

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

TANF BENEFITS

The DEPARTMENT OF HUMAN SERVICES adopted amendments to Temporary Assistance for Needy Families (89 IAC 112; 42 Ill Reg 18285) effective 1/24/19, replacing emergency amendments that were effective 10/1/18. The rulemaking implements a provision of Public Act 100-587 (Fiscal Year 2019 Budget Implementation) that establishes a uniform Statewide monthly TANF payment (formerly, payment levels varied by region) and increases maximum TANF grants to at least 30% of the current Federal Poverty Level based on household size. Child-only grants shall be at least 75% of the grant amount for a household of the same size in which a caretaker relative also receives TANF. The minimum child-only monthly grant for one child is now \$228 (formerly, \$108

to \$117 depending on region); the minimum grant for a child and one caretaker relative is now \$412 (formerly \$294 to \$318).

DISABILITY SERVICES

DHS also adopted, effective 1/24/19, amendments to Appeals and Hearings (89 IAC 510; 42 Ill Reg 18287), Program Description (89 IAC 676; 42 Ill Reg 18292), Customer Rights and Responsibilities (89 IAC 677; 42 Ill Reg 18301), Determination of Need (DON) and Resulting Cost Service Maximums (SCMs) (89 IAC 679; 42 Ill Reg 18307), Eligibility (89 IAC 682; 42 Ill Reg 18312), Service Planning and Provision (89 IAC 684; 42 Ill Reg 18318) and Provider Requirements, Type Services, and Rates of Payment (89 IAC 686; 42 Ill Reg 18323). These rulemakings implement Public

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Proposed Rulemakings

USE TAX

The DEPARTMENT OF REVENUE proposed amendments to Use Tax (86 IAC 150; 43 Ill Reg 1714) implementing provisions of Public Act 100-587. The PA and the rulemaking implement new standards (Wayfair nexus) based on the U.S. Supreme Court decision in *South Dakota vs. Wayfair, Inc.* for determining whether an out of State retailer (remote seller) must collect and pay Illinois use tax on sales to Illinois purchasers. Effective 10/1/18, remote sellers whose gross receipts from Illinois purchasers total \$100,000 or more, or complete 200 or more separate sales transactions with Illinois purchasers, in any 12-month period achieve Wayfair nexus and become subject to Illinois use tax even if they do not have a

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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.

New Rules

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Act 98-935, the Home Care Consumer Bill of Rights, as well as recent federal regulations instituting a person-centered service planning process for the Home Services Program (HSP). Amendments to Part 510 allow HSP customers to seek assistance from the Department on Aging's Home Care Ombudsman Program during a grievance process. The Part 676 rulemaking adds HSP provisions for persons with brain injuries, including traumatic injuries, infections, anoxia, strokes, aneurysms, electrical injuries, malignant tumors, and toxic encephalopathy, but not including congenital disabilities (e.g., cerebral palsy), or degenerative disorders due to aging (e.g., Alzheimer's). It also provides for use of brain injury habilitation assessments in addition to the DON assessment tool. Amendments to Part 677 add a Customer Bill of Rights and require HSP customers to acknowledge in writing that they have been informed of their rights at the time of referral, application, eligibility determination, and other events. The Customer Bill of Rights includes the right to basic safety and confidentiality of personal information; up front information regarding the cost of services (including insurance coverage and charges to the customer); the right to choose one's provider and services; and the right to seek resolution of grievances. The Part 679 rulemaking makes technical

changes only. Amendments to Part 682 raise non-exempt asset limits to \$17,500 (formerly \$10,000) for individual adult customers and \$35,000 (formerly \$30,000) for the family of a minor customer. The Part 684 amendments require HSP service plans to reflect the customer's personal choices and include his or her personal goals and desired outcomes. The plan must be signed by the customer, the HSP counselor, and each individual provider or agency provider who will deliver services. The Part 686 rulemaking adds day habilitation services for persons with brain injuries and requires these services to be accredited by DHS or another appropriate organization. Evaluation and certification criteria, provider standards, service requirements, billing and record requirements, reporting requirements, and compliance review provisions for day habilitation services are also included. At least 25 hours of program time must be offered per week when HSP purchases day habilitation services on a full time weekly basis. The rulemaking also clarifies the responsibilities of case managers and requires them to contact customers at least once a month, with an in-person visit every two months (formerly, 3 contacts per month, one of which must be face to face, are required). Those affected by these rulemakings include HSP customers and service providers.

Questions/requests for copies of the 8 DHS rulemakings: Tracie Drew, DHS, 100 S. Grand Ave. East, 3rd Fl., Springfield IL 62762, 217/785-9772.

TUITION WAIVERS

The BOARD OF HIGHER EDUCATION adopted amendments to Tuition and Fee Waiver Guidelines (23 IAC 1075; 42 Ill Reg 17980) effective 1/24/19, implementing Public Act 100-824, which prohibits the Board from limiting public university tuition waivers. Formerly, each university generally could not grant tuition waivers totaling more than 3% of its total available undergraduate tuition revenue. However, the Board is still required to gather information on tuition waivers from public universities and report this information to the General Assembly annually.

Questions/requests for copies: Karen Helland, BHE, 1 N. Old State Capitol Plaza, Suite 333, Springfield IL 62701-1377, 217/557-7358, fax 217/782-8548, email: helland@ibhe.org

■ REAL ESTATE

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION adopted amendments to the Part titled Real Estate License Act of 2000 (68 IAC 1450; 42 Ill Reg 16804), effective 1/25/19, implementing Public Act 100-

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Proposed Rulemakings

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physical presence in Illinois. Remote sellers must determine on a quarterly basis whether they have met either of these selling thresholds in the previous 12 months. If the seller has met either threshold, the seller must begin collecting use tax and file returns for the subsequent year. The rulemaking also clarifies criteria for determining whether a remote seller has a physical presence in Illinois (thereby establishing nexus regardless of the number or amount of Illinois sales made), gives examples of transactions that meet or do not meet Wayfair nexus criteria, and explains how to determine tax collection obligation if Wayfair nexus applies. Out of state retailers who make sales in Illinois, and Illinois residents or businesses who purchase items from these retailers, are affected by this rulemaking.

Questions/requests for copies/comments through 3/25/19: Jerilynn Troxell Gorden, DOR, 101 W. Jefferson St., Springfield IL 62794, 217/782-2844.

STUDENT LOANS

The ILLINOIS STUDENT ASSISTANCE COMMISSION proposed a new Part titled Community Behavioral Health Care Professional Loan Repayment Program (23 IAC 2753; 43 Ill Reg 1763) implementing Public Act 100-862. The program provides student loan repayment

assistance to persons working as behavioral health professionals in a community mental health center in an underserved or rural mental Health Professional Shortage Area (HPSA). Applicants must have worked in such an HPSA for at least 12 consecutive months prior to applying for the program and must continue to do so during each year that they receive loan repayment grants, up to a maximum of 4 years. Maximum annual repayment grants are \$35,000 for psychiatrists; \$15,000 for advanced practice registered nurses or physician assistants; \$12,000 for psychologists with doctoral degrees; \$6,500 for licensed clinical social workers or licensed clinical professional counselors; and \$2,500 for substance use professionals. Those affected by this rulemaking include mental health professionals and their employers.

ISAC also proposed an amendment to Nurse Educator Loan Repayment Program (23 IAC 2758; 43 Ill Reg 1771) clarifying that nurse educators must complete a separate 12-month period of instruction for each year that they receive repayment grants. Those affected by this rulemaking include nurse educators and their employers.

ISAC proposed amendments to General Provisions (23 IAC 2700; 43 Ill Reg 1743) implementing Public Act 100-926, which requires public higher education

institutions to annually provide students or their parents/guardians with the following information: the estimated total amount of educational loans taken out by the student; the estimated potential payoff amount for each of these loans, including principal and interest amounts; the estimated percentage of the student's borrowing limit reached at the time of the report; and any financial resources available to the student. The rulemaking also clarifies that documents acceptable as proof of Illinois residency are not limited to those listed in the rule (e.g., driver's license, tax return, utility bills) and that institutions may request other documents in addition to, or in place of, those listed.

MAP AWARDS

ISAC also proposed an amendment to Monetary Award Program (MAP) (23 IAC 2735; 43 Ill Reg 1755) revising its schedule for processing MAP award applications. The rulemaking requires ISAC to announce its priority deadline date for renewing MAP applicants no later than September 30 of each year. Applicants who file by the priority deadline date and meet other eligibility requirements will continue to receive MAP grants for the following academic year. Those who apply after the priority deadline date may receive

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New Rules

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188. The rulemaking consolidates the licenses for providers of pre-license education and continuing education into a single education provider license, effective 7/1/19; update various pre-license and continuing education requirements; permit pre-license and continuing education to be delivered via webinars and other alternate means, in addition to in-person classes; and establish a process for reviewing applications from persons with prior criminal convictions. Current pre-license and continuing education licenses will continue in effect through 6/30/19. Changes since 1st Notice state that certain documents and information may be submitted electronically (originally, “in a manner established by the Department”) and clarify the dates for certain transitional provisions. Real estate brokers and providers of pre-license and continuing education for real estate agents and brokers are affected.

Questions/requests for copies: Craig Cellini, DFPR, 320 W. Washington St., 3rd Fl., Springfield IL 62786, 217/785-0813, fax 217/557-4451.

■ PROPERTY TAXES

The PROPERTY TAX APPEAL BOARD adopted amendments to Practice and Procedures for Appeals Before the Property Tax Appeal Board (86 IAC 1910; 42

Ill Reg 16136), effective 3/1/19, concerning Board meetings and other proceedings. The rulemaking allows any person to address a PTAB meeting if they give at least 10 days’ advance written notice of their appearance, and allows members present at either the Springfield or Chicago office for simultaneous meetings linked by video conference to count toward the quorum that must be present for a single meeting. Other amendments require only one copy of certain documents to be filed; allow taxpayers to appeal directly to PTAB for subsequent years in an assessment cycle if PTAB issues a decision for a given tax year after a new complaint for a subsequent year in the same assessment cycle is filed with the local board of review; and provide that any party found in default forfeits its right to request or participate in hearings and shall not receive notice of PTAB proceedings, rulings or decisions. A change since 1st Notice clarifies that notice to defaulted taxpayers must be given in accordance with Section 16-185 of the Property Tax Code. Those affected by this rulemaking include businesses and municipalities involved in property tax appeals.

Questions/requests for copies: Steven M. Waggoner, PTAB, William G. Stratton Bldg., Room 402, 401 S. Spring St., Springfield IL 62706, 217/782-6076, fax 217/785-4425, e-mail: steve.waggoner@illinois.gov

■ PROCUREMENT

The CHIEF PROCUREMENT OFFICER FOR PUBLIC INSTITUTIONS OF HIGHER EDUCATION (CPO-HE) adopted amendments to the Part titled Chief Procurement Officer for Public Institutions of Higher Education Standard Procurement (44 IAC 4; 42 Ill Reg 17986) effective 2/15/19, implementing various Public Acts. The amendments implement recent changes to the Illinois Procurement Code; the Governmental Joint Purchasing Act; the Business Enterprise for Minorities, Women, and Persons with Disabilities Act; and the Illinois Human Rights Act that impact procurement for higher education institutions. They include clarification of the structure and procurement authority oversight of the CPO-HE and various State Purchasing Officers (SPOs), exemptions from the Procurement Code and publication requirements for exempt transactions, identifying the fiduciary responsibilities of CPO personnel, and direction to universities on reporting waste, misconduct or inefficiency. The Illinois Mathematics and Science Academy has been included in the procurement authority of the CPO-HE. The threshold for requiring competitive bidding solicitations has been increased to \$100,000 in most instances, and the procedures for non-competitive solicitations (including sole source, small

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Proposed Rulemakings

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awards if sufficient funding remains available. The rulemaking also removes references to ISAC's former application priority schedule that set August 15 as the deadline for renewing applicants seeking full-year awards and September 30 as the deadline for new applicants seeking full-year awards.

Questions/requests for copies/comments on the 4 ISAC rulemakings through 3/25/19: Jackie Eckley, ISAC, 500 W. Monroe St., 3rd Fl., Springfield IL 62704, 217/782-5161, jackie.eckley@illinois.gov.

■ ELECTION SECURITY

The STATE BOARD OF ELECTIONS proposed a new Part titled Cyber Navigator Program (26 IAC 213; 43 Ill Reg 1733) implementing provisions of Public Act 100-587. The new Part replaces emergency rules (covering the 2018 general election period) that were adopted on 8/30/18 and expired on 1/26/19. The PA and the rulemaking authorize SBEL and the Department of Innovation and Technology (DoIT) to create a Cyber Navigator Program to protect the State's election infrastructure against security breaches and cyber attacks. Cyber Navigators are DoIT personnel recruited to assess election-related systems and networks, perform risk assessments for each election

jurisdiction, and increase the cybersecurity posture of all election jurisdictions. Election authorities must participate in the Cyber Navigator Program in order to qualify for federal grant funds intended to enhance election security. Among the measures SBEL will take is connecting all local election jurisdictions through the Illinois Century Network (ICN) to the statewide voter registration database. When all election jurisdictions are connected via ICN, all system traffic between SBEL and these jurisdictions will be required to use private IP addressing. SBEL also will work with the Illinois State Police Statewide Terrorism and Intelligence Center to develop a cybersecurity outreach and awareness program for county election officials and election boards. The program will include information regarding best practices and training regarding common areas of vulnerability (e.g., phishing). The new Part also outlines other security measures to be taken by SBEL, including installation of a firewall, protection against Distributed Denial of Service (DDoS) attacks, and 24/7 monitoring by the DoIT Security Operation Center. Local election authorities will be affected by this rulemaking.

Questions/requests for copies: Kenneth R. Menzel, SBEL, 2329 S. MacArthur Blvd., Springfield IL 62704, 217/782-4141, fax 217/782-5959, kmenzel@elections.il.gov

■ PRIVATE SECURITY

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION proposed amendments to the Part titled Private Detective, Private Alarm, Private Security, Fingerprint Vendor, and Locksmith Act of 2004 (68 IAC 1240; 43 Ill Reg 1681) implementing two Public Acts. The rulemaking implements PA 100-44 by transferring responsibility for obtaining State Police certification of fingerprinting equipment from the individual fingerprint vendor to the licensed agency. References to the FBI fingerprint guide are updated (from the 2006 to the 2014 edition) and fingerprint vendors are required to provide a transmission control receipt to the person being fingerprinted. The rulemaking also implements a provision of PA 100-712 allowing an active duty police officer employed in a second job as an armed private security guard to continue to be exempt from the requirement to hold a firearm control card (issued by private security contractors to employees whose jobs require them to carry firearms) after the officer has left or retired from the police department. Additionally, the rulemaking clarifies that the firearm control card exemption applies only to police officers who work for the State, a political subdivision of the State, or a federal agency. A firearm control

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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 February 19, 2019 JCAR meeting. Other items not published in the *Illinois Register* or The Flinn Report may also be considered. Further comments concerning these rulemakings should be addressed to JCAR using the contact information on page 1.

DEPT OF NATURAL RESOURCES

Sport Fishing Regulations for the Waters of Illinois (17 IAC 810; 42 Ill Reg 19373) proposed 11/2/18

Commercial Fishing and Musselling in Certain Waters of the State (17 IAC 830; 42 Ill Reg 19498) proposed 11/2/18

DEPT OF CHILDREN AND FAMILY SERVICES

Placement and Visitation Services (89 IAC 301; 42 Ill Reg 7710) proposed 5/4/18

DEPT OF PUBLIC HEALTH

Emergency Medical Services, Trauma Center, Comprehensive Stroke Center, Primary Stroke Center, and Acute Stroke Ready Hospital Code (77 IAC 515; 42 Ill Reg 20621) proposed 11/26/18

New Rules

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purchases and emergency purchases) are clarified. Many other provisions concerning Business Enterprise Act and Human Rights Act compliance, bid specifications, sub-contractors, procurement

preferences, transparency, conflicts of interest, and the bidding process have been updated, and numerous changes and clarifications have been made to these provisions since 1st Notice. Those affected by this rulemaking include small businesses and non-profits

seeking contracts with State institutions of higher education.

Questions/requests for copies: Shirley Webb, CPO-HE, 401 S. Spring St., 513 Stratton Bldg., Springfield IL 62706, 217/836-2376, shirley.j.webb@illinois.gov

Proposed Rulemakings

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card authorizes any holder to carry a taser, stun, tear gas projector, billy club or similar device but must specify the type of firearm the holder is authorized to carry (revolver, semi-automatic handgun, rifle, shotgun). Licensed private security agency employees must report any criminal convictions (currently, both arrests and convictions) to DFPR. Other provisions clarify that on-line instruction does not satisfy the classroom basic

training requirement for registered or armed employees; clarify who may certify firearm qualifications; eliminate the fee and the process for obtaining a duplicate license; and require a signed and dated letter from an employee's chief of police as verification of an employee's current peace officer status. Finally, the rulemaking clarifies that DFPR may accept alternative canine training that has been conducted by the military, by a law enforcement agency, or by an out of State training facility if its

training is substantially similar to the training required under this Part. Those affected by this rulemaking include fingerprint vendors, local police officers, private detectives, private security contractors, and canine handlers and trainers.

Questions/requests for copies/comments through 3/25/19: Craig Cellini, DFPR, 320 W. Washington St., 3rd Fl., Springfield IL 62786, 217/785-0813, fax 217/557-4451.