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Illinois General Assembly

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Issue 29

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

MERCURY EMISSIONS

The POLLUTION CONTROL BOARD adopted amendments to "Control of Emissions from Large Combustion Sources" (35 Ill Adm Code 225; 32 Ill Reg 18507), effective 6/26/09, in order to retain in Illinois the monitoring provisions of the federal clean air mercury rule (CAMR) that were struck down by a federal appeals court in *State of New Jersey, et al. v. Environmental Protection Agency* (517 F. 3d 574, 578-81, D.C. Circuit, 2008). Previous PCB rules incorporated the now vacated federal CAMR rules into the Illinois clean air program by reference to the *Code of Federal Regulations* rather than including the text of the regulations in full. However, these adopted amendments add the full explanation of the monitoring provisions directly to Illinois rule text since referencing federal rules contained in the federal Code is no longer possible following the court's decision. PCB is allowed to retain these rules under its program because a state is allowed to have mercury emissions rules that are more stringent than federal rules. The Board made over 60 substantive changes to these amendments during the rulemaking process. For detailed information, please contact the agency representative listed below.

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. Please reference docket R09-10.

UNIVERSITY RETIREMENT

The STATE UNIVERSITIES RETIREMENT SYSTEM adopted amendments to "Universities Retirement" (80 Ill Adm Code 1600; 33 Ill Reg 2125), effective 7/1/09, that add revised new qualified Illinois domestic relations order (QILDRO) provisions to conform to Public Act 94-657. (A QILDRO is an order issued by an Illinois court that provides for property distribution in a proceeding concerning marriage invalidity, legal separation, or marriage dissolution.) A QILDRO must be accompanied by consent to issue a QILDRO signed by the system member, specify each benefit to which it applies, and specify whether an alternate payee (e.g., a former spouse, child, or other dependent named in the order) will receive automatic annual increases, among other requirements. A QILDRO failing to satisfy the new requirements will be invalid, and orders for withholding child support will not be honored by SURS unless accompanied by a valid QILDRO. In

(cont'd next page)

Proposed Regulations

CAMPUS SPRINKLER SYSTEMS

The ILLINOIS FINANCE AUTHORITY proposed amendments to "Illinois Finance Authority" (74 Ill Adm Code 1100; 33 Ill Reg 10187) creating a low-interest, revolving loan program for the installation of fire sprinkler systems in college dormitories by post-secondary educational institutions. Loans may be used to pay all or a portion of costs associated with planning, purchasing, installing, modifying, or repairing a fire sprinkler system and may not exceed \$1 million per institution per fiscal year. The rule-making specifies eligible expenditures, loan application review procedures, funding criteria, the credit review process, required loan documents, servicing repayment procedures, and terms and conditions of loan agreements. Public and private colleges and universities that provide on-campus housing for their students in dormitories or equivalent facilities may be affected by this rulemaking.

Questions/requests for copies/comments through 8/31/09: Chris Meister, IFA, 180 N. Stetson, Ste. 2555, Chicago IL 60601, 312/651-1310.

ROADSIDE MEMORIALS

The DEPARTMENT OF TRANSPORTATION proposed amendments to "Roadside Memorials" (92 Ill Adm Code 549; 33 Ill Reg 10207) implementing Public Act 95-873, which be-

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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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no event will a QILDRO apply to any benefit paid before, or within 30 days after, the order is received but will take effect as directed under the Pension Code when a refund is made, or as soon as possible after the member's death. Various examples of distributions of a QILDRO (divided by a percentage of the gross benefit or of the marital period, refund of an excessive amount withheld, etc.) and prioritization of payment are detailed (e.g., if a benefit is subject to multiple QILDROs, each QILDRO will be satisfied in the order in which it was received). A QILDRO expires by its terms or upon receipt of a court order terminating the QILDRO. Also, the System will provide information after receipt of a subpoena or after receiving a request from the applicable System member.

Questions/requests for copies: Kelly A. Jenkins, SURS, 1901 Fox Drive, Champaign IL 61820, 217/378-7516 or 217/378-8838.

STATE EMPLOYEES

The DEPARTMENT OF CENTRAL MANAGEMENT SERVICES adopted amendments to "Pay Plan" (80 Ill Adm Code 310; 33 Ill Reg 4588), effective 7/1/09, that implement numerous changes affecting State employees in merit compensation salary ranges and titles along with upcoming pay increases included in collective bargaining agreements. The rulemaking adds pay rates effective 7/1/09 and 1/1/10 for jobs covered by collective bargaining agreements with the following 5 unions: (1) the American Federation of State, County and Municipal Employees (AFSCME); (2) Local 2002 of the Laborers' International Union of North America, Illinois State Employees Association, Southern and Central Illinois Labor District Council (Laborers' - ISEA); (3) State and Municipal Teamsters, Chauffeurs and Helpers Union Local 726 (Cook County Teamsters); (4) Illinois Conference of Teamsters Local 25 (Downstate Teamsters); and (5) the Illinois Nurses Association. The amendments

update merit compensation salary tables to reflect an increase in the State's minimum wage to \$8 per hour effective 7/1/09 and to increase the maximum salary in each salary range by slightly more than 4% to accommodate pay raises included in collective bargaining agreements. They also add to the list of merit compensation salary positions numerous titles that have been excluded from bargaining unit representation or that are trainee, emergency, provisional, or temporary positions. Other changes set the "in-hiring rate" for clinical psychology associates who complete a doctoral dissertation at step 3; add child support specialist trainee to the list of trainee titles excluded from union representation; increase the arbitrator pay rate from \$111,453 to \$115,840 to reflect a statutory requirement that this rate be \$4,000 less than the annual salary of a Workers' Compensation Commission member; remove internal security investigator I and II from merit compensation salary ranges since they are covered under a new memorandum of understanding with a union; remove the titles of public aid family support specialist II and youth supervisor IV from merit compensation because these jobs have been abolished; assign public service administrator option 8Z to a bargaining unit; correct errors in some job titles; and remove outdated language.

DCMS also adopted preemptory amendments to "Pay Plan" (80 Ill Adm Code 310; 33 Ill Reg 10823), effective 7/2/09. The amendments implement various agreements between DCMS and the Department of Natural Resources and the Conservation Police Lodge increasing salaries 1.5% (retroactive to 1/1/09), 2.5% (retroactive to 7/1/09), and 2% (effective 1/1/10) and eliminating one pay increase ("step") on the payment chart. Additional amendments between DCMS and the Laborers International Union of North America-Illinois State Employees Association Local 2002 and the Southern and Central Illinois Laborers' District Council increase salaries 1.5% (retroactive to 1/1/09), 2.5% (retroac-

tive to 7/1/09), and 2% (effective 1/1/10) and eliminate a "step". An agreement between DCMS and the Department of Human Services and the Illinois Federation of Teachers (AFL-CIO, Local 919) increases salaries 1.5% (retroactive to 1/1/09); 2.5% (retroactive to 7/1/09); and 2% (effective 1/1/10) and increases extracurricular activities pay 2.5% (effective 8/16/09). The amendments also implement 3 memoranda of understanding between DCMS and the Illinois Federation of Public Employees (Local 4408, AFT/AFL-CIO) adding a rate table (effective 1/1/10) and between DCMS and the American Federation of State, County and Municipal Employees (AFSCME) assigning the public service administrator title option 6 to a bargaining unit and to the AFSCME master contract.

Questions/requests for copies of the 2 DCMS rulemakings above: Jason Doggett, DCMS, 504 Stratton Bldg., Springfield IL 62706, 217/782-7964, Fax 217/524-4570, e-mail: CMS.PayPlan@Illinois.gov

MEDICAL ASSISTANCE

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES adopted emergency amendments to 3 Parts titled "Special Eligibility Groups" (89 Ill Adm Code 118; 33 Ill Reg 10780), "Medical Assistance Programs" (89 Ill Adm Code 120; 33 Ill Reg 10785), and "Medical Payment" (89 Ill Adm Code 140; 33 Ill Reg 10800), all effective 6/30/09, for a maximum period of 150 days. Identical rulemakings are also proposed in this same issue of the *Illinois Register* at 33 Ill Reg 10199, 10201, and 10204. The amendments implement the settlement in *Caro v. Blagojevich* and the resultant Public Act 96-20 whereby currently enrolled FamilyCare insurance participants will continue to receive FamilyCare medical insurance coverage so long as premiums are paid timely and income does not exceed 400%, or fall below 185%, of the federal poverty level. Premiums are identical to those under the previous agency policies that

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lacked specific statutory authority, and services covered are identical to those under medical assistance. The rulemakings also continue a FamilyCare program that is limited to those who have countable income

that does not exceed 185% of the federal poverty level. Coverage is liberalized in accordance with federal guidelines, and all premiums are eliminated for Alaska natives and American Indians.

Questions/requests for copies/comments concerning the proposed rulemakings through 8/31/09: Tamara Tanzillo Hoffman, DHFS, 201 S. Grand Ave. E., 3rd Fl. Springfield IL 62763-0002, 217/557-7157.

Proposed Regulations

came effective 8/21/08. The rulemaking allows fatal vehicle accidents involving impaired drivers that occurred on or after 1/1/90 (currently, 1/1/03) to be commemorated with memorial markers on or near the crash site. (A marker must be requested by the family of a deceased crash victim and installed at the family's expense.)

Questions/requests for copies/comments through 8/31/09: Aaron Weatherholt, DOT, 2300 S. Dirksen Pkwy., Rm. 009, Springfield IL 62764, 217/782-2076.

STATE EMPLOYEES

The DEPARTMENT OF CENTRAL MANAGEMENT SERVICES proposed amendments to "Pay Plan" (80 Ill Adm Code 310; 33 Ill Reg 10098) allowing eligible employees to take "equivalent earned time" (hours worked in excess of the hours per week indicated in the approved work schedule) in 15-minute increments after use of the initial minimum 1/2 hour. Additional changes move the designated pay rate for a senior public service administrator title at the Department

of Revenue to the Illinois Gaming Board; abolish the corrections agricultural lead worker and supervisor titles and the public aid appeals advisor title; add mental health recovery support specialist I and II titles to merit compensation salary ranges; suspend merit increases and bonuses while retaining annual reviews; and eliminate obsolete tables and text.

Questions/requests for copies/comments through 8/31/09: Jason Doggett at the DCMS address and telephone number above.

Second Notices

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 August 18, 2009 meeting.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

"Veterans' Health Insurance Program" (89 Ill Adm Code 128) proposed 2/13/09 (33 Ill Reg 3022)

"Child Support Enforcement" (89 Ill Adm Code 160) proposed 5/8/09 (33 Ill Reg 6377)

STATE BOARD OF ELECTIONS

"Approval of Voting Systems" (26 Ill Adm Code 204) proposed 2/13/09 (33 Ill Reg 3169)

DEPARTMENT OF HUMAN SERVICES

Repeal of "Workers' Compensation" (89 Ill Adm Code 645) proposed 3/27/09 (33 Ill Reg 4556)

The Flinn Report

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