



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

SB2644

Introduced 2/8/2018, by Sen. Jil Tracy

SYNOPSIS AS INTRODUCED:

5 ILCS 100/10-25	from Ch. 127, par. 1010-25
5 ILCS 100/10-50	from Ch. 127, par. 1010-50
5 ILCS 100/10-75 new	

Amends the Illinois Administrative Procedure Act. Provides that notice to parties in a contested case under the Act shall be served, among other forms of service, by email. Provides that parties in a contested case under the Act shall be notified, among other forms of notification, by email of any decision or order in that case. Provides for specified requirements for the consent of service by email. Provides that an agency may request, but not require, unless otherwise required by law, an unrepresented party to designate an email address to which specified documents may be transmitted. Provides that no document described in specified provisions may be served by email to the extent the documents contains certain specified information. Provides that service by email is deemed complete on the day of transmission. Provides that agencies that use email to service documents shall adopt rules that specify the standard for confirming delivery, and in failure to confirm delivery, what steps the agency will take to ensure that service by email or other means is accomplished.

LRB100 17102 RJF 32254 b

1 AN ACT concerning government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Administrative Procedure Act is
5 amended by changing Sections 10-25 and 10-50 and by adding
6 Section 10-75 as follows:

7 (5 ILCS 100/10-25) (from Ch. 127, par. 1010-25)

8 Sec. 10-25. Contested cases; notice; hearing.

9 (a) In a contested case, all parties shall be afforded an
10 opportunity for a hearing after reasonable notice. The notice
11 shall be served personally, ~~or~~ by certified or registered mail, or
12 email as provided by Section 10-75, or as otherwise provided by
13 law upon the parties or their agents appointed to receive
14 service of process and shall include the following:

15 (1) A statement of the time, place, and nature of the
16 hearing.

17 (2) A statement of the legal authority and jurisdiction
18 under which the hearing is to be held.

19 (3) A reference to the particular Sections of the
20 substantive and procedural statutes and rules involved.

21 (4) Except where a more detailed statement is otherwise
22 provided for by law, a short and plain statement of the
23 matters asserted, the consequences of a failure to respond,

1 and the official file or other reference number.

2 (5) To the extent such information is available, the
3 The names, phone numbers, email addresses, and mailing
4 addresses of the administrative law judge, or designated
5 agency contact, ~~all~~ parties, and all other persons to whom
6 the agency gives notice of the hearing unless otherwise
7 confidential by law.

8 (b) An opportunity shall be afforded all parties to be
9 represented by legal counsel and to respond and present
10 evidence and argument.

11 (c) Unless precluded by law, disposition may be made of any
12 contested case by stipulation, agreed settlement, consent
13 order, or default.

14 (Source: P.A. 87-823.)

15 (5 ILCS 100/10-50) (from Ch. 127, par. 1010-50)
16 Sec. 10-50. Decisions and orders.

17 (a) A final decision or order adverse to a party (other
18 than the agency) in a contested case shall be in writing or
19 stated in the record. A final decision shall include findings
20 of fact and conclusions of law, separately stated. Findings of
21 fact, if set forth in statutory language, shall be accompanied
22 by a concise and explicit statement of the underlying facts
23 supporting the findings. If, in accordance with agency rules, a
24 party submitted proposed findings of fact, the decision shall
25 include a ruling upon each proposed finding. Parties or their

1 agents appointed to receive service of process shall be
2 notified either personally, ~~or~~ by registered or certified mail,
3 or by email as provided by Section 10-75, or as otherwise
4 provided by law ~~of any decision or order~~. Upon request a copy
5 of the decision or order shall be delivered or mailed forthwith
6 to each party and to his attorney of record.

7 (b) All agency orders shall specify whether they are final
8 and subject to the Administrative Review Law. Every final order
9 shall contain a list of all parties of record to the case
10 including the name and address of the agency or officer
11 entering the order and the addresses of each party as known to
12 the agency where the parties may be served with pleadings,
13 notices, or service of process for any review or further
14 proceedings. Every final order shall also state whether the
15 rules of the agency require any motion or request for
16 reconsideration and cite the rule for the requirement. The
17 changes made by this amendatory Act of the 100th General
18 Assembly apply to all actions filed under the Administrative
19 Review Law on or after the effective date of this amendatory
20 Act of the 100th General Assembly.

21 (c) A decision by any agency in a contested case under this
22 Act shall be void unless the proceedings are conducted in
23 compliance with the provisions of this Act relating to
24 contested cases, except to the extent those provisions are
25 waived under Section 10-70 and except to the extent the agency
26 has adopted its own rules for contested cases as authorized in

1 Section 1-5.

2 (Source: P.A. 100-212, eff. 8-18-17.)

3 (5 ILCS 100/10-75 new)

4 Sec. 10-75. Service by email.

5 (a) The following requirements shall apply for consenting
6 to accept service by email:

7 (1) At any time either before or after its issuance of
8 a hearing notice as described in Section 10-25, an agency
9 may require any attorney representing a party to the
10 hearing to provide one or more email addresses at which
11 they consent to accept service of documents described in
12 Sections 10-25 and 10-50 in connection with the hearing. A
13 party represented by an attorney may provide the email
14 address of the attorney.

15 (2) To the extent a person or entity is subject to
16 licensure, permitting, or regulation by the agency, or
17 submits an application for licensure or permitting to the
18 agency, that agency may require, as a condition of such
19 application, licensure, permitting, or regulation, that
20 such persons or entities consent to service by email of the
21 documents described in Sections 10-25 and 10-50 for any
22 hearings that may arise in connection with such
23 application, licensure or regulation, provided that the
24 agency: (i) requires that any person or entity providing
25 such an email address update that email address if it is

1 changed; and (ii) annually verifies that email address.

2 (3) At any time either before or after its issuance of
3 a hearing notice as described in Section 10-25, an agency
4 may request, but not require, an unrepresented party that
5 is not subject to paragraph (2) of this subsection (a) to
6 consent to accept service by email of the documents
7 described in Sections 10-25 and 10-50 by designating an
8 email address at which they will accept service.

9 (4) Any person or entity who submits an email address
10 under this Section shall also be given the option to
11 designate no more than two secondary email addresses at
12 which the person or entity consents to accept service,
13 provided that, if any secondary email address is
14 designated, an agency must serve the documents to both the
15 designated primary and secondary email addresses.

16 (b) Notwithstanding any party's consent to accept service
17 by email, no document described in Sections 10-25 or 10-50 may
18 be served by email to the extent the document contains:

19 (1) a Social Security or individual taxpayer
20 identification number;

21 (2) a driver's license number;

22 (3) a financial account number;

23 (4) a debit or credit card number;

24 (5) any other information that could reasonably be
25 deemed personal, proprietary, confidential, or trade
26 secret information; or

1 (6) any information about or concerning a minor.

2 (c) Service by email is deemed complete on the day of
3 transmission. Agencies that use email to serve documents under
4 Sections 10-25 and 10-50 shall adopt rules that specify the
5 standard for confirming delivery, and in failure to confirm
6 delivery, what steps the agency will take to ensure that
7 service by email or other means is accomplished.

8 (d) This Section shall not apply with respect to any
9 service of notice other than under this Act.