

# JOINT COMMITTEE ON ADMINISTRATIVE RULES

ILLINOIS GENERAL ASSEMBLY

CO-CHAIR:  
SEN. DON HARMON

CO-CHAIR:  
REP. KEITH WHEELER

EXECUTIVE DIRECTOR:  
VICKI THOMAS



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SEN. TONY MUÑOZ  
SEN. SUE REZIN  
SEN. PAUL SCHIMPF  
SEN. IRA SILVERSTEIN  
SEN. CHUCK WEAVER  
REP. PETER BREEN  
REP. BARBARA FLYNN CURRIE  
REP. TOM DEMMER  
REP. GREG HARRIS  
REP. ANDRÉ THAPEDI

## MINUTES

November 13, 2018

### MEETING CALLED TO ORDER

The Joint Committee on Administrative Rules met on Tuesday, November 13, 2018 at 10:00 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 Don Harmon	X Representative Peter Breen
X Senator Tony Muñoz	X Representative Barbara Flynn Currie
X Senator Sue Rezin	X Representative Tom Demmer
X Senator Paul Schimpf	X Representative Greg Harris
Senator Ira Silverstein	X Representative André Thapedi
X Senator Chuck Weaver	X Representative Keith Wheeler

### APPROVAL OF THE MINUTES OF THE OCTOBER 16, 2018 MEETING

Senator Schimpf moved, seconded by Senator Weaver, that the minutes of the October 16, 2018 meeting be approved. The motion passed unanimously (11-0-0).

### REVIEW OF AGENCY RULEMAKINGS

*Health Facilities and Services Review Board – Processing, Classification Policies and Review Criteria (77 Ill. Adm. Code 1110; 42 Ill. Reg. 16119)*

Senator Rezin moved, seconded by Representative Breen, that JCAR recommend that, in the future, the Board be more timely in reflecting statutory changes in the related rules. The motion passed unanimously (11-0-0).

*Department of Human Services – Medicaid Community Mental Health Services Program (59 Ill. Adm. Code 132; 42 Ill. Reg. 7408) and Medicaid Community Mental Health Services Program (59 Ill. Adm. Code 132; 42 Ill. Reg. 7322)*

Representative Demmer moved, seconded by Representative Currie, that JCAR, with the concurrence of the Department of Human Services, extend the Second Notice periods for these rulemakings for an additional 45 days. The motion passed unanimously (11-0-0).

***Department of Human Services -- Temporary Assistance for Needy Families (89 Ill. Adm. Code 112; 42 Ill. Reg. 18495)***

Senator Muñoz moved, seconded by Representative Thapedi, that JCAR object to the Department of Human Services' use of emergency rulemaking to adopt this rulemaking. Section 4-2(h) of the Public Aid Code [305 ILCS 5] prohibits the use of emergency rulemaking to increase TANF grants and PA 100-587, which requires this increase in TANF grants, did not specifically authorize DHS to use emergency rulemaking for this purpose. The motion passed unanimously (11-0-0).

**AGENCY RESPONSE**

***Governor's Office of Management and Budget – Grant Accountability and Transparency Act (GATA) (44 Ill. Adm. Code 7000; 41 Ill. Reg. 12265)***

Due to the appropriateness of the agency's response, no further action was taken.

**CONSIDERATION OF OTHER RULEMAKINGS**

***Property Tax Appeal Board – Practice and Procedure for Appeals Before the Property Tax Appeal Board (86 Ill. Adm. Code 1910; 42 Ill. Reg. 3862)***

Steve Wagner, Acting Executive Director, represented PTAB. Co-Chair Harmon said it was JCAR's understanding that PTAB was considering withdrawing the rulemaking. Mr. Wagner confirmed this. Co-Chair Harmon said that PTAB could only withdraw this rulemaking if JCAR objected to it, but that if JCAR objected to it and the PTAB board members decided to adopt it anyway JCAR would not be able to stop the rulemaking at that point. JCAR is considering a temporary filing prohibition to give PTAB the ability to consult with its board members and determine with clarity a course of action. Mr. Wagner confirmed that this was his understanding as well.

Representative Breen emphasized that he supports the general policy of not letting members of the General Assembly practice before PTAB, and that the General Assembly should consider such a law, but this policy cannot be implemented by administrative rule. Thus, although he is a Republican and the rulemaking is a Republican proposal, he supports the filing prohibition.

Representative Currie moved, seconded by Representative Thapedi, that JCAR object to and prohibit filing of this rulemaking because the Board has no statutory authority to take the action embodied in this rulemaking. JCAR finds that this rulemaking represents a threat to the public interest.

**Prohibition Roll Call:**

Y	Senator Don Harmon	Y	Representative Peter Breen
Y	Senator Tony Muñoz	Y	Representative Barbara Flynn Currie
Y	Senator Sue Rezin	Y	Representative Tom Demmer
Y	Senator Paul Schimpf	Y	Representative Greg Harris
	Senator Ira Silverstein	Y	Representative André Thapedi
Y	Senator Chuck Weaver	Y	Representative Keith Wheeler

The motion passed 11-0-0.

***Department of Financial and Professional Regulation – Optometric Practice Act of 1987 (68 Ill. Adm. Code 1320; 41 Ill. Reg. 15448)***

Luci Doler, Assistant General Counsel, and Craig Cellini, Rules Coordinator, represented DFPR. Representative Thapedi said there was a task force looking at these issues, but that his impression was that things did not go well with it. He asked what the plan was moving forward. Ms Doler said the task force met monthly for a year and proposed recommendations. DFPR evaluated these and consolidated them into the current rulemaking. Representative Thapedi asked if the task force was unanimous in its recommendations.

Ms Doler said there was no requirement for the recommendations to be unanimous. The DFPR looked at all the recommendations provided by the task force and what other states have done on the subject and used that information to come up with our own recommendations.

Representative Wheeler moved, seconded by Representative Thapedi, that JCAR, with the concurrence of DFPR, extend the Second Notice period for this rulemaking for an additional 45 days. The motion passed unanimously (11-0-0).

***Department of Natural Resources – Public Use of State Parks and Other Properties of the Department of Natural Resources (17 Ill. Adm. Code 110; 42 Ill. Reg. 7905)***

Representative Demmer moved, seconded by Senator Weaver, that JCAR, with the concurrence of DNR, extend the Second Notice Period for this rulemaking for an additional 45 days. The motion passed unanimously (11-0-0).

***Pollution Control Board – Emissions Reduction Market System (35 Ill. Adm. Code 205; 42 Ill. Reg. 6572)***

Representative Thapedi moved, seconded by Representative Harris, that JCAR object to this rulemaking because it sets a retroactive sunset date for the system that predates any possible adoption date for this rulemaking, that JCAR object to the EPA's implementation of the policy stated in this rulemaking prior to the rulemaking's adoption by PCB, and that JCAR further recommend that if PCB and EPA believe this program is no longer warranted they seek repeal of Sec. 9.8 of the Environmental Protection Act, which requires EPA to design and carry out an emissions reductions market program. The motion passed unanimously (11-0-0).

***Secretary of State – Grant Application and Award Procedures – Census Participation and Immigrant Community Assistance Grants (89 Ill. Adm. Code 1500; 42 Ill. Reg. 18511) (Emergency)***

Representative Demmer moved, seconded by Representative Breen, that JCAR recommend that this emergency rule and the concurrent permanent rulemaking be amended to contain more specific information about the administration of these grants, including, but not limited to, the application evaluation and approval process, eligibility to apply for the grant, and grant accountability standards. The motion passed unanimously (11-0-0).

**CERTIFICATION OF NO OBJECTION**

Representative Breen moved, seconded by Senator Weaver, that JCAR inform the agencies to whose rulemakings the Committee has not voted 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 rulemaking made by the agency, no Objections will be issued. The motion passed unanimously (11-0-0).

### **ANNOUNCEMENT OF DECEMBER MEETING DATE**

Co-Chair Harmon announced that the next JCAR meeting is scheduled for Tuesday, December 11, 2018, in Room C600 of the Michael A Bilandic Building, Chicago IL, at 11:00 a.m.

### **ADJOURNMENT**

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

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