.

New Regulations

Employees' Association (ISEA) to the Fraternal Order of Police.

Questions/requests for copies: Jason Doggett, DCMS, 720 Stratton Bldg., Spfld IL 62706, 217/782-7964, e-mail: CMS.PayPlan@illinois.gov.

DHS SCHOOLS

The DEPARTMENT OF HUMAN SERVICES adopted amendments to "Role of Residential Educational Facilities Operated by the Illinois Department of Human Services" (89 Ill Adm Code 750; 37 Ill Reg 479), effective 10/8/13. The rulemaking adds a cross-reference to applicable definitions (found in 89 Ill Adm Code 751) and clarifies the age range and types of students served by the State residential schools. DHS has included the reference to guardian, applicable to his or her legal relationship with the child receiving services, throughout the rulemaking. Each residential school is required to develop policies and procedures that shall be

submitted to the Illinois State Board of Education (ISBE) for approval prior to implementation. The rulemaking updates numerous cross-references to ISBE rules. State residential schools' special education plan for provision of services will be supplied to DHS-DRS and ISBE in a format established by ISBE. ISBE will evaluate the plan for consistency with federal and State regulations and laws. The rulemaking revises procedures for appointing a surrogate parent or guardian for children attending State residential schools if that has not already been done. Qualifications, responsibilities and the appointment procedure conform to federal regulations and State law. This rulemaking may impact local school districts.

DHS also adopted amendments to the Part titled "Admission Procedures" (89 Ill Adm Code 755; 37 Ill Reg 7860) updating various provisions related to admission procedures for residential schools for per-

sons with disabilities operated by DHS. The amendments replace the term "multidisciplinary conference" with "eligibility review"; add a vision screening requirement for admission to the Illinois School for the Deaf (ISD) and Illinois Center for Rehabilitation and Education-Roosevelt (ICRE-R); extend eligibility for educational services to the day before the student's 22nd birthday; add information concerning ICRE-R's transition program for students who have completed high school but still need Individualized Education Plan (IEP) services; and update language regarding development of the IEP. A change since 1st Notice clarifies that a student who reaches his or her 22nd birthday during the school year may complete the semester in progress.

Questions/requests for copies of the 2 DHS rulemakings above: Tracie Drew, DHS, 100 S. Grand Ave. East, 3rd Fl., Springfield IL 62762, 217/557-1544.

Meeting Action

JCAR MEETING ACTION

At its 10/22/13 meeting, the Joint Committee on Administrative Rules voted to object to and prohibit filing of one proposed rule and issued a recommendation concerning another proposed rule. The Committee also extended Second Notice periods an additional 45 days for the following rulemakings: Department of Children and Family Services, "Department of Children and Family Services Scholarship Program" (89 Ill Adm Code 312; 37 Ill Reg 5233); Illinois Student Assistance Commission, "John R. Justice Student Loan Repayment Program" (23 Ill Adm Code 2754; 37 Ill Reg 11272); Department of Natural Resources, "Construction in Floodways of Lakes, Rivers and Streams" (17 Ill Adm Code 3700; 37 Ill Reg 4156), "Construction and Maintenance of Dams" (17 Ill Adm Code 3702; 37 Ill Reg 6614), "Regulation of Public Waters" (17 Ill Adm Code 3704; 37 Ill Reg 4168), and "Floodway Construction in Northeastern Illinois" (17 Ill Adm Code 3708; 37 Ill Reg 4183); and Department of Transportation, "Motor Carrier Safety Regulations: General" (92 Ill Adm Code 390; 37 Ill Reg 12752).

DEPT OF NATURAL RESOURCES

JCAR objects to and prohibits the filing of the DNR rulemaking titled "Grant Review and Processing Fees" (17 Ill Adm Code 3000; 37 Ill Reg 2843). The Committee found that the adoption of this rulemaking would constitute a serious threat to the public interest. The rulemaking establishes fees that will create an untenable burden for the local gov-

ernments and not-for-profit entities that are the principal applicants for these grants.

DEPT OF VETERAN'S AFFAIRS

With regard to the rulemaking titled "Survivors' Compensation Act Program" (95 Ill Adm Code 120; 37 Ill Reg 4226), JCAR recommends that DVA be more timely in updating its rules when statutory changes are

enacted. This rulemaking is implementing a Public Act that became law 9 years ago. (The rulemaking updates the Part to include compensation to survivors of those killed by hostile military action since 9/11/01 and adds the Persian Gulf War to the list of recognized wartime periods.)

Proposed Regulations

(80 Ill Adm Code 1540; 37 Ill Reg 16901) to revise its appeals and hearings procedures to reflect changes required by litigation against SERS. The System's Executive Committee (Committee), consisting of one SERS Board member, a designee of the Chairperson of the Board and the Executive Secretary of SERS shall meet periodically for the purpose of hearing all administrative contested matters. A SERS hearing officer shall be a member of the Committee or an attorney retained by the Committee for the purpose of conducting hearings. The administrative service staff of SERS shall be responsible for processing claims against or relating to SERS. A petitioner for a hearing before the Committee shall be provided with written notice of the date, time, place and subject matter of the hearing, as well as being afforded the right to present oral evidence, and conduct examinations and cross-examinations of witnesses. No minutes shall be kept of a prehearing conference. Hearings shall be informal and conducted by

the hearing officer, who is empowered to receive testimony, admit exhibits and make a record sufficient for a full and true disclosure of the facts and issues, as well as making all procedural and evidentiary rulings necessary for the hearing. Two records of the hearing shall be kept, a non-verbatim bystander's record of the proceedings and either a stenographic transcription or tape recording. Statutory grounds for disqualification of a hearing officer (e.g., bias or conflict of interest) are listed. The Executive Director of SERS may not be called as a witness unless it is demonstrated the Director has relevant noncumulative personal knowledge of the facts bearing upon a claim, nor shall the Director be disqualified as a member of the Committee on the basis the Director is responsible for the overall administration of SERS. The Committee cannot be fewer than 2 members; if there is only 1 member, the Board President may appoint another person to the Committee. The statutory provisions on ex parte communica-

tions found in Section 10-60 of the Illinois Administrative Procedure Act are quoted and added in the rulemaking. Any member of the Committee (presently, the Committee as a whole) may grant a rehearing or written reappeal.

Questions/requests for copies/comments through 12/9/13: Tim Blair, SERS, 2101 S. Veterans Parkway, PO Box 19255, Springfield IL 62794-9255, 217/785-7016.

OSFM RULE WITHDRAWAL

The OFFICE OF THE STATE FIRE MARSHAL has withdrawn a proposed new Part titled "Permanently Moored Vessel Fire Protection and Safety" (41 Ill Adm Code 149; 37 Ill Reg 8212) which was published in the 6/28/13 *Illinois Register*. The rulemaking created a separate Part for fire safety regulations and inspection schedules applicable to permanently moored vessels such as floating casinos. These rules and schedules remain in 41 Ill Adm Code 100.

Joint Committee on Administrative Rules

Senator Pamela Althoff

Representative Greg Harris

Senator Don Harmon

Representative Lou Lang

Senator Tony Munoz

Representative David Leitch

Senator Sue Rezin

Representative Don Moffitt

Senator Dale A. Righter

Representative Tim Schmitz

Senator Ira Silverstein

Representative Andre Thapedi

**Vicki Thomas
Executive Director**