

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.

Emergency Rules

AIM HIGH SCHOLARSHIPS

The ILLINOIS STUDENT ASSISTANCE COMMISSION adopted a new Part by emergency rulemaking titled AIM HIGH Grant Pilot Program (23 IAC 2766; 42 Ill Reg 17265) effective 9/13/18 for a maximum of 150 days. An identical proposed rulemaking appears in this week's *Illinois Register* at 42 Ill Reg 17233. The rulemakings implement Public Act 100-587 by outlining the process for State universities and students to participate in the grant program, which is designed to retain Illinois resident students by providing merit-based and means-tested scholarships to Illinois public universities. In order to qualify for AIM HIGH funds in an academic year, a university must provide at least the same amount of non-loan financial aid to Illinois resident undergraduate students that

year as it did in fiscal year 2018. Universities must also equally match AIM HIGH funds with their own funds to cover tuition, fees and other necessary costs for qualifying students. If a university fails to meet either of these criteria, ISAC may reduce or eliminate its AIM HIGH funds, but must also take into account circumstances that may have contributed to the failure (e.g., reductions in State appropriations to the campus, the number of scholarships that were offered but not accepted). To qualify for AIM HIGH scholarships, students must be Illinois residents, enrolled full-time at a participating public university, and have attended an Illinois high school; apply for federal student aid and have a household income no more than 6 times the Federal Poverty Level (e.g., \$150,600 for a family of 4); attain the minimum required

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Proposed Rulemakings

■ UNEMPLOYMENT CLAIMS

The DEPARTMENT OF EMPLOYMENT SECURITY proposed amendments to the following Parts: Claims, Adjudication, Appeals and Hearings (56 IAC 2720; 42 Ill Reg 16965), Administrative Hearings and Appeals (56 IAC 2725; 42 Ill Reg 16978), Employment (56 IAC 2732; 42 Ill Reg 17002), Notices, Records, Reports (56 IAC 2760; 42 Ill Reg 17008), Payment of Unemployment Contributions, Interest and Penalties (56 IAC 2765; 42 Ill Reg 17028), Collection of Unemployment Contributions (56 IAC 2790; 42 Ill Reg 17048), and Payment of Benefits (56 IAC 2830; 42 Ill Reg 17052), updating various aspects of unemployment insurance claims and processing. The Part 2720 rulemaking establishes that the

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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) and General Assembly (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.

Emergency Rules

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grade point average, ACT or SAT score required by the university; not be in default on any student loan or owe a repayment on a State or federal grant or scholarship; not be incarcerated; and meet any other reasonable criteria set by the university. Students who qualify for renewal awards must receive at least the same scholarship amount they received in their first year of attendance, unless they reduce their credit hours (while remaining full-time) or switch to a course of study with a lower tuition rate. Those affected by this emergency rule include State universities and Illinois students who may qualify for scholarships.

Questions/requests for copies/comments on the proposed rulemaking through 11/13/18: Lynn Hynes, ISAC, 1755 Lake Cook Rd., Deerfield IL 60015, 847/

948-8500, ext. 18032, lynn.hynes@illinois.gov

■ USE TAX

The DEPARTMENT OF REVENUE adopted an emergency amendment to Use Tax (86 IAC 150; 42 Ill Reg 17247) effective 9/11/18 for a maximum of 150 days. The emergency rule implements a provision of Public Act 100-587 (FY 2019 Budget Implementation) that expands the definition of nexus which requires out of State (remote) retailers to collect and pay use tax on sales to Illinois purchasers. Effective 10/1/18, a remote retailer that does not have a physical presence in Illinois becomes subject to use tax if, within the previous 12 months, its cumulative gross receipts from sales to Illinois purchasers total at least \$100,000 or if it has conducted 200 or more separate sales transactions with Illinois

purchasers. Remote retailers without a physical presence in Illinois must determine on a quarterly basis whether they have met either of these criteria within the previous 12 months; if they have, they must collect and remit Illinois use tax for the following year. The emergency rule also includes criteria and examples for determining the applicability of the new nexus rules (known as “Wayfair nexus” after the U.S. Supreme Court decision *South Dakota vs. Wayfair*, which upheld this method of determining nexus). Those affected by this rulemaking include remote retailers who sell to Illinois customers and individuals and businesses that make purchases from these retailers.

Questions/requests for copies: Jerilynn Troxell Gorden, DOR, 101 W. Jefferson St., MC 5-500, Springfield IL 62794, 217/782-2844.

New Rules

■ DISCRIMINATION CASES

The DEPARTMENT OF HUMAN RIGHTS adopted amendments to the Part titled Procedures of the Illinois Department of Human Rights (56 IAC 2520; 42 Ill Reg 8725), effective 9/17/18, implementing Public Act 100-492. For cases filed prior to 9/8/17, the respondent (person or entity accused of discrimination) must file a response to the allegations; for cases filed on or after that date, DHR may or may not require a response based on various circumstances listed in

the rule. A respondent may choose to file a response even if DHR does not require it. The rulemaking also allows telefax or electronic delivery for all required documents (formerly, certain documents could not be faxed). Those affected by this rulemaking may include businesses with discrimination cases being heard by DHR.

Questions/requests for copies: Mary M. (Betsey) Madden, DHR, 100 W. Randolph St., Suite 10-100, Chicago IL 60601, 312/814-3386, TTY 866/740-3953.

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address provided by a claimant on his or her most recent unemployment claim application is the claimant’s last known address until the claimant directly informs DES of a change of address by phone, in person or online. It also requires unemployment claim forms and employer notices for posting in the workplace to be available for download at the DES website.

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Amendments to Part 2725 explain how employers are to report changes of address; submit documents and receive notices electronically; sign documents electronically; obtain needed forms; request rate reviews; and appeal a determination and assessment. Amendments to Part 2732 clarify the employer's right to request a transfer of contributions and allow electronic submission of tax-related documents. The Part 2760 rulemaking replaces mailing quarterly wage reports and remittance forms to employers with electronic downloading and also permits employers to electronically submit tax-related documents. Amendments to Part 2765 allow amounts of \$2 (currently \$1) or less owed by an employer for benefits paid to be disregarded; clarifies how employer payments will be applied within a quarter; clarifies situations involving employee leasing companies, transfers of business, and waivers of interest; and clarifies time frames for employers to submit documents regarding tax and liability-related issues. The Part 2790 rulemaking also implements the \$2 disregard and requires employers to reimburse DES for recording fees. Finally, amendments to Part 2830 replace instructions for mailing benefit checks (which DES no longer issues) with instructions for mailing debit cards to claimants who do not receive benefits by direct deposit. The rulemaking also addresses replacement of

electronic payments and reissuance of debit cards that are lost or stolen, procedures for investigating potentially fraudulent debit card or direct deposit authorizations, and payment of benefits to claimants who have died or become comatose. Businesses, local governments and non-profits that participate in unemployment insurance are affected by these rulemakings.

Questions/requests for copies/comments on the 7 DES rulemakings through 11/13/18: Thomas D. Chan, DES, 33 S. State St., Room 933, Chicago IL 60603, 312/793-2338, fax 312/793-5645, Thomas.D.Chan@illinois.gov

■ MINIMUM WAGE

The DEPARTMENT OF LABOR proposed an amendment to the Part titled Minimum Wage Law (56 IAC 210; 42 Ill Reg 17091) listing factors to be considered in determining whether an individual hired by an employer is an employee subject to the minimum wage law or an independent contractor. These include: whether the individual could accept or reject specific tasks, set his or her own work schedule, or work for other employers; whether the individual was subject to employee rules; and whether the employer supervised performance of the services the individual provided. Other factors to be considered include the extent to which the individual's compensation was determined by the employer and the

permanence of the relationship between the employer and the individual. Businesses that hire independent contractors will be affected by this rulemaking.

Questions/requests for copies/comments through 11/13/18: Andrew Proctor, DOL, 900 S. Spring St., Springfield IL 62704, 217/558-1270

■ UNCLAIMED PROPERTY

The OFFICE OF THE TREASURER proposed repeal of the Part titled Uniform Disposition of Unclaimed Property Act (74 IAC 760; 42 Ill Reg 17121) and proposed a new Part titled Revised Uniform Disposition of Unclaimed Property Act (74 IAC 760; 42 Ill Reg 17145). The new Part implements the Revised Uniform Unclaimed Property Act (RUUPA), enacted in 2017 to replace the former Uniform Disposition of Unclaimed Property Act. RUUPA and the new Part include more detailed procedures and guidance on the following issues: determining when various properties, including tax-deferred accounts, stored value and gift cards, merchandise credits and securities, are considered abandoned; actions that do, and do not, rebut a statutory presumption that a property is abandoned; how to report and remit unclaimed property to the Treasurer; and methods the Treasurer will use to locate and notify apparent owners of unclaimed property, including via

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electronic publications. An expedited claims process is provided for claims of less than \$500. Other provisions address unclaimed property examinations, interest and penalties, and exemption of certain information from disclosure under the Freedom of Information Act. Those affected by these rulemakings include businesses, municipalities or non-profits that have unclaimed property.

Questions/requests for copies/comments on these rulemakings through 11/13/18: Roxanne Hollenstrine, Office of the Treasurer, 219 State House, Springfield IL 62706, 217/782-2211.

■ STATE INVESTMENTS

The TREASURER also proposed repeal of the Part titled Illinois Public Treasurers' Investment Pool for Public Treasurers in the State of Illinois (74 IAC 740; 42 Ill Reg 17103) and proposed a new Part with the same title (74 IAC 740; 42 Ill Reg 17109). The new Part updates the process by which State agencies and local

governments can utilize the Illinois Public Treasurers' Investment Pool (IPTIP) to invest public funds. In comparison to the existing Part, the new Part more clearly outlines the responsibilities of the Treasurer, IPTIP's investment policy, information required for enrollment in the pool, and the responsibilities of the custodian bank. Those affected by these rulemakings include units of local government that participate in IPTIP.

Questions/requests for copies/comments on these rulemakings through 11/13/18: Laura Duque, Office of the Treasurer, 100 W. Randolph St., Suite 15-600, Chicago IL 60601, 312/814-3573, fax 217/785-2777, LDuque@illinoistreasurer.gov

■ PHARMACY PAYMENTS

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES proposed an amendment to Medical Payment (89 IAC 140; 42 Ill Reg 17067) implementing a provision of PA 100-587 that establishes Critical Access Care Pharmacy (CAP) payments for certain pharmacy

providers. Qualifying pharmacies must have an Illinois location open to the public with staff available to fill prescriptions, in a county of fewer than 50,000 residents or a county designated by the federal government as a medically underserved area. Additionally, the pharmacy's owners must have controlling interest in fewer than 10 pharmacies and the majority of its business cannot be by mail order. CAP payments will be made quarterly based on each pharmacy's CAP-eligible claims billed to and paid by a Medicaid Managed Care Organization and for which a paid claim record can be found in HFS' electronic data warehouse. The number of CAP-eligible claims multiplied by the lesser of the individual payment amount or the HFS dispensing fee as of 4/1/18 determines the quarterly CAP payment to the pharmacy. Pharmacies meeting CAP program criteria are affected by this rulemaking.

Questions/requests for copies/comments through 11/13/18: Christopher Gange, HFS, 201 S. Grand Ave. East, 3rd Fl., Springfield IL 62763-0002, HFS.Rules@illinois.gov

Second Notice

The following rulemaking was moved to Second Notice this week by the agency listed below, commencing the JCAR review period. This rulemaking will be considered at the Committee's October 16, 2018 meeting. Other items not published in the *Illinois Register* or The Flinn Report may also be considered. Further comments concerning this rulemaking should be addressed to JCAR using the contact information on page 1.

SECRETARY OF STATE

Issuance of Licenses (92 IAC 1030; 42 Ill Reg 14350) proposed 8/3/18