

JOINT COMMITTEE ON ADMINISTRATIVE RULES

ILLINOIS GENERAL ASSEMBLY

CO-CHAIR:
SEN. DON HARMON

CO-CHAIR:
REP. KEITH WHEELER

EXECUTIVE DIRECTOR:
VICKI THOMAS



700 STRATTON BUILDING
SPRINGFIELD, ILLINOIS 62706
217/785-2254

SEN. PAMELA ALTHOFF
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REP. PETER BREEN
REP. TOM DEMMER
REP. GREG HARRIS
REP. LOU LANG
REP. ANDRÉ THAPEDI

MINUTES

March 13, 2018

MEETING CALLED TO ORDER

The Joint Committee on Administrative Rules met on Tuesday, March 13, 2018 at 10:30 a.m. in Room C-1 of the Stratton Office Building, Springfield IL. Co-Chair Harmon called the meeting to order and announced that the policy of the Committee is to allow only representatives of State agencies to testify orally on any rule under consideration at Committee meetings. Other persons are encouraged to submit their comments to the JCAR office in writing.

ATTENDANCE ROLL CALL

X Senator Pamela Althoff	Representative Peter Breen
X Senator Don Harmon	X Representative Tom Demmer
X Senator Karen McConnaughay	Representative Greg Harris
X Senator Tony Muñoz	X Representative Lou Lang
Senator Ira Silverstein	X Representative André Thapedi
X Senator Chuck Weaver	X Representative Keith Wheeler

APPROVAL OF THE MINUTES OF THE FEBRUARY 13, 2018 MEETING

Representative Demmer moved, seconded by Senator Althoff, that the minutes of the February 13, 2018 meeting be approved. The motion passed unanimously (9-0-0).

REVIEW OF AGENCY RULEMAKINGS

Department of Revenue – Property Tax Code (86 Ill. Adm. Code 110; 41 Ill. Reg. 15043)

Richard Sgro, Director of Legislative Affairs, represented DOR and confirmed that, if JCAR objected to this rulemaking, DOR would withdraw it. Representative Lang moved, seconded by Senator Weaver, that JCAR object to this rulemaking because it is contrary to Sec. 8-35 of the Property Tax Code [35 ILCS 200], which requires publication of property tax assessments in the State newspaper. The motion passed unanimously (9-0-0).

CONSIDERATION OF OTHER RULEMAKINGS

Environmental Protection Agency – Medication Takeback Programs (35 Ill. Adm. Code 889; 41 Ill. Reg. 5012)

Kyle Rominger, Deputy Chief, Bureau of Land, and Gabe Neibergall, Assistant Counsel, represented EPA.

Rep. Lang: The law requiring this rulemaking became effective in September 2015 and required EPA to have rules 9 months later. Why are rules that were due in June 2016 only being proposed in 2018? Mr. Rominger: EPA staff has gone through turnover during the intervening time. The Agency has at least been operating a program that did some of this.

Rep. Lang: I am aware of pharmacies doing medication collection on their own. What has EPA been doing? Mr. Rominger: EPA has supported disposal at several pharmacies in approximately 20 locations around the State, but has not conducted a statewide program as required by the statute. EPA has not been complying with the letter and spirit of HB 1. The delay in rulemaking was due to laziness on the part of EPA, but EPA has been collecting hazardous household waste throughout the years, even before the passage of HB 1.

Rep. Lang: I was the sponsor of HB 1. How should I and my colleagues react to the fact that a State agency has blithely ignored the specifics of that law? Mr. Rominger: EPA had been doing what it could with the appropriations it had.

Rep. Lang: Please provide every item of correspondence between EPA and the Governor's office and a handwritten note from each phone call between EPA and the Governor's office regarding the prescription disposal program, and any requests EPA made in any form for appropriate funding to do the program. Mr. Rominger: This information will be furnished.

Rep. Lang: Is it your testimony that EPA didn't do the program or the rules because of a lack of funding? Mr. Rominger: No. Rep. Lang: The noncompliance appears to result from a lack of interest. Did the Governor's office ask EPA not to implement this part of the bill? Mr. Rominger: I am unaware of such a request.

Rep. Lang: It is appropriate for a sponsor of this bill to be just a little tense over the fact that this program isn't yet up and running while people are dying of opioid overdoses.

State Board of Education – Special Education Facilities Under Section 14-7.02 of the School Code (23 Ill. Adm. Code 401; 41 Ill. Reg. 3831)

Stephanie Jones, General Counsel, and Lindsay Bentivegna, Rules Coordinator, represented SBE.

Sen. Althoff: JCAR members had been having ongoing conversations with SBE about this rulemaking, specifically about the very rare but possible situation in which a sibling of one of the 104 children currently in an out-of-state nonpublic special ed setting receives a similar diagnosis and might need to also attend that school. Can you explain to JCAR what SBE has agreed to? Ms Jones: SBE will add a sentence to the rulemaking clarifying that siblings of students currently placed in out-of-state settings can attend the same schools with reimbursement from SBE if they would have been eligible under the requirements about to be replaced.

Rep. Thapedi: Asked for a step-by-step explanation of the process by which a student ends up in an out-of-state placement. Ms Jones: The most common way is that a school district identifies a student as having a disability, that student works his/her way through a continuum of services offered by the school district, and finally the school district concludes that, due to the nature of that student's disability, the least restrictive option available would be to enroll him/her in a therapeutic day school placement in a school within a 1-2 hour bus ride or a residential placement in a school outside of that range. From a special

education practitioner's perspective, an out-of-state placement is the most restrictive environment available, so that placement would not be made unless the disability called for it and there was no less restrictive alternative available. The other way is that a parent unilaterally places a child in an out-of-state placement and, if it's an approved facility, the school district may agree to pay for part or all of the costs. The real risk that parents run by this latter course is that they may be saddled with part or all of the costs of the placement if the school district objects and the hearing officer finds that the parents have not provided a preponderance of evidence in favor of the placement.

Department of Financial and Professional Regulation – Schedules of Maximum Rates to be Charged for Check Cashing and Writing of Money Orders by Community and Ambulatory Currency Exchanges (38 Ill. Adm. Code 130; 41 Ill. Reg. 10220)

Francisco Menchaca, Director of the Division of Financial Institutions, represented DFPR.

Rep. Thapedi: Thanked DFPR for all of the efforts it made to come to an agreement on these rules, acknowledged the consumer advocates who were attending the hearing to show support for protecting minority communities from exploitation by excessive check cashing rates, and praised Sen. Jacqueline Collins for her role in protecting those communities. He asked Mr. Menchaca to describe the agreement that had been reached. Mr. Menchaca: The parties to the negotiations had finally come to an agreement on the actual rates to be charged, and DFPR would keep working with the parties to arrive at an agreement over the definitions of the types of checks covered by this rulemaking. Currently, the definitions are drawn from SB 2433, but the definitions in HB 5510 are closer to what the affected parties (consumer advocates and the general public) would support.

Rep. Thapedi: What would happen if an agreement over definitions could not be reached over the next few days. Co-Chair Harmon: This negotiation should not be happening during the next few days but during the next few hours. The representatives of both sides should meet today because the agreement is so close. JCAR Staff will be working with these parties, and with SBE on the previously discussed rulemaking, to memorialize the agreements reached in rule text. I applaud the stakeholders for the amount of work they have done to come to an agreement.

CERTIFICATION OF NO OBJECTION

Senator McConnaughay moved, seconded by Senator Muñoz, that the Committee inform the agencies to whose rulemakings the Committee did not vote an Objection or Extension, or did not remove from the No Objection List, that the Committee considered their respective rulemakings at the monthly meeting and, based upon the agreements for modification of the rulemakings made by the agencies, no Objections will be issued. The motion passed unanimously (9-0-0).

ANNOUNCEMENT OF APRIL MEETING DATE

Co-Chair Harmon announced that the next JCAR meeting would be held at 10:30 a.m. on Tuesday, April 17, 2018, in Room D-1 of the Stratton Office Building, Springfield IL.

ADJOURNMENT

Representative Thapedi moved, seconded by Representative Wheeler, that the meeting stand adjourned. The motion passed unanimously.