

JOINT COMMITTEE ON ADMINISTRATIVE RULES

ILLINOIS GENERAL ASSEMBLY

CO-CHAIR:
SEN. MAGGIE CROTTY

CO-CHAIR:
REP. ANGELO "SKIP" SAVIANO

EXECUTIVE DIRECTOR:
VICKI THOMAS



700 STRATTON BUILDING
SPRINGFIELD, ILLINOIS 62706
211/785-2254

SEN. J. BRADLEY BURZYNSKI
SEN. RANDALL HULTGREN
SEN. MATTIE HUNTER
SEN. DAN RUTHERFORD
SEN. IRA SILVERSTEIN
REP. JOHN FRITCHEY
REP. LOU LANG
REP. DAVID MILLER
REP. DONALD L. MOFFITT
REP. ROSEMARY MULLIGAN

MINUTES

December 15, 2009

Meeting Called to Order

The Joint Committee on Administrative Rules met on December 15, 2009 at 11:00 a.m. in Room 16-503 of the James R. Thompson Center in Chicago, 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 ROLLCALL

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

APPROVAL OF THE MINUTES OF THE NOVEMBER 17, 2009 MEETING

Representative Saviano moved, seconded by Representative Lang, to approve the minutes of the November 17, 2009 meeting. The motion passed unanimously.

Co-Chair Crotty asked if any member desired to discuss any rulemakings. Senator Burzynski requested consideration of 2 rulemakings of the Department of Insurance, Representative Saviano asked for consideration of a rulemaking of the Illinois Racing Board, and Representative Lang requested consideration of an emergency rule of the Illinois Gaming Board.

Department of Insurance – Workers' Compensation Pools (50 Ill. Adm. Code 575; 33 Ill. Reg. 19856) and Workers' Compensation Self Insurance (Repealer) (50 Ill. Adm. Code 2901; 33 Ill. Reg. 19867)

The Department was represented by Direct Michael McRaith and Joe Clennon, Staff Attorney.

Senator Burzynski asked why the rulemaking is necessary. Director McRaith responded that Illinois statute requires homogeneity in workers' compensation pools, the Auditor General has issued findings based on the lack of a homogeneity requirement in DOI rules, and homogeneity will lead to better loss control for the pools. Senator Burzynski asked if there has been a problem with these pools becoming insolvent. Mr. Clennon responded that 4 pools have become insolvent and others that declared bankruptcy also exhibited a lack of homogeneity. Director McRaith added that having unrelated business sectors within a pool makes the pool much more difficult to manage, creates much more volatility, and makes it much more difficult to price the policies, all of which could promote insolvency. Senator Burzynski asked if diversity does not spread the costs. Director McRaith said this might be true, but since these self-insured pools are not subject to all the provisions of the Insurance Code and the receivership and guarantee fund protections, heightened restrictions are appropriate. Senator Burzynski said one of the concerns he has heard from businesses is that they fear being placed at a competitive disadvantage with respect to businesses in other states. He understands that 36 other states have taken the approach DOI is proposing. Are businesses' concerns valid and are any of those 36 states contiguous to Illinois? Mr. Clennon responded that the major concerns of business are the emphasis on homogeneity and that the use of MCCI codes for categorizing businesses would require some current pool members to leave the pool. Based on information filed with DOI over the past 10 years, it is the Department's belief that all the pools that are currently in existence will meet the new requirements. The concern is that, if a pool member would have to leave the pool and seek insurance in the open market, business might then go to another state. All the surrounding states use either MCCI or some off-shoot of MCCI. Director McRaith indicated that DOI is very sensitive to the issue of retaining business in Illinois. The proposed rule is broadly written so that members of a pool must have a common interest; it does not require that they be identical. For example, a t-shirt manufacturer and a t-shirt seller can be in the same pool, as can a trucker and a storage facility. Senator Burzynski asked how many pools are currently in Illinois. Mr. Clennon stated that there are 9 active pools. Senator Burzynski asked about the stability of these 9 pools. Mr. Clennon responded that they are fairly stable. Two small ones have had financial difficulties but are still maintaining at this time. Senator Burzynski asked if these changes will have any effect on WC rates. Director McRaith reiterated that, if a pool member were to have to leave a pool, it would have to purchase WC insurance in the conventional market, probably at a higher cost. Illinois has more companies offering WC insurance than any other state. This rulemaking will not affect the cost in the conventional market and is unlikely to affect the cost within any pool. It affects the composition and loss control aspects of a pool, not its pricing.

As no further motion was offered, the rulemaking remained on the No Objection List.

Illinois Racing Board – Racetrack Improvements (11 Ill. Adm. Code 452; 33 Ill. Reg. 12653)

Representative Saviano moved, seconded by Senator Hunter, that JCAR and the Racing Board agree to extend the Second Notice period for this rulemaking for an additional 45 days so that the Board can further respond to JCAR questions. The motion passed unanimously.

Illinois Gaming Board – Video Gaming (General) (11 Ill. Adm. Code 1800; 33 Ill. Reg. 14793) (Emergency)

The Gaming Board was represented by Michael Fries, General Counsel, and Caleb Malamed, Legislative Liaison and Legal Counsel.

Representative Lang pointed out that he was the sponsor of the video gaming legislation and expressed an interest in IGB's progress in implementing that law. He said that he had been reading lately that IGB did not anticipate licensing anyone for video gaming for another 12 months. Mr. Fries indicated that this statement had been made by the Board Chair and its gaming administrator. IGB has had to educate itself quickly on this new industry. It then issued an RFP for an independent test lab, which was awarded. A protest was resolved. The test lab has been working with IGB on issuing another RFP for a central communications system that is going to be vitally important in the regulation of this industry. Writing the RFP has been a strenuous task, but IGB is very close to its issuance. Once that contract is awarded, the industry says it will take from 4 to 6 months to get that system up and running. However, applications for licenses will be accepted prior to that date. IGB is also working on applications for all 9 different types of licensure. Hopefully, the initial licensure process and the communications system will come to fruition at about the same time. IGB will make every effort to get all this done in less than 1 year. More rulemaking will also be required. Representative Lang asked if the central communications system is used to connect all the licensed devices to Springfield. Mr. Fries indicated that this is correct. Representative Lang asked if this would be a different vendor than the one used for the electronic lottery. Mr. Fries indicated that it could be the same vendor or it could be a different one. IGB issued a Request for Information in August and received responses from 15 or 16 different entities. He doesn't know how many entities are going to respond to the RFP, but he is pretty sure the vendor for the lottery will do so. Representative Lang asked how long it took the lottery vendor to get its central communications system operational. Mr. Fries indicated that he didn't know. Representative Lang indicated that he had heard a significant buzz that IGB is dragging its heels on moving this project forward. He asked for Mr. Fries comment. Mr. Fries stated that IGB staff has been putting in considerable unpaid overtime on this project. No additional staff has been acquired. IGB has recently been appropriated funds for this purpose and the money has just now hit the Board's account, but there is still a time consuming hiring process to go through. Representative Lang indicated that his comments are not directed at staff, but at the Board itself. He's heard that the Board is not really big on video gaming and could not care less whether it moves forward. Mr. Fries indicated that he cannot speak for individual Board members, but he can say that there has been no interference or any suggestion by any Board member that the staff do less than work diligently toward getting this done. Representative Lang asked if the Board understands that the purpose of video gaming is to fund the State's capital plan and that the income is needed. Mr. Fries indicated that they are absolutely aware of this.

Representative Saviano reiterated that public comments by IGB members have not been helpful toward getting this project up and running. He asked Mr. Fries to convey a message that the capital program is needed for schools and other community projects. Mr. Fries indicated that he would do so.

Senator Hultgren expressed his lack of support for the rulemaking.

No further action was taken.

CERTIFICATION OF NO OBJECTION

Representative Mulligan moved, seconded by Representative Miller, 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, Hultgren and Rutherford asked to be recorded No on the Department of Insurance's rulemaking titled Workers' Compensation Pools.

AGENCY RESPONSE

Department of Healthcare and Family Services – Medical Payment (89 Ill. Adm. Code 140; 33 Ill. Reg. 5178)

Due to the appropriateness of the agency's response, no further action was taken.

JANUARY MEETING DATE

Co-Chair Crotty announced that the next monthly meeting is scheduled for Tuesday, January 12, 2010, 11:00 a.m., Room A-1 of the Stratton Building in Springfield.

ADJOURNMENT

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

Min:0912Dec