

*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

## Proposed Regulations

### ☞ VOCATIONAL SCHOOLS

The BOARD OF HIGHER EDUCATION adopted a new Part titled "Private Business and Vocational Schools" (23 Ill Adm Code 1095 36 Ill Reg 6077), effective 7/18/12, establishing procedures for BHE to grant permits of approval to such schools. The provisions of this proposed rule are identical to those in an emergency rulemaking published at 36 Ill Reg 3067, effective 2/8/12, for a maximum of 150 days. The rulemaking lists institutions required to receive approval before operating, establishes procedures for obtaining a permit of approval, and sets criteria for evaluation of an application. Procedures for addressing student complaints and investigating allegations of fraud or lack of compliance with this Part are included. Other topics covered include maintenance of approval through annual reviews and other measures, revoking authority for an institution to operate (either voluntarily or by order of BHE), technologically mediated instruction offered from a distance, change of location, classroom extensions, change of ownership, application and renewal fees, refunds, and requests for academic records or transcripts. Small businesses or non-profit

its that own or operate business and vocational schools will be affected by this rulemaking.

Questions/requests for copies: Karen Helland, BHE, 431 E. Adams Street, 2<sup>nd</sup> Floor, Springfield IL 62701-1404. 217/557-7358. Fax: 217/782-8548. Email: [helland@ibhe.org](mailto:helland@ibhe.org).

### DISABILITY GRIEVANCES

The DEPARTMENT OF CHILDREN AND FAMILY SERVICES adopted a new Part titled "Americans With Disabilities Act Grievance Procedure" (4 Ill Adm Code 425; 35 Ill Reg 16162), effective 7/20/12, in accordance with the federal Americans With Disabilities Act of 1990. The rulemaking establishes procedures whereby qualified persons with disabilities may grieve allegations of denial of public services on the basis of disability. The Part specifies definitions, procedure, the roles of the designated coordinator and the defender, and case-by-case resolution of the grievance.

Questions/requests for copies: Jeff Osowski, DCFS, 406 E. Monroe, Station #65, Springfield IL 62701-1498, 217/524-1983, TDD: 217/524-3715, Fax:

(cont'd next page)

### ☞ ENTERPRISE ZONES

The DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY proposed amendments to "Enterprise Zone and High Impact Business Programs" (14 Ill Adm Code 520; 36 Ill Reg 12181) to revise the timetable for renewing High Impact Service Machinery and Equipment Sales Tax Exemptions. Qualified businesses would be eligible to renew their tax exemptions for an unlimited number of additional 5 year terms once the initial 10 year exemption expires (currently businesses are eligible for a single ten year renewal, or 20 years total). Businesses that have already reached the 20 year mark would be eligible to apply for renewals under this section (which would be applied retroactively to the date their renewed exemption expired). This rulemaking also updates the required accounting standards to the 2011 American Institute of CPAs (AICPA) standards (currently 2001). Small businesses eligible for this tax exemption may be affected by this rulemaking.

Questions/requests for copies/comments through 9/17/12: Jolene Clarke, Rules Administrator, Department of

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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.*

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217/557-0692, e-mail: [cfpolicy@idcfs.state.il.us](mailto:cfpolicy@idcfs.state.il.us).

## UNEMPLOYMENT BENEFITS

The DEPARTMENT OF EMPLOYMENT SECURITY adopted an amendment to "Recovery of Benefits" (56 Ill Adm Code 2835; 36 Ill. Reg. 5072), effective 7/19/12, to raise the percentage of a claimant's unemployment check that can be withheld to recoup fraudulently obtained federal Emergency Unemployment Compensation benefits from 50% to 100%. An identical emergency amendment, effective 3/21/12, appeared in the Illinois Register at 36 Ill Reg 5619. The rulemaking implements a recent federal law change and matches the percentage of Illinois unemployment benefits that can be withheld as a result of obtaining fraudulent State unemployment benefits.

Questions/requests for copies: Gregory J. Ramel, DES, 33 S. State St., Rm. 937, Chicago IL 60603, 312/793-4240, e-mail: [gregory.ramel@illinois.gov](mailto:gregory.ramel@illinois.gov).

## KIDS' HEALTH INSURANCE

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES adopted amendments to the Part titled "Covering All Kids Insurance Program" (89 Ill Adm Code 123; 35 Ill Reg 14244), effective 7/19/12, implementing two public acts that affect the Department's All Kids subsidized health insurance program for children who do not have access to affordable health insurance. Public Act 96-1502 caps the maximum income limit for All Kids eligibility at 300% of the federal poverty level (FPL) for families who apply for the program on or after 7/1/11. Annual out-of-pocket and copay expenses for each child enrolled in All Kids coverage level 2 (at or below 300% FPL) are reduced from \$500 to \$250 per child. Children whose household income exceeded 300% of FPL may remain enrolled through 6/30/12. After that date, All Kids coverage levels 3 through 8 (for families with incomes above 300% FPL) is terminated. The

rulemaking also implements Public Act 96-1272, which eliminates the current 3-month mandatory waiting period before resumption of coverage for families who lost All Kids coverage due to non-payment of premiums but have since repaid all past-due premiums. Those affected by this rulemaking include medical providers who serve All Kids enrollees.

Questions/requests for copies: Jeanette Badrov, DHFS, 201 S. Grand Ave. East, 3<sup>rd</sup> Fl., Springfield IL 62763-0002, 217/782-1233.

## SPECIAL WASTE

The POLLUTION CONTROL BOARD adopted amendments to rules titled "Nonhazardous Special Waste Hauling and the Uniform Program" (35 Ill Adm Code 809; 36 Ill Reg 5095), effective 7/18/12, that implement provisions of Public Act 97-220, withdrawing the State from the federal Uniform Hazardous Materials Transportation Registration and Permit Program. PCB will require all transporters of both hazardous and non-hazardous special waste to obtain a single special waste hauler permit from the Illinois Environmental Protection Agency, instead of requiring a separate permit for hazardous special waste under the Uniform Program. Those affected by this rulemaking include small businesses, small municipalities, and non-profits that generate or haul special waste in Illinois.

Questions/requests for copies: Tim Fox, PCB, 100 W. Randolph, Ste. 11-500, Chicago IL 60601, 312/814-6085, e-mail: [foxt@ipcb.state.il.us](mailto:foxt@ipcb.state.il.us) or download copies at [www.ipcb.state.il.us](http://www.ipcb.state.il.us). Please reference docket R12-13.

## HORSE RACING

The ILLINOIS RACING BOARD adopted an amendment to "Claiming Races" (11 Ill Adm Code 510; 36 Ill Reg 5950), effective 7/23/12. The amendment gives an owner, or a trainer acting under the owner's authorization, the option to declare a horse

ineligible to be claimed when the horse has not raced for at least 120 days, its last race was a claiming race, and it is entered at a claiming price equal to or greater than the price in its last official race. The horse must be declared ineligible for claiming at the time of entry and ineligibility only applies to the first official start after a layoff of at least 120 days.

Questions/requests for copies: Mickey Ezzo, IRB, 100 W. Randolph, Ste. 7-701, Chicago IL 60601, 312/814-5017.

## STATE LIBRARY GRANTS

The SECRETARY OF STATE (State Library) repealed the Part titled "The Illinois State Library Talking Book and Braille Service (TBBS)" (23 Ill Adm Code 3025; 36 Ill. Reg. 5761) and adopted amendments to "Illinois State Library Grant Programs" (23 Ill Adm Code 3035; 36 Ill. Reg. 5770), both effective 7/18/12. The Part 3035 rulemaking incorporates provisions from Part 3025 and makes numerous changes for Library grant programs. Special library services for blind or physically handicapped persons are being re-titled as services for those with a "print disability"; library organizations comprised of librarians or libraries and headquartered in Illinois will be eligible for Educate & Automate Automation/Technology Grants; and grant applications and annual certification shall be conducted online. Adult, workplace and family literacy programs are available to persons 17 years or older who read or write below a 9<sup>th</sup> grade level or below student performance level 7 in English language skills. Names, addresses and contact persons for a library, child education agency, or adult service agency that are partnering for literacy services must be provided in grant applications. Restrictions or exclusions from the program are listed (e.g., persons failing to certify they will comply with the Illinois Human Rights Act, SOS employees used as a manager, staff convicted of various offenses named within the rulemaking, or breach of a previous grant agreement

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or any violation of the Grant rules) and onsite visits by SOS staff are required. No literacy program may transfer internally more than 10% of the budget line items from which the funds are transferred. Construction grants must include a facility plan projecting future growth of a facility and plans for accommodating persons with disabilities. Restructuring of parking spaces to meet accessibility standards of the Capital Development Board are now acceptable project expenditures. The maximum grant amount for construction mini-grants is raised from \$25,000 to \$35,000. Elements required in the construction phase of a grant project (e.g., competitive bidding, submission of plan changes to SOS) are amended to require only "an assurance" that the grant recipient will perform or complete these elements. Provisions for the Talking Book and Braille Service (TBBS) define "accessible electronic information services", "competent authority" (medical or library authorities able to make an assessment and diagnosis of disability) and "eligible patron" (optometric standards describing the level of blindness required). Other topics covered include eligibility criteria to obtain the free TBBS material, patron application requirements, abbreviated TBBS grant requirements and grant requirements for the Library Services and Technology Act (a federally funded grant program with the SOS State Library as Administrator). Since 1<sup>st</sup> Notice, a provision has been added allowing Library Services and Technology Act grants to continue for up to 3 years at a time.

## **LIBRARY BORROWING**

SOS also adopted amendments to "Illinois State Library System Act" (23 Ill Adm Code 3030; 36 Ill. Reg. 4688), effective 7/18/12, to make minor adjustments in defined terms and in the Library's internal policies. "Intra-system reciprocal borrowing" is defined as the right of a person holding a valid registration card from a full member System public library or a library system to borrow on site from other

public libraries that are full members within the System without using inter-library loan mechanisms. Plans of library service now will require a certification provided by the State Library that a library's plan of service is up to date, rather than a cover letter.

Questions/requests for copies of the 2 SOS rulemakings above: Joe Natale, Illinois State Library, Gwendolyn Brooks Bldg., Springfield IL 62701-1796, 217/558-4185, [jnatale@ilsos.net](mailto:jnatale@ilsos.net).

## **TEACHER CERTIFICATION**

The STATE BOARD OF EDUCATION adopted amendments to its rules titled "Certification" (23 Ill Adm Code 25; 36 Ill Reg 5135), effective 7/23/12, to implement some provisions from Public Act 97-607 that establish the educator licensure system beginning 7/1/13 and to implement several policy changes. In anticipation of licensure system changes that will be proposed later this year, this rulemaking updates statutory citations, changes the name of the State Teacher Certification Board to the State Educator Preparation And Licensure Board, and modifies requirements to conform to the new law. Other amendments redesign the teacher leader endorsement to implement changes recommended by the Illinois P-20 Council, as well as statutory changes; codify the special education endorsements required by the *Corey H.* settlement in this Part; add new language proficiency tests for transitional bilingual education and special education, as well as new texts (principal, test of academic proficiency) that will replace old tests (e.g., general administrative, basic skills test); and add statutory ending dates to certain certificates (e.g., part-time provisional and master principal). The rulemaking also requires candidates, beginning 9/1/15, who are completing a teacher preparation program to pass the Teacher Performance Assessment (a portfolio-based assessment conducted during student teaching, that is subject specific). Institutions of higher education with approved educator preparation pro-

grams must begin piloting the TPA by 7/1/13, but candidates who complete the program earlier than 9/1/15 will not be penalized. The rulemaking clarifies that the statutory 5 year limitation on basic skills test scores does not apply to additional certificates or endorsements. Other changes lower from 120 to 60 days the interval after which an individual may retake a computer test, and stipulate that cancellation or voiding of a test score still counts toward the 5 time limit on how many times a candidate may take a certification test. Not-for-profit entities and nonpublic colleges and universities that are recognized to offer educational preparation programs will be impacted.

## **TEXTBOOK LOAN PROGRAM**

SBE repealed its rules titled "Secular Textbook Loan" (23 Ill Adm Code 350; 36 Ill Reg 4363), effective 7/18/12, to implement Public Act 97-570 that repeals Section 18-17 of the School Code and replaces it with the Textbook Block Grant Program. The PA defines "textbook" and provides a formula for annual funding, subject to appropriations, for K-12 public school districts and State-recognized, non-public schools to purchase textbooks. SBE notes that since each of the new block grant program components is defined in statute, rules are no longer necessary to implement and administer the program, so Part 350 is being repealed.

## **SCHOOL DISTRICT ACCOUNTING**

SBE adopted amendments to its rules titled "Requirements for Accounting, Budgeting, Financial Reporting, and Auditing" (23 Ill Adm Code 100; 36 Ill Reg 5309), effective 7/18/12, to provide a method for school districts to account for Race to the Top funds they receive. Identical emergency amendments, effective 3/21/12, appeared in the *Illinois Register* at 36 Ill Reg 5625. SBE received about \$43 million under the Race to the Top 3 Program and more than 100 school districts will be participating in the



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program. The rulemakings include new Race to the Top revenue codes for participating districts to use with budget forms and fiscal information included in the Race to the Top application package. (Districts must account for Race to the Top funds separately from other funds.)

## SCHOOL NURSES

SBE also adopted amendments to rules titled "Special Education" (23 Ill Adm Code 226; 36 Ill Reg 2042), effective 7/18/12, that allow certified school nurses or licensed physicians to conduct medical reviews for special education students. SBE had expanded medical review authorization to include registered nurses and advanced practice nurses in 2010 in response to complaints from school districts reporting difficulty in finding certified school nurses to conduct

such reviews. However, the Illinois Association of School Nurses objected to this change after the rule was adopted, stating that only certified school nurses are qualified to make decisions on how to accommodate special education students. Since 1<sup>st</sup> Notice, SBE has restored provisions allowing advanced practice nurses and nurses with a bachelor's degree or higher to conduct reviews, provided that only those nurses holding school nursing certification make recommendations regarding the student's educational plan. Nurses who conduct medical reviews are affected by this rulemaking.

## BUSINESS AND VOCATIONAL SCHOOLS

SBE also repealed its rules titled "Private Business and Vocational Schools" (23 Ill. Adm. Code 451; 36 Ill. Reg.

5319), effective 7/18/12, to implement Public Act 97-650 that transferred SBE's statutory authority over approval procedures for private business and vocational schools to the Board of Higher Education. BHE adopted emergency rules implementing these procedures effective 2/8/12 and has proposed permanent replacement rules, so the SBE rules are no longer necessary.

Questions/requests for copies of the 5 SBE rulemakings above: Linda Tomlinson (217/557-6763) for Part 25, Debbie Vespa (217/785-8779) for Part 100, David Andel (217/782-5589) for Part 226, and Robert Wolfe (217/785-8777) for Part 350, SBE, 100 N. First St., Springfield IL 62777. For Part 451: Jeff Aranowski, SBE, 100 W. Randolph, Suite 14-300, Chicago IL 60601, 312/814-2223.

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Commerce and Economic Opportunity, 500 East Monroe, Springfield IL 62701, 217/557-1820, Fax: 217/524-3701 or email: [jolene.clarke@illinois.gov](mailto:jolene.clarke@illinois.gov).

and defines "health care worker" and "nurse". These rulemakings may impact the above named facilities.

Questions/requests for copies/comments concerning the 3 DPH rulemakings above through 9/17/12: Susan Meister, DPH, 535 W. Jefferson St., 5<sup>th</sup> Fl., Springfield IL, 62761, 217/782-2043, e-mail: [dph.rules@illinois.gov](mailto:dph.rules@illinois.gov).

## INSURANCE REPORTING

The DEPARTMENT OF INSURANCE proposed a new Part titled "Accident and Health Expense Reporting" (50 Ill Adm Code 2043; 35 Ill. Reg. 12199) to implement Public Acts 96-857 and 97-524, which require medical or accident and health insurance carriers to make 6 month term reports to the Department on or before April 1 and October 1 for the 6 month periods ending December 31 and June 30, respectively, to the Department re-

garding aggregate administrative expenses of a carrier. The Part defines key terms, provides the above stated dates for electronic reporting and requires carriers to provide the Department with a copy of medical loss ratio reports required under Section 2718 of the federal Public Health Service Act. An Appendix details the format of required reporting for earned premiums, incurred claims, costs related to claims, marketing and general administrative costs, State fees and federal and State taxes, and other items.

Questions/requests for copies/comments through 9/17/12: James Rundblom (217/785-8559) or Susan Anders (217/785-8220), DOI, 320 W. Washington, 4<sup>th</sup> Fl. Springfield IL 62767-0001, Fax 217/524-9033.

## TEACHERS' RETIREMENT

The TEACHERS' RETIREMENT SYSTEM (TRS) proposed amendments to

## LONG TERM CARE

The DEPARTMENT OF PUBLIC HEALTH proposed amendments to "Skilled Nursing and Intermediate Care Facilities Code" (77 Ill Adm Code 300; 36 Ill Reg 12209), "Sheltered Care Facilities Code" (77 Ill Adm Code 330; 36 Ill Reg 12225), and "Illinois Veterans' Homes Code" (77 Ill Adm Code 340; 36 Ill Reg 12238) that implement Public Act 96-389. PA 96-389 requires facilities to draft a policy that identifies, assesses and develops strategies for controlling the risk of injury to residents and nurses when transferring or moving residents. The rulemakings require facilities to draft such a policy in compliance with State law. The rulemaking provides criteria that must be addressed in the policy

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"The Administration and Operation of the Teachers' Retirement System" (80 Ill Adm Code 1650; 35 Ill. Reg. 12248). The rulemaking makes technical corrections and clarifies when a TRS member separates from service in conformity with the Illinois Pension Code and federal law. An annuitant must not be employed by the annuitant's last employer prior to 30 days after the annuitant's last day of contributing

service, and may not accept employment as a teacher during the school year in which the member terminated service. An annuitant and employer cannot avoid the limitations in post-employment required by Section 16-118 of the Pension Code by allowing an annuitant to relinquish his teaching certificate and continue in the same position, or by changing an annuitant's pre-retirement job title or by a minor

adjustment in job duties. School districts may be affected by this rulemaking.

Questions/requests for copies/comments through 9/17/12: Tom Gray, TRS, 2815 W. Washington, PO Box 19253, Springfield IL 62794-9253, 217/753-0375.

## Second Notices

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The following rulemakings were moved to Second Notice this week by the agencies listed below, commencing the JCAR review period. These rulemakings will be considered at JCAR's August 14, 2012 meeting.

### DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

"Specialized Health Care Delivery Systems" (89 Ill Adm Code 146) proposed 4/27/12 (36 Ill Reg 6208)

### ILLINOIS COMMERCE COMMISSION

"Telecommunications Access for Persons with Disabilities" (83 Ill Adm Code 755) proposed 10/7/11 (35 Ill Reg 15764)

"Telecommunications Relay Services" (83 Ill Adm Code 756) proposed 10/7/11 (35 Ill Reg 15793)

"Cost of Service" (83 Ill Adm Code 791) proposed 10/7/11 (35 Ill Reg 15801)

### DEPARTMENT OF NATURAL RESOURCES

"Muskrat, Mink, Raccoon, Opossum, Striped Skunk, Weasel, Red Fox, Gray Fox, Coyote, Badger, Beaver and Woodchuck (Groundhog) Trapping" (17 Ill Adm Code 570) proposed 6/1/12 (36 Ill Reg 8216)

"Illinois Resident Armed Forces Fee Exemptions and Illinois Resident Veteran Fee Reductions" (17 Ill Adm Code 2510) proposed 6/1/12 (36 Ill Reg 8223)

### DEPARTMENT OF PUBLIC HEALTH

"Control of Tuberculosis Code" (77 Ill Adm Code 696) proposed 1/20/12 (36 Ill Reg 772)

### DEPARTMENT OF THE LOTTERY

"Lottery (General)" (11 Ill Adm Code 1770) proposed 6/1/12 (36 Ill Reg 8136)