

*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

### ☞ TOURISM FUNDING

The DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY adopted amendments to "International Tourism Program" (14 Ill Adm Code 555; 37 Ill Reg 642), effective 1/23/14. These amendments update tourism grant application/approval procedures and implement a provision of the FY2013 Budget Implementation (Supplemental) Act reducing matching fund requirements for grant recipients. Tourism grant recipients must match 50% (currently 100%) of the grant amount provisions. The rulemaking also clarifies selection criteria for grant applicants and tightens accountability requirements for grant recipients. Local governments, tourism-focused non-profit organizations, and small businesses catering to tourists may be affected by this rulemaking.

Questions/requests for copies: Jolene Clarke, Rules Administrator, DCEO, 500 East Monroe, Springfield IL 62701, 217/557-1820, Fax: 217/524-3701 or email: [jolene.clarke@illinois.gov](mailto:jolene.clarke@illinois.gov).

### ☞ HOUSING APPEALS BOARD

The ILLINOIS HOUSING DEVELOPMENT AUTHORITY adopted amendments to the Part titled "State Housing Appeals Board" (47 Ill Adm Code 395; 37 Ill Reg 14392), effective 1/21/14, implementing Public Act 98-287. The rulemaking allows members of the Board (which hears appeals from affordable housing developers alleging discrimination by local governments in areas where less than 10% of total housing units are deemed affordable) to be former members of the category or group they represent (e.g., zoning board members, affordable housing advocates), rather than allowing only current members to sit on the Board. Those affected by this rulemaking include affordable housing developers and local governments.

Questions/requests for copies: Kristi S. Poskus, Esq., IHDA, 401 N. Michigan Ave., Suite 700, Chicago IL 60611, 312/836-5200.

### STUDENT ASSISTANCE

The ILLINOIS STUDENT ASSISTANCE COMMISSION proposed amendments to "General Provisions" (23 Ill Adm Code 2700; 38 Ill Reg 3522), "Federal Family Educational Loan Program" (23 Ill Adm Code 2720; 38 Ill Reg 3541), "Grant Program for Dependents of Correctional Officers" (23 Ill Adm Code 2731; 38 Ill Reg 3557), "Grant Program for Dependents of Police or Fire Officers" (23 Ill Adm Code 2732; 38 Ill Reg 3557), and "Illinois Special Education Teacher Tuition Waiver (SETTW)" (23 Ill Adm Code 2765; 38 Ill Reg 3569). In Part 2700, rules concerning the confidentiality, security and use of personal information are being rewritten, with a specific exemption for announcement of the Illinois State Scholars. The rulemaking amends the definitions of independent student and endorser and clarifies that the federal government is the guarantor of the loan, not ISAC. In Part 2520, ISAC is repealing the language related to educational lender eligibility in lieu of a reference to

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(cont'd page 3)

*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

## ☞ DRINKING WATER

The POLLUTION CONTROL BOARD adopted amendments to "Primary Drinking Water Standards" (35 Ill Adm Code 611; 37 Ill Reg 18417), effective 1/27/14, that reflect USEPA revisions to the total coliform rule, replacing the former maximum contaminant level for total coliforms, fecal coliforms and E. coli with the requirement that the supplier assess the problem, take corrective action upon detection of contamination and update associated microbiological analytical methods and public notice requirements. The amendments also reflect 84 federal alternative equivalent analytical methods for use in demonstrating compliance with the drinking water standards. The rulemaking reflects federal Safe Drinking Water Act amendments adopted by the U.S. EPA during the 1/1/13-6/30/13 time period. Municipalities with water treatment facilities are affected.

Questions/requests for copies: Michael J. McCambridge, PCB, 100 W. Randolph, Ste. 11-500, Chicago IL 60601, 312/814-6924. e-mail: [Michael.McCambridge@illinois.gov](mailto:Michael.McCambridge@illinois.gov). Please reference docket R14-8.

## STATE ANNUITANT APPEALS

The STATE EMPLOYEES RETIREMENT SYSTEM adopted amendments to "The Administration and Operation of the State Employees' Retirement System of Illinois" (80 Ill Adm Code 1540; 37 Ill Reg 16901), effective 1/24/14, 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 communications 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: Tim Blair, SERS, 2101 S. Veterans Parkway, PO Box 19255, Springfield IL 62794-9255, 217/785-7016.

## UNPAID TOLLS

The ILLINOIS STATE TOLL HIGHWAY AUTHORITY adopted amendments to the Part titled "State Toll Highway

Rules" (92 Ill Adm Code 2520; 37 Ill Reg 16915), effective 1/27/14, 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: Robert T. Lane, ISTHA, 2700 Ogden Ave., Downers Grove IL 60515, 630/241-6800.

## ☞ LOCAL SALES TAXES

The DEPARTMENT OF REVENUE adopted emergency amendments, effective 1/22/14 for a maximum of 150 days, to 10 Parts: "Home Rule County Retailers' Occupation Tax" (86 Ill Adm Code 220, 38 Ill Reg 4047); "Home Rule Municipal Retailers' Occupation Tax" (86 Ill Adm Code 270; 38 Ill Reg 4060); "Regional Transportation Authority Retailers' Occupation Tax" (86 Ill Adm Code 320; 38 Ill Reg 4073); "Metro East Mass Transit District Retailers' Occupation Tax" (86 Ill Adm Code 370; 38 Ill Reg 4086); "Metro-East Park and Recreation District Retailers' Occupation Tax" (86 Ill Adm Code 395; 38 Ill Reg 4099); "County Water Commission Retailers' Occupation Tax" (86 Ill Adm Code 630; 38 Ill Reg 4112); "Special County Retailers' Occupation Tax for Public Safety" (86 Ill Adm Code 670; 38 Ill Reg 4125); "Salem Civic Center Retailers' Occupation Tax" (86 Ill Adm Code 690; 38 Ill Reg 4138); "Non-Home Rule Municipal Retailers' Occupation Tax" (86 Ill Adm Code 693; 38 Ill Reg 4151); and "County Motor Fuel Tax" (86 Ill Adm Code 695; 38 Ill Reg 4164). Permanent rules have also been proposed in this issue of the Illinois Register at 38 Ill Reg 3502, 3504, 3506, 3508, 3510, 3512, 3514, 3516, 3518 and 3520. The amendments implement a decision of the Illinois Supreme Court in Hartney Fuel Oil Co. v.

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# Proposed Regulations

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federal regulations and language regarding ISAC issuing loan guarantees. Additionally, the rulemaking clarifies that federal default fees will be charged for loans between 7/1/06 and 7/2/10. In Parts 2731 and 2732, ISAC is adding an eligibility chart for determination of eligibility units remaining versus usage in either semester or quarter systems. In Part 2765, the rulemaking clarifies that waiver recipients who are required to repay any portion of a tuition waiver awarded prior to 7/1/14, shall complete the repayment within 5 years or the waiver converts to a loan. After 7/1/14, the repayment shall be completed within 10 years. The repayment period exemption language is restructured to allow for either the 5 or 10 year period.

Questions/requests for copies/comments concerning the 5 ISAC rulemakings above through 3/24/14: Lynn Hynes, ISAC, 1755 Lake Cook Rd, Deerfield IL 60015, 847/948-8500, ext. 2216, e-mail: [lhynes@isac.org](mailto:lhynes@isac.org).

## INCOME TAX

The DEPARTMENT OF REVENUE proposed amendments to "Income Tax" (86 Ill Adm Code 100; 38 Ill Reg 3482) providing guidance to an employer claiming the income tax credit against the value of its annual withholding of income tax of its employees. To qualify, an employer must be in the business of motor vehicle manufacturing and meet one of the following conditions: a net loss; employing at least 1,000 full-time employees; has an agreement in effect as of 12/14/09 and is in compliance with it; a net loss, employing at least 1,000 full-time employees, and applied for an agreement within 365 days after 12/14/09 resulting in the credit; or had a net operating loss carry forward in calendar year 2008, applied for an agreement by 1/1/10, creates at least 400 new jobs in Illinois, retains at least 2,000 over a 10 year period and makes a capital investment of at least \$75 million. Additionally, the rulemaking provides guidance to an employer in claiming the small job creation tax

credit. The credit is equal to ½ the annual withholding per job created with a maximum of \$2,500/employee. Guidance provided explains how election is made to claim the credits and credits may not exceed tax liability.

Questions/ requests for copies/ comments through 3/24/14: Paul Caselton, Deputy General Counsel - Income Tax, DOR, Legal Services, 101 W. Jefferson, Springfield IL 62794, 217/782-7055.

## LEGAL PRACTICE

The ILLINOIS COMMERCE COMMISSION proposed amendments to "Rules of Practice" (83 Ill Adm Code 200; 385 Ill Reg 3416) that reflect the Illinois Supreme Court's expansion of its Rule 707 (Permission for an Out-of-State Attorney to Provide Legal Services in Proceedings in Illinois; effective 7/1/13). Attorneys from outside Illinois must meet specified eligibility requirements (authorized to practice in another jurisdiction, not prohibited from practice due to discipline, and, on and after 1/1/14, has not entered an appearance in more than 5 other proceedings in the calendar year). The rule, among other items, lists the proceedings requiring permission to provide legal services; information that must be provided in a verified statement; sets registration and proceedings fees. Affected entities include public utilities.

Questions/requests for copies/comments through 3/24/14: Brian Allen, ICC, 527 E. Capitol Ave., Spfld IL 62701, 217/558-2387, email: [ballen@iccillinois.gov](mailto:ballen@iccillinois.gov).

## PUBLIC RECORDS

The HEALTH FACILITIES AND SERVICES REVIEW BOARD proposed the repeal of a Part titled "Public Information, Rulemaking, and Organization" (2 Ill Adm Code 1925; 38 Ill Reg 3424) and proposed a new Part titled "Public Information Access, Rulemaking, and Organization" (2 Ill Adm Code 1925; 38 Ill Reg 3442). The rulemakings implement Public Act 96-542, an ex-

tensive revision of the Illinois Freedom of Information Act (FOIA) that affects what documents and information agencies must make public, the timelines for providing such information, and the appeals process when a request for information is denied. Under the Act and the new Part, the definition of "person" is expanded to include corporations, partnerships, firms, organizations, and associations. Information that must be disclosed includes records of funds, payrolls, settlement agreements, and some criminal history records. Information exempt from disclosure includes personal information (e.g., Social Security numbers, home addresses); certain personnel information exempt under the Personnel Record Review Act; attorney-client communications; minutes of closed meetings; and information that could compromise a person's or facility's security, jeopardize a law enforcement investigation, or interfere with a person's right to a fair trial or impartial hearing. Other provisions specify how and to whom a request for public information should be submitted, shorten the timeline for response to a request from 7 to 5 business days, and list conditions under which the agency may extend the timeline (e.g., if a large number of records are sought or if they require an extensive search to locate). Provisions for appealing a denial of requested documents to the Attorney General's public access counselor and for filing legal actions seeking disclosure of records are also included. Original records may be inspected and copied at agency headquarters and off-site copying may be allowed under the constant supervision of agency staff. Contractors, rather than agency personnel, may copy the records under certain conditions. The new Part also lists charges for copies made in various formats (black and white photocopies, color or oversized copies, microfilm, audio or video tapes, CD ROM) and specifies that the agency will not charge a fee if it fails to provide the material within the re-

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## New Regulations

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Hamer, invalidating current regulation in these 10 Parts assigning the jurisdiction to the location where the sale is made. Instead, the new standard is based upon where the general business of selling is located. Retailers who have entered into agreements with local governments to source the point of sale to their jurisdictions may be adversely affected.

Questions/comments/requests for copies of the 10 DOR rulemakings through

3/24/14: Paul Berks, DOR, 100 W. Randolph St., 7<sup>th</sup> Floor, Chicago IL 60601, 312/814-4680, Fax: 312/814-4344.

### MEAT & POULTRY INSPECTION

The DEPARTMENT OF AGRICULTURE adopted peremptory amendments to the Part titled "Meat and Poultry Inspection Act" (8 Ill Adm Code 125; 38 Ill Reg 4176) effective 2/1/14, incorporating by reference new federal meat

and poultry inspection rules that were effective 1/6/14. The updated rules concern hazard analysis and critical control point systems in meat processing facilities and labeling of meat products. Meat and poultry processors, wholesalers and retailers are affected by this peremptory rule.

Questions/requests for copies: Linda Rhodes, DOA, State Fairgrounds, Springfield IL 62794-9281, 217/785-5713, fax 217/785-4505.

## Proposed Regulations

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quired timeline. New provisions for appealing a denial of requested documents to the Attorney General's Public Access Counselor are also included. The new Part also includes provisions covering rulemaking and Board organization. Those affected by these rulemakings include individuals, groups, or business entities seeking public information or documents from the Board.

Questions/requests for copies/comments on the 2 HFSRB rulemakings through 3/24/14: Claire Burman, HFSRB, 122 S. Michigan Avenue, 7<sup>th</sup> Flr.,

Chicago IL, 60603, 312/814-8814, e-mail: [Claire.Burman@illinois.gov](mailto:Claire.Burman@illinois.gov).

### HFS PUBLIC HEARINGS

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES will hold two hearings concerning potential changes to medical assistance and other health-related programs on Friday, Feb. 14, from 9 a.m. to noon at the Howlett Auditorium, Michael J. Howlett Building, 501 S. Second St., Springfield, and on Thursday, Feb. 20, from 2 to 5 p.m. at the Assembly Hall Auditorium, James R. Thompson Center, 100 W. Randolph St., Chicago. The hearings

concern HFS' application for a 5-year federal research and demonstration waiver that would allow the Department and other State agencies, including the Departments of Public Health, Human Services, and Children and Family Services and the Department on Aging, to coordinate and manage various programs under a single authority. The draft waiver application can be viewed at the Office of the Governor website at <http://www2.illinois.gov/gov/healthcarereform/Pages/1115Waiver.aspx>.

# 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. The rulemakings will be considered at JCAR's February 18, 2014 meeting.

## **POLLUTION CONTROL BOARD**

"Proceedings Pursuant to Specific Rules or Statutory Provisions" (35 III Adm Code 106)  
proposed 7/26/13 (37 III Reg 11843)

"Effluent Standards" (35 III Adm Code 304) proposed 7/26/13 (37 III Reg 11861)

## **OFFICE OF THE STATE FIRE MARSHAL**

"Fire Equipment Administrative Procedures" (41 III Adm Code 280) proposed 11/15/13 (37 III  
Reg 18240)

"Fire Sprinkler Contractor Licensing Rules" (41 III Adm Code 109) proposed 11/15/13 (37 III  
Reg 18236)

## **CHIEF PROCUREMENT OFFICER FOR CAPITAL DEVELOPMENT BOARD**

"Chief Procurement Officer for the Capital Development Board" (44 III Adm Code 8) proposed  
8/2/13 (37 III Reg 12143)

## **DEPARTMENT OF HUMAN SERVICES**

Repeal of "Office of Inspector General Adults with Disabilities Abuse Project" (59 III Adm  
Code 51) proposed 11/8/13 (37 III Reg 17331)

## **DEPARTMENT OF VETERANS' AFFAIRS**

"Rules Governing Educational Opportunities of Children of Deceased Veterans" (95 III Adm  
Code 101) proposed 10/18/13 (37 III Reg 16332)

"Viet Nam Veterans Compensation" (95 III Adm Code 104) proposed 10//13 (37 III Reg 16350)

"Veterans' Scratch-Off Lottery Grant Program" (95 III Adm Code 125) proposed 10/18/13 (37  
III Reg 16359)