

JOINT COMMITTEE ON ADMINISTRATIVE RULES

ILLINOIS GENERAL ASSEMBLY

CO-CHAIR:
SEN. MAGGIE CROTTY

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SEN. MATTIE HUNTER
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REP. LOU LANG
REP. DAVID MILLER
REP. DONALD L. MOFFITT
REP. ROSEMARY MULLIGAN

MINUTES

February 9, 2010

Meeting Called to Order

The Joint Committee on Administrative Rules met on February 9, 2010 at 9:00 a.m. in Room C-1 of the Stratton Office Building in Springfield, Illinois.

Co-Chair Crotty called the meeting to order and announced that the policy of the Committee is to allow only representatives of State agencies to testify orally on any rule under consideration at Committee hearings. Other persons are encouraged to submit their comments in writing.

ATTENDANCE ROLL CALL

X Senator Bradley Burzynski	Representative John Fritchey
X Senator Maggie Crotty	X Representative Lou Lang
X Senator Randy Hultgren	Representative David Miller
X Senator Mattie Hunter	X Representative Donald Moffitt
X Senator Dan Rutherford	Representative Rosemary Mulligan
X Senator Ira Silverstein	X Representative Angelo "Skip" Saviano

APPROVAL OF THE MINUTES OF THE JANUARY 12, 2010 MEETING

Senator Rutherford moved, seconded by Senator Burzynski, to approve the minutes of the January 12, 2010 meeting. The motion passed unanimously.

REVIEW OF AGENCY RULEMAKINGS

Department of Children and Family Services – Placement and Visitation Services (89 Ill. Adm. Code 301; 33 Ill. Reg. 9548)

Representative Lang moved, seconded by Senator Silverstein, that JCAR object to the Department's failure to adopt its rulemaking by the 7/1/07 date mandated by PA 94-1010. The motion passed unanimously.

Department of Natural Resources – Incidental Taking of Endangered or Threatened Species (17 Ill. Adm. Code 1080; 33 Ill. Reg. 15344)

Senator Hunter moved, seconded by Representative Saviano, that JCAR and DNR agree to extend the Second Notice Period for an additional 45 days to address JCAR questions and late public comment. The motion passed unanimously.

State Universities Civil Service System – State Universities Civil Service System (80 Ill. Adm. Code 250; 33 Ill. Reg. 16669)

Representative Moffitt moved, seconded by Senator Burzynski, that JCAR and the State Universities Civil Service System agree to extend the Second Notice Period for an additional 45 days in order to further consider public comment on this issue. The motion passed unanimously.

Department of Veterans' Affairs – Veterans' Scratch-Off Lottery Program (95 Ill. Adm. Code 125; 33 Ill. Reg. 14933)

Representative Lang moved, seconded by Senator Silverstein, that JCAR and the Department agree to extend the Second Notice Period for an additional 45 days to address JCAR questions. General Counsel Jack Price of the Department indicated the agency's assent. The motion passed unanimously.

Co-Chair Crotty asked if any member desired to discuss any other rulemakings. Representative Lang requested consideration of a rulemaking of the Illinois Gaming Board.

Illinois Gaming Board – Video Gaming (General) (11 Ill. Adm. Code 1800; 33 Ill. Reg. 14667)

Michael Fries, General Counsel, and Caleb Melamed, Legislative Liaison, represented the Board.

Representative Lang confirmed that Mr. Fries and Mr. Melamed had met with him to answer some questions. He wished to clarify, on the record, what the Gaming Board had said recently about "gray machines" because the statements seem to confuse some legislators and the public. Representative Lang stated that this would be a good forum to explain what was discussed.

Mr. Fries responded that the gray machine issue has been of concern since the Act was signed last July. The Board has notified the industry several times about its concerns, questioning how to deal with the issue and indicating its intention of adopting a policy dealing with gray machines. The Board had extensive conversation about the issue at its December meeting. For clarification purposes, there is nothing illegal about a for-amusement-only device that is properly tagged by the Department of Revenue and used for that purpose only. When these machines are used for illegal gambling purposes, they are termed "gray machines". The Board adopted a policy at its January meeting consisting of 3 parts. First, any individual who has been convicted of a crime involving gambling related to these machines or any other type of gambling conviction would be ineligible for licensure. Second, the Board stated that any applicant who was active in the gray machine market after 12/16/09 would not be approved for licensure. Third, if the Board received information that a licensure applicant was active in the gray machine market prior to 12/16/09, those applications would be considered by the Board on a case-by-case basis. At its January meeting, the Board adopted the policy and instructed its staff to develop a rule consistent with that policy.

Representative Lang asked if part of the rulemaking being considered today deals with that issue.

Mr. Fries confirmed that it does.

Representative Lang asked why there is so much confusion in the industry about the content of the rulemaking.

Mr. Fries speculated from feedback he received from certain attorneys that no one knows what gray machine means. The industry believes that possession of the machine now is problematic or illegal and that is not the case. Possession of these machines, at this point, is not illegal. However, in the near future, possession of the machine will constitute a Class 4 felony.

Representative Lang, clarifying for the record, asked if people legally using a legal machine have to remove those machines at this time.

Mr. Fries responded that they do not have to remove those machines at this time.

Representative Lang stated that he wished to discuss testing labs, explaining that these labs are companies that test machines that are going into public use to verify that the machine works, to check if the software is correct, and to verify that the machine will work with Illinois' central communications system. He asked if it was correct that the Board has decided to sole source the testing lab contract.

Mr. Fries responded in the affirmative.

Representative Lang confirmed that he had received a copy of the RFPs from the Board, but he has not yet received a copy of the contract sole sourced, which had been promised to him by representatives of the Board. He voiced concern that, because the Board is using a sole source, some game manufacturers or distributors might receive preference. When the games go online, some games may be approved before others based on those preferences. Representative Lang asked Mr. Fries to explain why he believed that this would not be an issue.

Mr. Fries responded that the Board considers testing to be a regulatory responsibility and takes very seriously its relationship with any vendors with which it contracts. The Board views the client as the State of Illinois. Mr. Fries explains that multiple labs could provide competition and favoritism in that labs could be approving machines from manufacturers and not considering the State's needs and interests. The 3 companies that responded to the RFP were all evaluated. The company selected was by far the largest and has the most staff of any testing lab, giving it logistical advantages. Mr. Fries further explained that manufacturers would be compartmentalized and assigned to groups at different locations, so one group cannot affect another group, preventing any favoritism. Under the contract, the Board will have real-time access to the testing lab's system to confirm the games that are in the system and those that are pending (as well as the time they have been pending) and will continue to monitor these statistics.

Representative Lang asked if Mr. Fries would suggest that the Board make a public statement that all games submitted by a given date would be approved by a given date.

Mr. Fries responded in the affirmative and clarified that implementation is ongoing. The Board is attempting to develop a fair, reasonable implementation plan that will take into consideration all regions of the State.

Representative Lang asked if this would apply to licenses as well, since the expected majority of licensure requests would be from bar owners rather than game machine manufacturers. He asked if the Board intended to respond by a certain date to all licensure applications received by a certain date, prior to the system going on-line.

Mr. Fries responded in the affirmative.

Representative Lang asked whether it was Mr. Fries' view that this policy does not need to be accomplished by rule.

Mr. Fries responded in the affirmative.

Representative Lang asked Mr. Fries to urge the Board to adopt a public policy clarifying that games and licensure applications submitted by a certain date would be ruled on by a given date, well in advance of the system going on-line.

Mr. Fries indicated he would do so.

Representative Lang asked whether for-amusement-only machines will be terminated as of a given date.

Mr. Fries responded that only certain types would be terminated. For-amusement-only games that mimic gambling games and have microprocessors or meters that track credit accumulation become illegal pursuant to statute and that possession will constitute a Class 4 felony.

Representative Lang asked when this would become effective.

Mr. Fries responded the sooner of 2 dates, either the expiration of the Code sticker, which he believes is July 2010, or 60 days after the Board certifies that the central communications system is up and running.

Representative Lang asked if "up and running" means that the system was turned on or that it is working.

Mr. Fries responded that up and running means the system is working and ready to go.

Representative Lang asked what types of machines will no longer be eligible for a tax stamp.

Mr. Fries responded that, per statute, amusement devices possessing meters, knockoff switches, etc. will become illegal. Other games, such as pool tables, crane games and pinball machines, are not affected.

Co-Chair Crotty announced that the rulemaking would be returned to the No Objection List.

CERTIFICATION OF NO OBJECTION

Senator Hunter moved, seconded by Representative Moffitt, that the Committee inform the agencies to whose rulemakings the Committee did not vote an Objection or an Extension, or did not remove from the No Objection List, that the Committee considered their respective rulemakings at the monthly meeting and, based upon the Agreements for modification of the rulemakings made by the agencies, no Objections will be issued. The motion passed unanimously, except that Senators Burzynski and Hultgren requested that the record reflect a "No" vote on the Gaming Board's rulemaking (11 Ill. Adm. Code 1800; 33 Ill. Reg. 14667). The resulting vote on that rulemaking was 7-2.

MARCH MEETING DATE

Co-Chair Crotty announced that the next monthly meeting is scheduled for Tuesday, March 9, 2010, 11:00 a.m., Room C-1 of the Stratton Building in Springfield.

ADJOURNMENT

Senator Hultgren moved, seconded by Representative Lang, that the meeting stand adjourned. The motion passed unanimously.