

JOINT COMMITTEE ON ADMINISTRATIVE RULES

ILLINOIS GENERAL ASSEMBLY

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SEN. MAGGIE CROTTY

CO-CHAIR:
REP. ANGELO "SKIP" SAVIANO

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SEN. DON HARMON
SEN. JOHN O. JONES
SEN. DALE A. RIGHTER
SEN. IRA SILVERSTEIN
REP. GREG HARRIS
REP. LOU LANG
REP. DONALD L. MOFFITT
REP. ROSEMARY MULLIGAN
REP. ANDRE' THAPEDI

MINUTES

May 10, 2011

Meeting Called to Order

The Joint Committee on Administrative Rules met on May 10, 2011 at 9:00 a.m. in Room C-1 of the Stratton Office Building in Springfield, Illinois.

Co-Chair Saviano 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 Pamela Althoff	X Representative Greg Harris
Senator Maggie Crotty	X Representative Lou Lang
X Senator Don Harmon	X Representative Donald Moffitt
X Senator John O. Jones	Representative Rosemary Mulligan
X Senator Dale Righter	X Representative Angelo "Skip" Saviano
X Senator Ira Silverstein	X Representative Andre' Thapedi

APPROVAL OF THE MINUTES OF THE APRIL 12, 2011 MEETING

Senator Harmon moved, seconded by Senator Althoff, to approve the minutes of the April 12, 2011 meeting. The motion passed unanimously.

REVIEW OF AGENCY RULEMAKINGS

Environmental Protection Agency – Procedures to be Followed in the Performance of Inspections of Motor Vehicle Emissions (35 Ill. Adm. Code 276; 35 Ill. Reg. 14)

Representative Moffitt moved, seconded by Representative Harris, that JCAR recommend that EPA update its rules to implement statute in a more timely fashion. The motion passed unanimously.

Department of Human Services – Award and Monitoring of Funds (77 Ill. Adm. Code 2030; 35 Ill. Reg. 1327) and Subacute Alcoholism and Substance Abuse Treatment Services (77 Ill. Adm. Code 2090; 35 Ill. Reg. 1329)

Representative Thapedi moved, seconded by Representative Lang, that JCAR agree to extend these rulemakings for an additional 45 days to allow DHS and affected parties to further discuss outstanding issues. The motion passed unanimously.

WITHDRAWAL OF FILING PROHIBITIONS

State Board of Education – Programs for the Preparation of Principals in Illinois (23 Ill. Adm. Code 30; 34 Ill. Reg. 14599)

Senator Harmon moved, seconded by Representative Moffitt, to withdraw the Filing Prohibitions on this rulemaking contingent on SBE's modification of the proposed rule to remove Sections 30.70(b) and 30.80(c)(6). The withdrawal of the Filing Prohibitions is effective upon SBE filing the rulemaking without those subsections. The motion passed on a rollcall vote of 10-0-0.

CONSIDERATION OF OTHER RULEMAKINGS

Co-Chair Saviano asked if any member requested consideration of any other rulemaking. Senators Silverstein and Righter requested discussions of 2 HFS rulemakings. Senator Jones requested a DFPR rulemaking.

Department of Healthcare and Family Services – Medical Assistance Programs (89 Ill. Adm. Code 120; 34 Ill. Reg. 11664)

Senator Silverstein moved, seconded by Senator Harmon, that JCAR object to and prohibit the filing of this rulemaking because it contains provisions that are not necessary to implement the federal Deficit Reduction Act of 2005 with regard to eligibility for Medicaid long term care assistance. These provisions include application of asset transfer restrictions to transfers made prior to the effective date of the rulemaking; unclear standards for caseworkers to use in determining whether certain transfers are allowable or will be penalized; and a definition of undue hardship that is more restrictive than DRA requires. These provisions will have an adverse economic impact on the affected public and will cause residents of nursing homes to be penalized with loss of eligibility for Medicaid long term care assistance for actions that, when they were taken, did not violate rules. These provisions also make it more difficult for applicants to demonstrate that transfers were legitimate or to obtain undue hardship waivers when transfers are penalized. JCAR finds that these provisions constitute a threat to the public interest and welfare. The motion passed by a rollcall vote of 10-0-0.

Department of Healthcare and Family Services – Hospital Services (89 Ill. Adm. Code 148; 34 Ill. Reg. 17832)

Senator Righter moved, seconded by Senator Harmon, that JCAR recommend that HFS cease its practice of adding substantive and significant requirements during the 1st Notice period that were not part of the rulemaking at the time it was originally published for public comment. The motion passed unanimously.

Department of Financial and Professional Regulation – Title Insurance Act (50 Ill. Adm.

Code 8100; 34 Ill. Reg. 15926)

Senator Jones moved, seconded by Representative Thapedi, that JCAR object to and prohibit filing of this rulemaking because, by establishing minimum fees charged for closing protection letters that will not be considered barred inducements under the Title Insurance Act, the Department is exceeding its specific statutory authority. JCAR finds that the proposed provision constitutes a serious threat to the public interest.

Craig Cellini, Rules Coordinator for DFPR, and Mike Rooney, supervisor of the Title Insurance Section of the Division of Financial Institutions, represented DFPR.

Co-Chair Saviano clarified that the prohibition would provide additional time to consider the unresolved issues.

Mr. Rooney commented that most of the parties appear to be in agreement in principle, but additional time would be necessary to draft an amendment.

The motion passed by a rollcall vote of 10-0-0.

CERTIFICATION OF NO OBJECTION

Senator Harmon moved, seconded by Representative Lang, 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.

AGENCY RESPONSES

State Board of Education – Programs for the Preparation of Principals in Illinois (23 Ill. Adm. Code 30; 34 Ill. Reg. 14599)

Based on the appropriateness of the Board's responses to JCAR's Recommendations, no further action was taken. Staff will monitor the proposed amendments to the Certification rules (23 Ill. Adm. Code 25) and the progress of SB 1799.

Department of Human Services – Medicaid Community Mental Health Services Program (59 Ill. Adm. Code 132; 35 Ill. Reg. 1128), Award and Monitoring of Funds (77 Ill. Adm. Code 2030; 35 Ill. Reg. 1448) and Subacute Alcoholism and Substance Abuse Treatment Services (77 Ill. Adm. Code 2090; 35 Ill. Reg. 1465)

DHS repealed the emergency rules on 4/28/11. Based on the appropriateness of the agency's responses, the Committee took no further action.

Secretary of State – Illinois State Library Grant Programs (23 Ill. Adm. Code 3035; 34 Ill.

Reg. 18954)

SOS withdrew the rulemaking on 4/18/11. Due to the appropriateness of the agency's response, no further action was taken. Staff will monitor.

JUNE MEETING DATE

Co-Chair Saviano announced that the next monthly meeting is scheduled for Tuesday, June 14, 2011, in Chicago IL.

ADJOURNMENT

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

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