

Elaine Spencer  
Editor

Joint Committee on Administrative Rules  
Illinois General Assembly

700 Stratton Bldg. Springfield IL 62706  
217/785-2254 [ilga.gov/commission/jcar](http://ilga.gov/commission/jcar)

VOL. 39

February 20, 2015

Issue 8

*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, also titled The Flinn Report in memory of founding JCAR member Rep. Monroe Flinn, is designed to inform and involve the public in changes taking place in agency administration.*

## New Rules

### POLICE OFFICERS

The ILLINOIS LAW ENFORCEMENT TRAINING AND STANDARDS BOARD adopted amendments to the Part titled Illinois Police Training Act (20 IAC 1720; 38 Ill Reg 18119) effective 2/5/15, to bring the Part into compliance with the federal Law Enforcement Officers Safety Improvements Act. The amendments define a "qualified retired law enforcement officer" for purposes of granting concealed firearms carry permits as any officer separated from service in good standing after having served a total of at least 10 years (formerly, retired after serving at least 15 years) who has met the same firearm training and qualifications standards as active duty officers. Former requirements that the officer have earned non-forfeitable retirement benefits from his or her law

enforcement agency and have met firearm training standards within the most recent year have been removed. Notification of approval or denial of a permit will be sent within 60 (formerly 10) working days after the Board receives the application. Since 1<sup>st</sup> Notice, LETSB removed proposed changes to the permit fee. Current and former law enforcement officers are affected by this rulemaking.

Questions/requests for copies: Kevin T. McClain, LETSB, 4500 S. Sixth St. Road, Rm. 173, Springfield IL 62703-6617, 217/782-4540.

### SCHOOLS

The STATE BOARD OF EDUCATION adopted amendments to Public Schools Evaluation, Recognition and Supervision (23 IAC 1; 38 Ill Reg

## Emergency Rulemaking

### STATE RETIREMENT SYSTEMS

The STATE EMPLOYEES' RETIREMENT SYSTEM OF ILLINOIS (SERS) adopted emergency amendments to The Administration and Operation of the State Employees' Retirement System of Illinois (80 IAC1540; 39 Ill Reg 2792) effective 2/6/15 for a maximum of 150 days. An

### Proposed Rules, Page 2

identical proposed rulemaking appears in this week's *Illinois Register* at 39 Ill Reg 2538. The rulemakings implement Public Act 98-1117, which granted authority for the System (which, in this rulemaking, includes the Judges Retirement System and the General Assembly Retirement System) to adjust benefits payments to members when it determines that a benefit

(cont. page 3)

(cont. page 2)

**NEW RULES:** Rules adopted by agencies this week. **EMERGENCY RULES:** Adopted for a temporary period not to exceed 150 days.

**PROPOSED RULES:** Rules proposed by agencies this week, commencing a 45-day First Notice period during which public comments must be accepted.

**PEREMPTORY RULES:** Rules adopted without prior public notice or JCAR review as authorized by 5 ILCS 100/5-50.

■ Designates 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:** Submit mail, email or phone calls to the agency personnel listed below each summary.

**RULE TEXT:** Available on the Secretary of State ([www.cyberdriveillinois.com](http://www.cyberdriveillinois.com)) and General Assembly ([www.ilga.gov](http://www.ilga.gov)) websites under Illinois Register. Second Notice text (original version with changes made by the agency during First Notice included) is available on the JCAR website.

# Proposed Rulemakings

---

## ■ BLOOD ALCOHOL TESTING

The DEPARTMENT OF STATE POLICE proposed amendments to the Part titled Testing of Breath, Blood and Urine for Alcohol, Other Drugs, and Intoxicating Compounds (20 IAC 1286; 39 Ill Reg 2540). The rulemaking requires a designated individual to perform a logged accuracy test of blood monitoring devices at the beginning of every month. Certified laboratories must notify DSP if any laboratory technician leaves or is hired to quantitate alcohol and/or other drugs in human biological fluids. Instructional classes for persons using blood monitoring devices must have a minimum of 12 students. The rulemaking also mends the training and types of

acceptable blood monitoring devices. If an individual refuses a breath test, the arresting officer or the device operator need not wait 20 minutes for observation, but may note the refusal and issue a refusal ticket immediately. A statutory provision is added allowing physician assistants and advances practice nurses to collect blood samples. This rulemaking may affect not-for-profits and small businesses that provide legal assistance to DUI victims, provide testing or collect blood samples.

Questions/requests for copies/comments through 4/6/15: Ms Lisa Freitag, ISP, 801 S. 7<sup>th</sup> St, Suite 1000-S, Springfield IL 62703, 217/782-9356.

## ■ OUTFITTERS

The DEPARTMENT OF NATURAL RESOURCES proposed amendments to Outfitter Regulations (17 IAC 640; 39 Ill Reg 2487) implementing a new permit system that includes waterfowl outfitting. The rulemaking outlines the various classes of permits (Class A, deer and turkey outfitters; Class B, waterfowl outfitters; Class C, agent/brokers for deer or turkey outfitters; Class D, agent/brokers for waterfowl outfitters). A new agent/broker permit fee of \$250 for Illinois residents and \$2,500 for non-Illinois residents is added. Additional application requirements, unlawful activities and penalties are also listed.

(cont. page 5)

# Emergency Rulemaking

---

(cont. from page 1)

payment had been set incorrectly. The rulemakings state that recipients shall be notified in writing of any incorrect benefit payment, the correct amount to be paid, when the corrected amount will begin to be paid, and the procedure for appealing such action. Upon discovering that the System has been paying an incorrect amount, it shall endeavor to determine whether there has been an overpayment or underpayment by the System. In the event of underpayment, the System shall pay a lump sum benefit; if the recipient is overpaid, the System shall determine when the overpayments began. If

overpayments have been occurring for more than 3 years, the recipient will not be required to reimburse the System for the overpayments unless the overpayments are the result of incorrect or inaccurate information provided by a member, beneficiary or their authorized representative, or by another retirement system or a state agency. For overpayments made for less than 3 years the System shall make arrangements for collection of the overpayment, such as a reduction in remaining payments, repayment of the overpayment by the recipient, by any arrangement the System makes with the recipient or by any other means legally available

to the System. Irrespective of how long an overpayment has been made, if the overpayment is the result of incorrect or inaccurate information provided by a member, beneficiary or authorized representative the System shall make arrangements for collection of the amount overpaid by the same repayment methods stated above.

Questions/requests for copies/comments concerning the proposed rulemaking through 4/6/15: Jeff Houch, State Retirement Systems, 2101 S. Veterans Parkway, PO Box 19255, Springfield IL 62794-9255, 217/524-8105.

# New Rules

(cont. from page 1)

18371), effective 2/9/15, establishing criteria for the State Seal of Biliteracy authorized by Public Act 98-560. (The seal appears on transcripts and diplomas of students with high levels of proficiency in English and another language, including American Sign Language.) To earn the seal, students must (with some exceptions) score at or above the “intermediate high” level, as determined by the American Council on the Teaching of Foreign Languages, on a standardized assessment of speaking, writing, listening and reading, and score at or above “meets standards” on the State assessment in English language arts or a proficiency score on an approved standardized assessment. Students who score at any level at or above “intermediate low” are eligible for a State Commendation toward Biliteracy. School districts that participate in the program must designate a Seal of Biliteracy coordinator. A change since 1<sup>st</sup> Notice added examples of the types of assessments that school districts may choose to use. Public school students and teachers of foreign languages or of English as a Second Language are affected by this rulemaking.

Questions/requests for copies: David Nieto, SBE, 100 W. Randolph, Suite 14-300, Chicago IL 60602, 312/814-2220.

## INSURANCE

The DEPARTMENT OF INSURANCE adopted amendments to Required Procedure for Filing and Securing Approval of Policy Forms (50 IAC 916; 38 Ill Reg 7719) effective 2/6/15. These amendments update various methods for insurance companies to electronically file documents with DOI. Changes in technology and procedures have required the Department to update its System for Electronic Rate and Form Filing (SERFF). References to DOI as a separate agency rather than as a division of the Department of Financial and Professional Regulation are added, obsolete terms are repealed and other definitions are updated. Filing procedures to reflect the federal Affordable Care Act (ACA) are revised, including that insurance companies, HMOs or health service plans offering health care coverage must file all proposed rate increases with the Department prior to use and must submit them electronically through the Health Rate Review Web Portal. Fees must now be paid by electronic funds transfer through SERFF. Policy forms to be withdrawn must be reported using the form numbers of the policy to be withdrawn, along with the SERFF tracking number or company tracking number under which the form was originally approved. Health insurance contracts withdrawn subject to the federal ACA shall include the requirements in the Department’s recently revised (to

accommodate changes mandated by the ACA) rule on health insurance portability and accountability (50 Ill Adm Code 2025). Changes since 1<sup>st</sup> Notice include adding a definition of “informational filing”.

DOI also adopted amendments to Insurance Data Reporting Requirements (50 IAC 4203; 38 Ill Reg 19083) effective 2/6/15, to make technical updates to this Part. For example, references to the defunct National Association of Independent Insurers are replaced by the National Property Casualty Insurers of America (PCI), and a definition of Class Code-Classification Code is added (the alpha-numeric field identifying the class of insurance being reported), among other formatting changes.

Questions/requests for copies of the 2 DOI rulemakings: Susan Anders, DOI, 320 W. Washington St., Springfield IL 62767-0001, 217-785-8220, Fax: 217-524-9033.

## HORSE RACING

The ILLINOIS RACING BOARD adopted amendments to Claiming Races (11 IAC 510; 38 Ill Reg 20139) effective 2/9/15, updating a cross reference for claiming price in claiming races.

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

(cont. page 4)

# New Rules

(cont. from page 3)

## ■ LOCAL RECORDS

The SECRETARY OF STATE (Archives Division) adopted amendments to Local Records Commission (44 IAC 4000; 38 Ill Reg 11734), effective 2/9/15, which update requirements for management and retention of local records to reflect current technology and records management practices, including those for the long-term management of electronic records. Numerous key terms are formally defined for the first time, such as “administrative value” (records containing facts that an agency needs for its immediate day-to-day functions); “analog records” (records created and maintained on a physical medium such as paper, photos or audio tape); “born-digital records” (records created in a digital format); “geographic redundancy” (storing records at 2 or more distinct physical sites); “record series” (a group of identical or related records arranged under a single filing system or kept together as a unit); among others. Current computer record operational methods are incorporated by reference. Local record disposal application procedures are detailed in the rulemaking, with an ultimate determination to be made by the Local Records Commission comprised of a county board chairperson/president, a county auditor, a State’s Attorney (all appointed by the Governor) and the State Archivist and State Historian. Records containing

social security, State driver’s license or State identification numbers must be destroyed in a secure manner that does not permit reconstitution or reuse of the original record information. Approved methods of destroying various categories of records as well as reporting requirements are prescribed. Detailed technical requirements for the micro imaging and reproduction of records with an eye toward destroying the original record are also prescribed, with signatures and certifications provided by the person doing the imaging. Records of any kind may not be destroyed unless done pursuant to a retention schedule approved by the Local Records Commission. Since 1<sup>st</sup> Notice, appendices have been added explaining the different types of sustainable file formats for electronic records and listing which types are best suited to various purposes (e.g., long-term storage, storage of audio or video records). Local units of government may be affected.

Questions/requests for copies: Dave Joens, Illinois State Archives, Norton Bldg., 2<sup>nd</sup> Fl., Springfield IL 62756, 217-782-3492, [djoens@ilsos.net](mailto:djoens@ilsos.net)

## ■ BREATH ALCOHOL DEVICES

SOS also adopted amendments to Procedures and Standards (92 IAC 1001; 38 Ill Reg 13790) effective 2/6/15, updating rules for use of Breath Alcohol Ignition Interlock Devices (BAIIDs) to reflect current practices and

standards. The rules include new provisions for BAIIDs that can be read and calibrated remotely, for camera positioning that allows the viewer to detect BAIID circumvention devices, and for instances when a BAIID permit can be modified or waived (e.g., an immediate family member of the permittee who cannot provide an adequate breath sample must also drive the vehicle). The waiting period for another hearing following cancellation of a Restricted Driving Permit is also reduced from 1 year to 90 days. Changes since 1<sup>st</sup> Notice include removal of a proposed 180-day calibration period for BAIIDs; all BAIIDs must continue to be calibrated at least every 67 days. Requirements for BAIIDs to capture images of the vehicle operator whenever powered on, and of the front-seat passenger, were also removed. Other changes address lab accreditation of firmware or software modifications, correction of errors in BAIID provider permit applications, complaints regarding BAIID installers, and mobile installation of BAIIDs, Persons with BAIID driving permits, their employers, and facilities that install or inspect BAIIDs may be affected.

## ■ CAPITOL GROUNDS USE

SOS adopted amendments to Public Building Construction (71 IAC 2000; 38 Ill Reg 20189) and Public Use of the Capitol

(cont. page 5)

## Proposed Rulemakings

---

(cont. from page 2)

Violations of the Part will be Class B misdemeanors (currently, petty offenses). Small businesses engaged in outfitting or other hunting-related activities are affected.

### ■ ENDANGERED SPECIES

DNR also proposed amendments to Illinois List of Endangered and Threatened Fauna (17 IAC 1010; 39 III Reg 2501) and Illinois List of Endangered and Threatened Flora (17 IAC 1050; 39 III Reg 2517) providing that any species classified by the federal government as endangered or threatened is automatically classified as an Illinois endangered/threatened species even if it is not listed in either Part. Numerous changes to Part 1010 include reclassifying the barn owl as threatened rather than

endangered and removing the peregrine falcon from the threatened list. Changes to Part 1050 affect various species of flowers and grasses. These rulemakings may affect not-for-profits, municipalities, and small businesses involved in conservation operations or planning construction projects where endangered/threatened species are present.

Questions/requests for copies/comments on the 3 DNR rulemakings through 4/6/15: Virginia Yang (Part 640) or Shelly Knuppel (Parts 1010 and 1050), DNR, One Natural Resources Way, Springfield IL 62702-1271, 217/782-1809.

### ■ WAGE REPORTING

The DEPARTMENT OF EMPLOYMENT SECURITY proposed amendments to Notices, Records, Reports (56

IAC 2760; 39 III Reg 2464) updating electronic reporting requirements for employers who have 250 more employees. DES will allow a penalty waiver for employers who have been found eligible to waive the federal electronic reporting requirements in effect on 1/1/12. A new Section phases in electronic reporting requirements on a fiscal year basis based on the number of employees an employer had during calendar year 2013 (when electronic reporting was first required) and subsequent calendar years. If an employer can show the IRS has or would have waived the electronic filing requirement, the Director will also waive the requirement. DES also proposed amendments to Payment of Unemployment Contributions, Interest and Penalties (56 IAC 2765; 39 III Reg 2477) waiving the electronic filing penalty for not reporting electronically for the first 2 months of a quarter if the employer does file electronically in the third month. DES clarifies that months where the penalty has been waived is not considered a month where an employer filed a late report. Similar emergency rules were adopted at 38 III Reg 22249 and 38 III Reg 22262. Employers subject to reporting may be affected.

Questions/requests for copies/comments on the 2 DES rulemakings through 4/6/15: Gregory Ramel, IDES, 33 S. State St.-Room 937, Chicago, IL 60603, 312/793-4240.

## New Rules

---

(cont. from page 4)

Complex and Springfield Facilities (71 IAC 2005; 38 III Reg 20196), both effective 2/5/15. The Part 2000 amendments change the title of the former Legislative Space Needs Commission to its current title, Office of the Architect of the Capitol, and make some technical corrections. The Part 2005 rulemaking grants the Director of the Secretary of State Department of Police equal authority with the Director of

Physical Services for issuing demonstration permits, authorizing construction of displays on the Capitol grounds, obtaining permission to use loudspeakers, or appeal adverse decisions by either Department of the Secretary of State.

Questions/requests for copies of the 3 SOS rulemakings: Brenda Glahn (92 IAC 1001) or Carrie Leitner (71 IAC 2000 and 2005), SOS, 298 Howlett Building, Springfield IL 62756 217/785-3094.

## Second Notices

---

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 the Committee's March 17, 2015 meeting in Springfield. Other items that have not been listed in the *Illinois Register* or The Flinn Report may also be considered. Further comments concerning these rulemakings should be sent to JCAR using the contact information on page 1.

### **DRYCLEANERS ENVIRONMENTAL RESPONSE TRUST FUND COUNCIL OF IL**

General Program (35 IAC 1500) proposed 11/14/14 (38 Ill Reg 21259)

### **HEALTH FACILITIES AND SERVICES REVIEW BOARD**

Health Facilities and Services Review Operational Rules (77 IAC 1130)  
proposed 10/31/14 (38 Ill Reg 20303)

### **DEPT OF HUMAN SERVICES**

Supplemental Nutrition Assistance Program (SNAP) (89 IAC 121)  
proposed 12/19/14 (38 Ill Reg 23544)

### **ILLINOIS FINANCE AUTHORITY**

Illinois Finance Authority (74 IAC 1100) proposed 12/26/14 (38 Ill Reg. 23921)

### **DEPT OF INSURANCE**

Americans with Disabilities Act Grievance Procedure (4 IAC 250)  
proposed 11/14/14 (38 Ill Reg 21282)

Professional Library Insurance Reporting Requirements and Resource Center (Repealer)  
(50 IAC 933) proposed 11/14/14 (38 Ill Reg 21290)

### **SECRETARY OF STATE**

Issuance of Licenses (92 IAC 1030) proposed 12/19/14 (38 Ill Reg 23559)

School Bus Driver Permit (92 IAC 1035) proposed 12/19/14 (38 Ill Reg 23577)

### **TEACHERS' RETIREMENT SYSTEM OF THE STATE OF IL**

The Administration and Operation of the Teachers' Retirement System (80 IAC 1650)  
proposed 12/19/14 (38 Ill Reg 23581)

## JCAR Meeting Action

---

At its 2/18/15 meeting, the Joint Committee on Administrative Rules approved the following actions:

### **WITHDRAWAL OF FILING PROHIBITION**

JCAR withdrew the Filing Prohibition against the Illinois Commerce Commission rulemaking titled Governmental Electric Aggregation (83 IAC 470; 37 Ill Reg 20544) contingent upon and effective with ICC's adoption of the rulemaking with the proposed modifications. This Filing Prohibition was voted at the 10/13/14 meeting.

### **RECOMMENDATION**

With regard to the State Board of Elections rulemaking titled Procedures for Implementing the Electronic Canvass (26 IAC 219; 38 Ill Reg 20204), JCAR recommended that SBEL be more timely in implementing new statute in its rules. Public Act 98-115 became effective on 7/29/13.

### **EXTENSIONS**

JCAR and the affected agencies agreed to extend the Second Notice periods for the following rulemakings an additional 45 days: Department of Insurance, Confidential Supervisory Information (50 IAC 870; 38 Ill Reg 16523); Department of Human Services, Electronic Prescription Monitoring Program (77 IAC 2080; 38 Ill Reg 11412) and Electronic Prescription Monitoring Program Long Term Care (77 IAC 2081; 38 Ill Reg 11434); and Secretary of State, Certificates of Title, Registration of Vehicles (92 IAC 1010; 38 Ill Reg 20619).

## **Joint Committee on Administrative Rules**

**Senator Pamela Althoff**

**Representative Greg Harris**

**Senator Bill Brady**

**Representative Lou Lang**

**Senator Karen McConnaughay**

**Representative David Leitch**

**Senator Don Harmon**

**Representative Ron Sandack**

**Senator Tony Muñoz**

**Representative André Thapedi**

**Senator Ira Silverstein**

**Representative Michael Tryon**

**Vicki Thomas  
Executive Director**