

**2024
ANNUAL REPORT**

of the

**JOINT COMMITTEE ON
ADMINISTRATIVE RULES**

Submitted to the Members of the Illinois General Assembly

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REP. JACKIE HAAS
REP. STEVEN REICK
REP. CURTIS J. TARVER, II
REP. DAVE VELLA

TO: Honorable Members of the 104th General Assembly

FROM: Bill Cunningham, Co-Chair
Ryan Spain, Co-Chair

DATE: February 1, 2025

RE: JCAR Annual Report

As Co-Chairs of the Joint Committee on Administrative Rules, we hereby submit the 2024 Annual Report of that Committee. An overview of the Committee's rules review activities can be found in the following pages.

The Joint Committee on Administrative Rules gratefully acknowledges your continued support and assistance. We encourage all members of the General Assembly to take an active role in this vital oversight function guaranteeing that the public right to know is protected through an open rulemaking process. We welcome your suggestions and comments on agency rules and the role of the Committee. Only as each elected representative becomes concerned and involved in the oversight process can the Committee ensure that the intent of the legislation the General Assembly passes is maintained.

JCAR

Annual Report: 2024

Table of Contents

JCAR: CREATION AND PURPOSE.....	2
JCAR MEMBERSHIP.....	5
ILLINOIS RULEMAKING PROCESS	7
2024 RULEMAKING ACTIVITY.....	12
PROPOSED RULEMAKINGS	12
EMERGENCY RULEMAKINGS.....	15
PEREMPTORY & EXEMPT RULEMAKINGS	16
REQUIRED RULEMAKINGS.....	17
RULEMAKING DATA 2024.....	18
RULES PROPOSED OR INITIALLY PROMULGATED IN 2024, BY AGENCY.....	18
RULES ADOPTED IN 2024, BY AGENCY	21
RULES REVIEWED BY JCAR IN 2024, BY TYPE.....	23
RULES REVIEWED BY JCAR IN 2024, BY AGENCY.....	23
JCAR ACTION IN 2024, BY RULE TYPE.....	25
JCAR ACTION IN 2024, BY AGENCY.....	26
JCAR ACTION BASIS IN 2024, WITH AGENCY RESPONSES	27
JCAR AGENCY RESPONSE ASSESSMENTS.....	29
OTHER REPORTS	30
Legislation Related to Rulemaking Issues.....	30
Public Act Review.....	33
Complaint Review Program	34

JCAR: Creation and Purpose

Creation

The Illinois General Assembly created the Joint Committee on Administrative Rules (JCAR) in 1977, delegating to it the legislative branch's responsibility of ensuring that the laws it enacts are appropriately implemented via administrative law. The specific duties and authorities of JCAR are outlined in the Illinois Administrative Procedure Act (IAPA) [5 ILCS 100]. The IAPA also governs the Illinois rulemaking process.

Responsibilities

The Committee's principal programs and activities include:

- *Review of General Rulemaking* to facilitate involvement by the affected public and to make the review process a timely and efficient one that assists State agencies in their goal of enacting the best administrative law possible.
- *Review of Emergency and Peremptory Rulemakings* to ensure that they are justifiable within the IAPA's limitations on these types of rulemakings. Emergency and peremptory rulemakings are not subject to the IAPA's public comment requirements and thus should be used with care.
- *Review of Existing Agency Rules and Policies* to determine if they have been properly promulgated, are unauthorized or unreasonable, or result in serious negative impact on the citizens of this State. These reviews can be undertaken upon JCAR's own initiative or in response to a complaint from the public (see 1 Ill. Adm. Code 260).
- *Public Act Review* to determine the necessity for new or amendatory rulemaking in response to legislative changes. JCAR analyzes recently enacted laws to determine whether they require rulemaking, contacts the agencies regarding these laws, and monitors agency activity to determine if appropriate action is taken.
- *Legislative Tracking* to determine if any proposed legislation might amend the IAPA. JCAR then brings to agencies' attention any resulting changes in rulemaking procedures. Legislation involving issues that have recently come before JCAR is also tracked.
- *Legislative Input* to follow its IAPA mandate to continually improve the rulemaking process. JCAR occasionally initiates legislation revising the IAPA. It also may propose legislation when rules review brings attention to a statutory insufficiency or lack of clarity or to enforce its Objections or Recommendations when an agency has refused to adhere to those Objections or Recommendations.
- *Public Information* to facilitate citizen involvement in the rulemaking process. JCAR provides information on rules and the rulemaking process to legislators and the public through several conduits.

First, JCAR makes available (online at www.ilga.gov/commission/jcar/flinn/flinn.asp) *The Flinn Report: Illinois Regulation* (TFR), a weekly newsletter that summarizes State agency rulemaking activities. Many people find that TFR is an easier way to stay abreast of current rulemakings than monitoring the weekly *Illinois Register* since TFR highlights the major issues and informs the reader where to find further information.

Second, JCAR has created and maintains the Illinois Administrative Code database, used in the publishing of the *Illinois Register* by the Secretary of State's Index Department. State agencies can request materials from the database for use in drafting amendatory rulemakings. The database is accessible on the General Assembly website (www.ilga.gov/commission/jcar/admincode/titles.html). Although emergency rules are not incorporated into the text of the database, the website indicates that emergency rules have been adopted and provides a link to the specific *Illinois Register* issue with the text of that rule. When an agency moves a rulemaking from the First Notice (public comment) period to the Second Notice (JCAR review) period, JCAR engrosses any First Notice changes into the text of the rulemaking and posts this version on its website (<http://www.ilga.gov/commission/jcar/SecondNotices/SecondNotices.asp>). This is the version of the rulemaking that JCAR reviews.

Third, JCAR staff is always available to respond to inquiries from General Assembly members and the public. For more information, call 217/785-2254 or contact JCAR by e-mail at jcar@ilga.gov.

The Review Process

JCAR members meet at least monthly to consider an agenda that generally includes from 35 to 50 separate rulemakings by State agencies. In a year's time, JCAR will review approximately 20,000 pages of rule text. The IAPA requires that the Committee's analysis of rulemakings be based on concerns such as statutory authority, legislative intent, necessity of the regulation, economic impact on State government and the affected public, completeness and appropriateness of standards to be relied upon in the exercise of agency discretion, effect on local government through the creation of a mandate, adherence to IAPA rulemaking requirements, and technical adequacy.

JCAR's review of agency regulatory proposals is predominantly substantive. Its major concern is that statutory law is applied fairly and consistently, creating as little paperwork and economic burden for the affected public as possible and ensuring that each person is equal before the law. The Committee serves as the final avenue for input from the public before a rulemaking is formally adopted. Recommendations from the public are always welcome and are actively sought. The Committee recognizes that no one is as qualified to comment on the appropriateness and practicality of a proposed regulation as the individual whose activities or business practices will be affected by that regulation. Comment on any proposed or existing State regulation may be submitted to the Committee at 700 Stratton Building, Springfield IL 62706, by e-mail at jcar@ilga.gov, or by calling 217/785-2254.

JCAR's perusal of agency rulemakings serves a technical purpose as well. The various rulemakings of the State agencies collectively comprise the Illinois Administrative Code. In giving a final technical review to each agency proposal, JCAR, along with the Secretary of State's Index Department, strives to achieve some degree of consistency among the individual agencies' portions of the Code and to make the Code as readable and understandable for the public as possible. If you believe a specific portion of the Code is unreadable for the general public, please contact the agency that adopted the rule or contact JCAR directly.

Annual Report

This Report includes narratives of JCAR activity during 2024, as well as statistical summaries of the rulemaking activities of State agencies. The summary of legislation affecting JCAR reflects activity of the 2nd year of the 103rd GA. This Report also includes an historical overview of all Filing Prohibitions issued for proposed rules and Suspensions of emergency or preemptory rules.

JCAR Membership

The Joint Committee on Administrative Rules consists of 12 members of the General Assembly, of whom 3 are appointed by the President of the Senate, 3 by the Minority Leader of the Senate, 3 by the Speaker of the House of Representatives, and 3 by the Minority Leader of the House of Representatives. The 2 Co-Chairs are not members of or identified with the same house or the same political party.

2024 MEMBERS

Senator Bill Cunningham, Co-Chair
Senator Cristina Castro
Senator Donald DeWitte
Senator Dale Fowler
Senator Napoleon Harris III
Senator Sue Rezin

Representative Ryan Spain, Co-Chair
Representative Eva-Dina Delgado
Representative Jackie Haas
Representative Steven Reick
Representative Curtis Tarver
Representative Dave Vella

FORMER & CURRENT MEMBERS

(* = Co-Chair, Chair or Vice Chair; **bold** = **current member**)

Note: Members ending their JCAR tenure after a January meeting are listed as having left at the end of the previous calendar year.

Pamela Althoff (2011-15)
Bill W. Balthis (1993-96)
Allen Bennett (1977)
*Arthur L. Berman (1979-85)
Bill Black (2001)
*Prescott E. Bloom (1977-85)
Glen L. Bower (1979-82)
Jack E. Bowers (1977-79, 81-82)
Woods Bowman (1983-85)
William "Bill" Brady (2015-17)
Peter Breen (2017-18)
J. Bradley Buryzynski (1995-2010)
Cristina Castro (2023-)
James F. Clayborne, Jr. (2004-08)
*John W. Countryman (1989-90)
Mary Lou Cowlshaw (1993-98)
Tom Cross (1999-2002)
*Maggie Crotty (2003-12)
John Cullerton (1982-85)
***Bill Cunningham (2020-)**
John Curran (2020-23)
Michael Curran (1985-86)
Barbara Flynn Currie (2006, 2018)
Richard M. Daley (1977-79)

Steve Davis (2001-03)
Eva-Dina Delgado (2023-)
Tom Demmer (2016-23)
Vince Demuzio (1981-85)
Donald DeWitte (2021-)
*Laura Kent Donahue (1983-93)
James H. Donnewald (1977-79)
Thomas Dunn (1989-93)
*Jim Edgar (1977-78)
Tom Ewing (1990-91)
Beverly Fawell (1991-99)
Monroe Flinn (1977-79, 1982-95)
Dale Fowler (2023-)
John Fritchey (2007-10)
Barbara Giolitto (1993-94)
James Gitz (1981-82)
Alan J. Greiman (1977-81)
Jackie Haas (2023-)
Kenneth Hall (1987-89)
Michael Halpin (2019-23)
*Don Harmon (2011-20, 22)
Greg Harris (2011-18)
Napoleon Harris III (2024-)
Charles Hartke (1995-97)
Karen Hasara (1993-95)

*Brent Hassert (2003-08)
 Carl E. Hawkinson (1983-85)
 Larry Hicks (1986-94)
 Manny Hoffman (1991-93)
 Tom Holbrook (2003-07)
 Randall Hultgren (2007-10)
 Mattie Hunter (2009-10)
 Frances Hurley (2019-23)
 *Emil Jones, Jr. (1985-93)
 John O. Jones (2011-12)
 Jeremiah E. Joyce (1979-87)
 Douglas N. Kane (1979-81)
 Doris Karpel (1985-91, 2000-02)
 Richard Kelly, Jr. (1979-82)
 Bob Kustra (1981-85)
 Lou Lang (2007-18)
 *Thaddeus Lechowicz (1985-87)
 David Leitch (2003-08, 2013-16)
 Larry Leonard (1977-79)
 Ellis Levin (1983-93)
 Kimberly Lightford (2019-2023)
 Richard Luft (1983-85)
 Lisa Madigan (2000-02)
 John W. Maitland, Jr. (1981-85)
 Lynn Martin (1977-80)
 John M. Matejek (1977-79)
 Roger McAuliffe (1977-79)
 Karen McConaughay (2015-18)
 Thomas J. McCracken, Jr. (1986-91)
 Sam McGrew (1979)
 Larry McKeon (2003-06)
 A. T. "Tom" McMaster (1979-87)
 Jim Meyer (1999)
 David Miller (2003-10)
 Don Moffitt (2009-14)
 Rosemary Mulligan (2003-12)
 Antonio Munoz (2013-22)
 Matt Murphy (2015-16)
 Phil Novak (1995-2003)
 *Barack Obama (1999-2004)

Bill O'Daniel (1987-2002)
 *Myron Olson (1983-89)
 Coy Pugh (1997-2000)
 Steve Rauschenberger (1993-2006)
 Jim Rea (1993-99)
 David J. Regner (1977-80)
Steven Reick (2019-)
 *Jim Reilly (1977-83)
Sue Rezin (2013-14, 2018-)
 Dale Righter (2011-14)
 Philip J. Rock (1977-79)
 Dan Rutherford (1997-2010)
 *Tom Ryder (1987-2001)
 *Ron Sandack (2015-16)
 George Sangmeister (1979-81)
 *Angelo "Skip" Saviano (2009-12)
 Frank Savickas (1979-81)
 Paul Schimpf (2018-21)
 *Tim Schmitz (2013-14)
 John Sharp (1977)
 Ira Silverstein (2003-18)
***Ryan Spain (2023-)**
 Todd Stroger (2001)
Curtis Tarver (2021-)
 *Art Tenhouse (2001-02)
 André Thapedi (2011-2021)
 *Donne Trotter (1993-99)
 *Mike Tryon (2015-16)
Dave Vella (2023-)
 *Sam Vinson (1985-86)
 Richard A. Walsh (1977-82)
 Chuck Weaver (2016-20)
 Larry Wennlund (1991-93)
 *Keith Wheeler (2016-23)
 Robert W. Winchester (1979-82)
 Kay Wojcik (1983-85)
 Harry "Babe" Woodyard (1986-93)
 Larry Woolard (1995-2000)
 *Harry "Bus" Yourell (1977-83)

Illinois Rulemaking Process

Illinois law exists in 4 basic forms:

- Constitutional law creates broad guidelines.
- Statutory law is enacted by the legislature and creates specific restrictions, authorities, and programs.
- Administrative law adds the detail often necessary to implement statutory law.
- Case law evolves to fill in the details left unresolved by the 3 previous categories of law.

In 1975, the Illinois General Assembly enacted the Illinois Administrative Procedure Act (IAPA) [5 ILCS 100] to create a procedure by which administrative agencies would exercise their legislature-delegated authority to implement administrative law through adopting agency regulations. In 1977, the IAPA was amended to add a process by which the General Assembly could oversee the exercise of this delegated authority through the Joint Committee on Administrative Rules (JCAR), a service agency of the General Assembly. Administrative agency rules are valid and enforceable only after they have been through the rulemaking process. Rules to interpret or implement provisions of a statute and should not extend or limit a statute's scope.

Types of Rulemakings

Proposed Rules. These can be new rules or amendatory rulemakings. Frequently this is referred to as "regular rulemaking" or "permanent rulemaking". A two-step (First Notice and Second Notice) process is followed, requiring 90 to 365 days. Aside from the two 45-day periods, First Notice and Second Notice, the agency controls the timing. Both the general public and the General Assembly, through JCAR, can have input before adoption.

Emergency Rules. These rules are effective immediately upon the agency filing them with the SOS or within 9 days after filing. These rules can be developed unilaterally by the agency; JCAR reviews after the rules are adopted. Unless an earlier expiration date is specified or statute allows a longer effective period, an emergency rule lasts 150 days or until the emergency rule is replaced by a permanent rulemaking. Emergency rulemaking can be used only if the agency finds a threat to the public interest, safety or welfare exists that the rulemaking will address.

Peremptory Rules. The IAPA provides for the immediate adoption of a rule required as a result of a collective bargaining agreement, court order, or federal law or regulation under conditions that preclude discretion by the agency concerning the rule's content. Peremptory rules are effective upon filing with the SOS or on the date required by the agreement, court order, or federal law or regulation. JCAR reviews these rules after their adoption.

Exempt or Identical in Substance Rules. The IAPA, the Environmental Protection Act, and the Illinois Emergency Management Act create a special process through which PCB and IEMA can adopt regulations that are identical in substance to federal regulations that the State is required to adopt and enforce. These rulemakings are reviewed by JCAR after adoption.

Required Rulemaking. These are rules that can be adopted unilaterally by the agency by filing with the SOS. Examples are organization charts, principal address, Freedom of

Information Act information, hearing officer qualifications, etc. JCAR reviews required rules after their adoption.

The Process

Drafting of Rules. Administrative rules are drafted by State agencies; there is no central drafting bureau that does for rules what the Legislative Reference Bureau does for statutes. Public involvement in the initial drafting is at an agency's discretion. However, the IAPA encourages early public involvement and requires agencies to semiannually publish a Regulatory Agenda in the *Illinois Register* indicating, to the best of the agency's knowledge, the scope of the next 6 months of rulemaking activity. Regulatory Agendas are published in January and July of each year.

First Notice. The First Notice period starts when an agency's Notice of Rulemaking is published in the *Illinois Register*. First Notice lasts a minimum of 45 days and ends when the agency files with JCAR, starting the Second Notice period. The only limitation is that a rulemaking expires if it is not adopted within one year after the beginning of First Notice. The IAPA requires that the Department of Commerce and Economic Opportunity review each proposed rulemaking during First Notice to determine any possible impact on small businesses. The general public can submit comments on the proposed rulemaking to the agency. A public hearing may or may not be held during this period. The agency can volunteer to hold a hearing or must conduct one at the request of the Governor, JCAR, an association representing over 100 persons, 25 individuals, or a local government. Requests for a hearing must be filed within 14 days after publication of the First Notice. The agency can modify the rulemaking during First Notice by submitting a First Notice Changes document to JCAR when it files its Second Notice.

Second Notice. The Second Notice period commences upon the agency's filing of the Second Notice with JCAR and lasts for a maximum of 45 days unless JCAR and the agency agree to extend it for an additional 45 days. The Second Notice period is a time window during which JCAR can take action on a rulemaking, typically at the next scheduled meeting. During the Second Notice Period, JCAR reviews the proposed rules for statutory authority, propriety, standards for the exercise of discretion, economic effects, clarity, procedural requirements, technical aspects, etc.

During the JCAR review, JCAR and the agency can agree to modifications in the rulemaking that are adopted through written JCAR Agreements. The Agreements are appended to the Certificate of No Objection issued by JCAR at its regular meeting and are still applicable if no Certificate is issued but the agency proceeds to adopt. If the agency does not choose to modify a rulemaking or if policy differences cannot be resolved during the review process, JCAR can take one of several actions.

JCAR Actions

Certificate of No Objection. If JCAR has no specific concerns about a rulemaking, it often issues a Certificate of No Objection. With this Certificate, the agency can adopt the rulemaking by filing it with the Secretary of State regardless of whether the Second Notice period has officially expired. It is important to note, however, that JCAR's failure to object to a provision in

a rulemaking does not necessarily constitute its approval of that provision, and JCAR has the authority to act on any existing rule at any time.

Recommendation. (Issued along with a Certificate of No Objection) If JCAR has concerns about a rulemaking that do not rise to the level of an Objection, it can vote to recommend that the agency take a specific course of action in the future. Agencies must respond to recommendations within 90 days after receipt of the statement of the specific recommendations. An agency should respond to each recommendation for action by agreeing or refusing to pursue the action, and should clearly state the nature (e.g., agreement to modify, agreement to withdraw, refusal to modify or withdraw) and rationale for its response. However, that agency can also adopt the rules without any changes once the Second Notice period is ended (either by expiration of the full 45 or 90 days or by the issuance of a Certificate of No Objection).

Objection. JCAR can issue an Objection in response to part or all of a rulemaking if that rulemaking does not meet all of the IAPA's substantive and procedural requirements for rulemaking. An agency must respond to an Objection in writing within 90 days after it receives the Statement of Objection, but after responding to the Objection it can proceed to adopt without making changes. The agency can modify or withdraw in response to a JCAR Objection or adopt the rules without changes (JCAR agreements still apply in the latter case). Failure to respond to an Objection within the required 90 days results in the automatic withdrawal of the rulemaking.

Filing Prohibition/Suspension. If JCAR determines that some or all of a rulemaking poses a threat to the public interest, safety, or welfare, it can prohibit the filing of a proposed rulemaking (or, in the case of an emergency, peremptory, or required rule that has already taken effect, suspend it). To suspend or prohibit the filing of a rule, 3/5 of the members appointed to the Committee (typically 8 of the 12 members) must vote to do so. Once a filing prohibition is issued, the proposed rulemaking cannot be accepted by the Secretary of State or enforced by the agency unless JCAR withdraws the prohibition or the General Assembly acts to end the prohibition within 180 days. An emergency, peremptory, or required rule that has already been adopted becomes null and void for 180 days, after which it is automatically repealed unless JCAR withdraws the suspension or the General Assembly acts to end the suspension within the allotted 180 days.

Public Information

There are five primary sources from which members of the public can stay informed about administrative law:

- ***Illinois Administrative Code*** (IAC). The IAC contains all agency rules currently in force. It is significantly larger than the Illinois Compiled Statutes and is maintained electronically by JCAR and the Legislative Information System on the General Assembly's website (<http://www.ilga.gov/commission/jcar/admincode/titles.html>). State agencies can ask JCAR for downloads, in Microsoft Word format, of specific Parts or Sections to use for drafting purposes.
- ***Illinois Register***. The *Illinois Register* is the official State publication through which the public is informed of rulemaking activity. The *Register* is prepared weekly by JCAR and is published by the Secretary of State on Fridays. It can be accessed through the General Assembly website (www.ilga.gov) or the Secretary of State's website

(<https://www.ilsos.gov/departments/index/register/home.html>). The Register contains First Notice publications of proposed rulemakings, notices of JCAR actions, a list of Second Notices received by JCAR, notices of final adoption of rulemakings, regulatory agendas (in January and July), executive orders and proclamations, and other miscellaneous agency notices as allowed by law. On average, the *Register* contains 19,000 pages per year.

- **The Flinn Report: Illinois Regulation** is a weekly online JCAR publication summarizing the rulemaking activity depicted in the matching issue of the *Illinois Register*. (It is named after Monroe L. Flinn, a founding JCAR member who served as Secretary for 10 of the 18 years he served on the Committee. The Flinn Report is available weekly on the General Assembly's website (<https://www.ilga.gov/commission/jcar/flinn/flinn.asp>).
- **Department of Commerce and Economic Opportunity (DCEO)**. In addition to preparing impact analyses for rulemakings likely to affect small businesses, DCEO's Illinois Office of Regulatory Flexibility maintains a website devoted to helping small business owners stay informed of rulemakings that may be of interest and produces a small business connection newsletter that provides important information on rule-related developments affecting the business community (<https://www2.illinois.gov/dceo/SmallBizAssistance/Pages/LawsRegsAndPermitting.aspx>).
- **Executive Branch Outreach**. Many agencies maintain a page on their website with information about pending and recent rulemakings, and often consult stakeholders before a rulemaking is formally proposed. In addition, some agencies are required by law to publish notices of rulemaking-related hearings in local newspapers.

Public Participation

One of the main reasons the IAPA was enacted was to enable the public to provide input into the rulemaking process. Any interested person can contact an agency during the First Notice period to comment on a proposed rulemaking. In addition, many agencies also consult with interest groups during a pre-First Notice drafting process. Under the IAPA's *ex parte* communication requirements, agency personnel must disclose the nature and content of any communications received that take a position or ask a substantive question related to a rulemaking. However, this requirement is not a valid reason for agency personnel to avoid talking to members of the public; it merely stipulates the recordkeeping requirement for that communication.

When the rulemaking goes to Second Notice, JCAR receives a copy or summary of all written comments submitted to the agency. In addition, members of the public can contact JCAR directly, and frequently do so if an agency refuses to modify a rulemaking in response to their comments or if they discovered the existence of the proposal too late for the First Notice public comment period.

Public comment is vital to the JCAR review process. Frequently, it is only through this comment that the Committee fully recognizes the effect of a rule on individuals, businesses, or local governments that have to adhere to it daily.

Members of the public may also suggest rule revisions to agencies using the Complaint Review Process outlined in 1 Ill. Adm. Code 260. JCAR can investigate an existing rule of its own volition or in response to a public complaint.

2024 Rulemaking Activity

In 2024 JCAR reviewed 375 rulemakings, 341 of which were proposed rulemakings, 13 emergency rulemakings, 1 peremptory rulemaking, 16 exempt rulemakings, and 4 required rulemakings.

(NOTE: Differences between the number of rules proposed and rules considered occur because rules that agencies propose near the end of one calendar year are considered by JCAR in the next.)

Some of the more notable rulemakings on which JCAR took action during 2024 follow.

Proposed Rulemakings

JCAR reviewed 341 proposed rulemakings, issuing 1 Objection and Filing Prohibition, 6 Objections and 2 Recommendations.

OBJECTION AND FILING PROHIBITION

DEPARTMENT OF HUMAN SERVICES – Fiscal/Administrative Recordkeeping and Requirements (89 Ill. Adm. Code 509; 48 Ill. Reg. 2769)

DHS proposed amendments to its general rules regarding grant awards. After negotiating a number of 2nd Notice changes, the agency and JCAR reached an impasse regarding allowable and unallowable travel costs, which had been an issue for some grantee agencies. At its 7/16/24 meeting, JCAR objected to, and prohibited the filing of, the rulemaking because the Department has not provided adequate rationale for allowable and unallowable cost restrictions as required by 1 Ill. Adm. Code 220.900(a)(2)(A). Also, no standards for agency discretion are present as required by 1 Ill. Adm. Code 220.900(a)(1)(B). ■ RESPONSE: After further negotiation, DHS agreed to state that travel cost reimbursement could not be categorically denied based on factors such as distance or cost per traveler, unless specified in the original Notice of Funding Opportunity, and to provide the grantee a written explanation (upon request) of any cost reimbursement that is denied. At its 9/10/24 meeting, JCAR lifted the Filing Prohibition contingent upon and effective with DHS adopting the agreed upon language. DHS adopted the revised rulemaking effective 9/27/24.

OBJECTIONS

ILLINOIS STATE POLICE – Firearm Owner’s Identification Card Act (20 Ill. Adm. Code 1230; 47 Ill. Reg. 13846)

ISP proposed rules implementing the Protect Illinois Communities Act (PICA), which requires persons who legally possessed (prior to 1/10/23) firearms now classified as assault weapons under this Act to register those firearms with ISP. At its 1/16/24 meeting, JCAR objected to this rulemaking because it did not meet proposed rulemaking criteria under 1 Ill. Adm. Code 220.900(a)(2)(E), which requires a rule to be simple and clear so that the rule can be understood by the persons and groups the rule affects. The rule contains definitions that are subjective and open to broad interpretation by an enforcing jurisdiction, which leaves the regulated public without

clear direction on how to comply with the rule. ■ RESPONSE: ISP disagreed with the Objection, stating that it took extensive steps to make the rule as simple and clear as possible and to provide the public with direction regarding compliance. The rulemaking was adopted effective 2/8/24. No further action was taken but JCAR Staff agreed to monitor ISP's implementation of these rules.

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY – Grocery Store Initiative Grant Program (14 Ill. Adm. Code 645; 47 Ill. Reg. 19258)

DCEO proposed rules establishing a grant program for grocery stores seeking to locate, upgrade or expand in “food deserts” where residents lacked access to affordable grocery shopping. At its 4/16/24 meeting, JCAR objected to this rulemaking because the Department invoked the contents of this rule prior to adoption in violation of Section 5-10(c) of the Illinois Administrative Procedures Act [5 ILCS 100/5-10(c)], which states that no agency rule is valid or effective against any person or party, nor may it be invoked by the agency for any purpose, until it has been made available for public inspection and filed with the Secretary of State. On 4/9/24, the Department announced, by press release, that applications for the Equipment Upgrades Program, which is described in this rule, are now closed and under review. If applications are already closed, then the Department invoked the eligibility criteria and application procedures found in this rule prior to JCAR's review and prior to the rule's adoption. Moreover, according to the Department’s 4/9/24 press release, Equipment Upgrade Program eligibility criteria not found in this rule are used. The Department is asked to review the application requirements and grant eligibility criteria it plans to enforce and ensure those items appear in this rule. ■ RESPONSE: DCEO modified the rule to include the eligibility criteria announced in the press release and adopted it effective 5/16/24. Due to the appropriateness of the agency’s response, no further action was recommended.

DEPARTMENT OF INNOVATION AND TECHNOLOGY – Uniform Electronic Transaction Act (14 Ill. Adm. Code 2000; 48 Ill. Reg. 1122)

DoIT proposed rules to implement the Uniform Electronic Transactions Act [815 ILCS 333] that directed State agencies to adopt electronic record and signature policies, without providing any specifications for these policies. At its 7/16/24 meeting, JCAR objected to the rulemaking because it fails to meet 1 Ill. Adm. Code 220.900(a)(1)(B), which requires a rulemaking to comply with the statutory authority and legislative intent on which the rulemaking is based. Section 18 of the Act requires the Department to adopt administrative rules that specify the manner and format in which electronic records and signatures be utilized by State agencies. The proposed rulemaking instead instructs each State agency to adopt an electronic record and signature policy, providing no uniform standards. ■ RESPONSE: DoIT indicated its intention to withdraw the rulemaking in response to the Objection, but did not do so before its one-year expiration on 1/18/25.

SECRETARY OF STATE – School Bus Permit (92 Ill. Adm. Code 1035; 48 Ill. Reg. 5663)

SOS proposed amendments allowing persons with currently valid or recently (within the past 30 days) expired out of state commercial driver's licenses with school bus driver endorsements to skip taking SOS' written test for school bus drivers. At its 8/14/24 meeting, JCAR objected to the rulemaking because the rulemaking does not comply with the statutory authority on which it is based on in accordance with 1 Ill. Adm. Code 220.900(a)(1)(B). The Secretary of State should seek statutory clarification within Sections 6-106.1(a)(4) and 6-508(c-1)(2) of the Illinois Vehicle Code. These sections require an applicant pass a written test "administered by the Secretary of State", and the statute does not clearly permit SOS to waive this requirement for any applicant. ■

RESPONSE: SOS agreed to seek a statutory clarification in the IVC during the 2025 Spring legislative session. The rulemaking was adopted effective 11/22/24. No further action was taken.

DEPARTMENT OF HUMAN SERVICES – Child Care (89 Ill. Adm. Code 50; 48 Ill. Reg. 9217)

DHS implemented the Smart Start Workforce Grant program, which provides grants to day care centers, day care homes and day care group homes for the purpose of raising teachers' and assistants' wages to at least \$17-\$19/hr. At its 9/10/24 meeting, JCAR objected to this rulemaking because the Department implemented this program outside of rule. Section 5-10(c) of the Illinois Administrative Procedure Act states that no agency rule is valid or effective until it has been made available for public inspection and filed with the Secretary of State. Public Act 103-8, which this rulemaking implements, became effective on June 7, 2023 and gave the Department until October 1, 2024 to adopt rules. However, the Department did not propose rules for the program until July 5, 2024 and had already opened and closed a grant application period for providers before that date. While the Department cited the need to negotiate with stakeholders and obtain appropriations for the program as the reason for the delay in promulgating rules, the consultation and rulemaking processes could have been started any time after the Public Act became effective. ■ RESPONSE: DHS stated that it is committed to ensuring that any statutorily required change is completed in a timely manner and implements policies in the best interest of Illinois residents. The rulemaking was adopted effective on its statutory deadline of 10/1/24. Due to the appropriateness of the agency's response, no further action was taken.

DEPARTMENT OF HUMAN SERVICES – Minimum Standards for Certification of Developmental Training Programs (59 Ill. Adm. Code 119; 47 Ill. Reg. 14982)

DHS proposed a comprehensive update of its rules for community day programs serving adults with developmental disabilities. At its 10/1/24 meeting, JCAR objected to the rulemaking because it does not meet the criteria of 1 Ill. Adm. Code 220.900(a)(1)(B) and (E). Public Act 103-1042, which will be effective January 1, 2025, allows the Department to impose progressive sanctions on MH/DD providers that fail to comply with rule or contract conditions and gives providers 30 days to appeal these sanctions. The Public Act requires that the Department adopt rules as necessary to implement these provisions. However, the provisions the Department has placed in this rulemaking do not comply with the Public Act's effective date and do not include clear standards for the exercise of the Department's discretionary authority. The Department agreed to withdraw this rulemaking in response to this Objection and to propose a new rulemaking no later than January 1, 2025. ■ RESPONSE: DHS withdrew the rulemaking on 10/21/24. As of 12/17/24, DHS was working with stakeholders on a new rulemaking to be proposed as soon as possible after 1/1/25. No further action was taken and JCAR Staff will monitor DHS' compliance with its agreement.

RECOMMENDATIONS

DEPARTMENT OF VETERAN'S AFFAIRS – MIA/POW Scholarship (95 Ill. Adm. Code 116; 47 Ill. Reg. 17433)

DVA proposed an update of its rules regarding scholarships for spouses and children of eligible veterans (deceased, disabled and MIA/POWs). At its 10/1/24 meeting, JCAR recommended that the Department be more timely in implementing statute in rule. Public Act 89-267, which became

effective January 1, 1996, removed the requirement that a child of an eligible veteran or serviceperson begin using this scholarship prior to age 26 and specified that the scholarship may be used by a spouse or child without regard to age. The Department never removed this age restriction from rule and appears to have continued to enforce the age restriction, contrary to statute, until this day. ■ RESPONSE: DVA updated the rulemaking text to reflect the statute and adopted it effective 11/13/24. DVA also stated that it agreed with the recommendation and will strive to promulgate rules in a timelier manner. Due to the appropriateness of the agency's response, no further action was taken.

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY – Business Exit Survey (14 Ill. Adm. Code 530; 48 Ill. Reg. 12684)

DCEO proposed rules under which it will send surveys to businesses that have left Illinois to help determine the reasons why they left and what can be done to retain businesses in the State. At its 12/10/24 meeting JCAR recommended that the Department be more timely in adopting statutorily required rules. Public Act 97-721, which established the Business Exit Survey and directed the Department to adopt rules to implement that survey, became effective on June 29, 2012. DCEO's response had not yet been received at year's end.

Emergency Rulemakings

Section 5-45 of the Illinois Administrative Procedure Act specifies that agencies may use emergency rulemakings, a short-form rulemaking procedure, in which a rule is adopted without prior notice and opportunity for public comment, only when the agency finds a situation exists that reasonably constitutes a threat to the public interest, safety, or welfare that requires the adoption of a rule within fewer days than normally required. The agency must state its reasons for the emergency finding in writing and make an effort to notify the affected public. An emergency rule becomes effective immediately upon filing with the Secretary of State or at a stated date less than 10 days after filing, and is effective for up to 150 days, after which a general rulemaking must be adopted if the policy is to continue. No emergency rule may be adopted more than once in any 24-month period unless statute specifies otherwise.

In 2024, JCAR reviewed 13 emergency rules, issuing 1 Objection and 2 Recommendations.

OBJECTION

DEPARTMENT OF PUBLIC HEALTH – Hospital Licensing Requirements (Emergency) (77 Ill. Adm. Code 250; 47 Ill. Reg. 18178)

In November 2023, DPH adopted its 8th consecutive emergency amendment implementing the federal Acute Hospital Care at Home (AHCH) waiver. At its 1/16/24 meeting, JCAR objected to DPH's use of emergency rulemaking because this emergency rule fails to meet the criteria of 1 Ill. Adm. Code 230.400(a)(1)(C), which states that the emergency situation addressed by the rule must have arisen through no fault of the agency. At its 12/13/22 meeting JCAR had recommended, with respect to the Department's emergency amendments to 77 Ill. Adm. Code 515 (46 Ill. Reg. 17682), that the Department avoid exercising its authority to adopt repeat emergency rules under Sec. 5-45(c) of the Illinois Administrative Procedure Act and Secs. 2(a) through (i) of the Department of Public Health Act [20 ILCS 2305] simply to avoid regulatory gaps prior to the adoption of a

permanent rulemaking. Despite this recommendation, the Department renewed this emergency rule twice without the declared public health emergency that prompted 6 previous adoptions of this emergency rule. The Department also had ample time to file for Second Notice and adopt the companion proposed rulemaking before the 7th emergency rule then in effect expired. ■ RESPONSE: DPH adopted the proposed rules effective 1/30/24. DPH acknowledged that it must avoid regulatory gaps and work towards adoption of a permanent rulemaking and will ensure that future emergency and proposed rulemakings are promulgated in a timely manner. No further action was taken.

RECOMMENDATIONS

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES – Medical Payment (89 Ill. Adm. Code 140; 48 Ill. Reg 5768) (Emergency)

DEPARTMENT OF HUMAN SERVICES –Medicaid Community Mental Health Services Program (59 Ill. Adm. Code 132; 48 Ill. Reg. 5799) (Emergency)

HFS and DHS adopted emergency rules establishing alternate background check criteria for persons seeking employment as Peer Support Workers for Violence Prevention-Community Support Teams. The legislative and rulemaking intent was to open the PSW position to persons with past criminal records that would otherwise disqualify them from employment in the mental health field. At its 5/14/24 meeting, JCAR recommended that both agencies be more timely in their use of emergency rulemaking to meet statutory deadlines. Amendments to Section 35-50 of the Reimagine Public Safety Act [430 ILCS 69] effective 6/7/23 required DHS and HFS to institute a joint background check waiver process on or before 10/1/23 that would limit the number and type of disqualifying criminal offenses for Peer Support Workers working with Violence Prevention-Community Support Teams. Both agencies could have appropriately used emergency rulemaking to meet the October 1 deadline. ■ RESPONSE: Both agencies agreed with the Recommendation and promised to be more timely with future emergency rules. Due to the appropriateness of the agencies' response, no further action was taken.

Peremptory & Exempt Rulemakings

Section 5-50 of the Administrative Procedure Act specifies that agencies may use this form of rulemaking procedure, in which the rule is adopted without prior opportunity for public, only if the rulemaking is required by federal law, federal regulations, court orders, or collective bargaining agreements; if the agency cannot exercise any discretion concerning the rule content; and under conditions that preclude compliance with general rulemaking requirements. Agencies must file the peremptory rule with the Secretary of State within 30 days after the change in rule is required.

Exempt rulemaking is a specialized form of rulemaking, similar to the peremptory rulemaking process, reserved for use by the Pollution Control Board (PCB) under the Environmental Protection Act [415 ILCS 5] and by the Illinois Emergency Management Agency (IEMA) under the Radiation Protection Act [420 ILCS 40]. PCB and IEMA can use this short-form procedure only to adopt Illinois regulations that are "identical in substance" to mandated federal regulations.

JCAR considered 1 peremptory and 16 exempt rulemakings in 2024. No action was taken on any of these rulemakings.

Required Rulemakings

Section 5-15 of the Illinois Administrative Procedure Act requires that each agency maintain as rules certain types of basic information about the agency and its rulemaking process. For example, the agency must include a description of its organizational structure; procedures by which the public can obtain information concerning the agency's programs, including Freedom of Information Act (FOIA) procedures; and a current description of the agency's rulemaking procedures and research tools for its body of rules. An agency may also adopt rules that incorporate material by reference and adopt rules that specify the qualifications of administrative law judges by using the required rulemaking process. Section 5-15 authorizes agencies to bypass the proposed rulemaking process and file a certified copy of a required rule with the Secretary of State for publication in the Illinois Register as an adopted rulemaking. JCAR reviews required rules after, rather than before, they are adopted.

JCAR reviewed 4 required rulemakings in 2024 and issued 1 Recommendation.

POLLUTION CONTROL BOARD – Organization, Public Information, and Types of Proceedings (2 Ill. Adm. Code 2175; 48 Ill. Reg. 15643)

PCB, using the required rulemaking procedure in IAPA Section 5-15, adopted amendments reflecting an update to the Open Meetings Act that added unexpected child care obligations to the permissible reasons for a Board member to participate in a meeting remotely. This rulemaking also corrected various statutory references and typographical errors. However, Section 5-15 limits required rulemakings to the following subjects: current descriptions or charts of the agency's organization and its rulemaking procedures; procedures by which the public can obtain information (including, but not limited to, Freedom of Information Act requests) or submit comments concerning agency actions; and materials such as indexes and tables of contents that enable the public to locate the agency's current rules. At its 12/10/24 meeting, JCAR recommended that the Board review Section 5-15 of the IAPA to ensure that its required rules are in compliance with this Section.

Rulemaking Data 2024

Rules Proposed or Initially Promulgated in 2024, by Agency

Agency	Total	Proposed	Emergency	Peremptory	Required	Exempt
Board of Examiners	1	1	0	0	0	0
Capital Development Board	3	3	0	0	0	0
Chief Procurement Officer for Department of Transportation	1	1	0	0	0	0
Department of Agriculture	2	2	0	0	0	0
Department of Central Management Services	12	12	0	0	0	0
Department of Children and Family Services	15	15	0	0	0	0
Department of Commerce and Economic Opportunity	11	11	0	0	0	0
Department of Corrections	1	1	0	0	0	0
Department of Financial and Professional Regulation	32	32	0	0	0	0
Department of Healthcare and Family Services	26	19	7	0	0	0
Department of Human Services	22	19	2	1	0	0
Department of Innovation & Technology	1	1	0	0	0	0
Department of Insurance	8	8	0	0	0	0
Department of Labor	3	3	0	0	0	0

Agency	Total	Proposed	Emergency	Peremptory	Required	Exempt
Department of Natural Resources	21	21	0	0	0	0
Department of Public Health	34	33	1	0	0	0
Department of Revenue	50	48	2	0	0	0
Department on Aging	1	1	0	0	0	0
Governor's Office of Management and Budget	1	1	0	0	0	0
Illinois Commerce Commission	5	5	0	0	0	0
Illinois Emergency Management Agency and Office of Homeland Security	6	6	0	0	0	0
Illinois Environmental Protection Agency	4	4	0	0	0	0
Illinois Finance Authority	1	1	0	0	0	0
Illinois Gaming Board	13	13	0	0	0	0
Illinois Housing Development Authority	3	3	0	0	0	0
Illinois Labor Relations Board	3	3	0	0	0	0
Illinois Law Enforcement Training and Standards Board	1	1	0	0	0	0
Illinois Medical District Commission	1	1	0	0	0	0
Illinois Racing Board	9	9	0	0	0	0
Illinois State Board of Education	9	8	1	0	0	0
Illinois State Board of Investment	1	1	0	0	0	0

Agency	Total	Proposed	Emergency	Peremptory	Required	Exempt
Illinois Student Assistance Commission	8	8	0	0	0	0
Office of the Attorney General	6	4	0	0	2	0
Office of the Auditor General	1	1	0	0	0	0
Office of the Secretary of State	18	17	1	0	0	0
Office of the State Fire Marshal	7	7	0	0	0	0
Office of the State Treasurer	3	2	0	0	1	0
Pollution Control Board	26	9	0	0	1	16
State Employees' Retirement System of Illinois	3	3	0	0	0	0
State Universities Civil Service System of Illinois	1	1	0	0	0	0
State Universities Retirement System of Illinois	1	1	0	0	0	0
Teachers' Retirement System of the State of Illinois	1	1	0	0	0	0
Total	376	341	14	1	4	16

Rules Adopted in 2024, by Agency

Agency	Total	Proposed	Emergency	Peremptory	Required	Exempt
Board of Boiler and Pressure Vessel Rules	1	1	0	0	0	0
Board of Examiners	1	1	0	0	0	0
Board of Higher Education	1	1	0	0	0	0
Capital Development Board	2	2	0	0	0	0
Chief Procurement Officer for Department of Transportation	1	1	0	0	0	0
Department of Agriculture	3	3	0	0	0	0
Department of Central Management Services	12	12	0	0	0	0
Department of Children and Family Services	8	8	0	0	0	0
Department of Commerce and Economic Opportunity	9	9	0	0	0	0
Department of Employment Security	3	3	0	0	0	0
Department of Financial and Professional Regulation	30	30	0	0	0	0
Department of Healthcare and Family Services	15	8	7	0	0	0
Department of Human Services	39	36	2	1	0	0
Department of Insurance	10	10	0	0	0	0
Department of Labor	2	2	0	0	0	0
Department of Natural Resources	34	34	0	0	0	0
Department of Public Health	37	36	1	0	0	0
Department of Revenue	34	33	1	0	0	0
Department of Transportation	2	2	0	0	0	0
Department of Veterans' Affairs	3	3	0	0	0	0
Department on Aging	3	3	0	0	0	0
Executive Ethics Commission	1	1	0	0	0	0
Health Facilities and Services Review Board	2	2	0	0	0	0

Agency	Total	Proposed	Emergency	Peremptory	Required	Exempt
Higher Education Travel Control Board	1	1	0	0	0	0
Illinois Community College Board	2	2	0	0	0	0
Illinois Criminal Justice Information Authority	1	1	0	0	0	0
Illinois Emergency Management Agency and Office of Homeland Security	5	5	0	0	0	0
Illinois Environmental Protection Agency	5	5	0	0	0	0
Illinois Gaming Board	2	2	0	0	0	0
Illinois Housing Development Authority	2	2	0	0	0	0
Illinois Labor Relations Board	4	4	0	0	0	0
Illinois Medical District Commission	1	1	0	0	0	0
Illinois Racing Board	9	9	0	0	0	0
Illinois State Board of Education	14	13	1	0	0	0
Illinois State Board of Investment	1	1	0	0	0	0
Illinois State Police	2	2	0	0	0	0
Illinois Student Assistance Commission	11	11	0	0	0	0
Office of the Attorney General	5	5	0	0	0	0
Office of the Auditor General	1	1	0	0	0	0
Office of the Secretary of State	11	10	1	0	0	0
Office of the State Fire Marshal	7	7	0	0	0	0
Office of the State Treasurer	3	2	0	0	1	0
Pollution Control Board	28	10	0	0	1	17
State Employees' Retirement System of Illinois	2	2	0	0	0	0
State Universities Civil Service System of Illinois	1	1	0	0	0	0
State Universities Retirement System of Illinois	1	1	0	0	0	0
Teachers' Retirement System of the State of Illinois	1	1	0	0	0	0
Total	373	340	13	1	2	17

Rules Reviewed by JCAR in 2024, by Type

Type	Number
Emergency	13
Exempt	16
Peremptory	1
Proposed	341
Required	4
Total	375

Rules Reviewed by JCAR in 2024, by Agency

Agency	Total	Proposed	Emergency	Peremptory	Required	Exempt
Board of Boiler and Pressure Vessel Rules	1	1	0	0	0	0
Board of Examiners	2	2	0	0	0	0
Board of Higher Education	1	1	0	0	0	0
Capital Development Board	2	2	0	0	0	0
Chief Procurement Officer for Department of Transportation	1	1	0	0	0	0
Department of Agriculture	3	3	0	0	0	0
Department of Central Management Services	12	12	0	0	0	0
Department of Children and Family Services	8	8	0	0	0	0
Department of Commerce and Economic Opportunity	10	10	0	0	0	0
Department of Employment Security	3	3	0	0	0	0
Department of Financial and Professional Regulation	32	32	0	0	0	0
Department of Healthcare and Family Services	14	7	5	0	0	0
Department of Human Services	34	31	2	1	0	0

Department of Innovation & Technology	1	1	0	0	0	0
Department of Insurance	11	11	0	0	0	0
Department of Labor	3	2	1	0	0	0
Department of Natural Resources	26	26	0	0	0	0
Department of Public Health	44	42	2	0	0	0
Department of Revenue	29	29	0	0	0	0
Department of Transportation	2	2	0	0	0	0
Department of Veterans' Affairs	3	3	0	0	0	0
Department on Aging	2	2	0	0	0	0
Executive Ethics Commission	1	1	0	0	0	0
Health Facilities and Services Review Board	2	2	0	0	0	0
Higher Education Travel Control Board	1	1	0	0	0	0
Illinois Commerce Commission	1	1	0	0	0	0
Illinois Community College Board	2	2	0	0	0	0
Illinois Emergency Management Agency and Office of Homeland Security	7	7	0	0	0	0
Illinois Environmental Protection Agency	3	3	0	0	0	0
Illinois Gaming Board	4	4	0	0	0	0
Illinois Housing Development Authority	2	2	0	0	0	0
Illinois Labor Relations Board	4	4	0	0	0	0
Illinois Medical District Commission	1	1	0	0	0	0
Illinois Racing Board	9	9	0	0	0	0
Illinois State Board of Education	14	13	1	0	0	0
Illinois State Board of Investment	1	1	0	0	0	0
Illinois State Police	1	1	0	0	0	0
Illinois Student Assistance Commission	11	11	0	0	0	0
Office of the Attorney General	7	5	0	0	2	0
Office of the Auditor General	2	2	0	0	0	0
Office of the Secretary of State	16	16	0	0	0	0

Office of the State Fire Marshal	7	7	0	0	0	0
Office of the State Treasurer	3	2	0	0	1	0
Pollution Control Board	27	10	0	0	1	16
State Employees' Retirement System of Illinois	2	2	0	0	0	0
State Universities Civil Service System of Illinois	1	1	0	0	0	0
State Universities Retirement System of Illinois	1	1	0	0	0	0
Teachers' Retirement System of the State of Illinois	1	1	0	0	0	0
Total	375	341	13	1	4	16

JCAR Action in 2024, by Rule Type

Type	Total	Obj	Rec	No Action No Obj	Obj Prohibition
Emergency	13	1	2	10	0
Exempt	16	0	0	16	0
Peremptory	1	0	0	1	0
Proposed	341	6	2	332	1
Required	4	0	1	3	0
Total	375	7	5	362	1

JCAR Action in 2024, by Agency

Agency	Total	Obj	Rec	Obj Prohibition
Department of Commerce and Economic Opportunity	2	1	1	0
Department of Healthcare and Family Services	1	0	1	0
Department of Human Services	4	2	1	1
Department of Innovation & Technology	1	1	0	0
Department of Public Health	1	1	0	0
Department of Veterans' Affairs	1	0	1	0
Illinois State Police	1	1	0	0
Office of the Secretary of State	1	1	0	0
Pollution Control Board	1	0	1	0
Total	13	7	5	1

JCAR action basis in 2024, with agency responses

Rule	Agency	Title	Type	Mtg Date	Adopted	Withdrawn	Action	Response	Basis
14-2000-24-01122	DoIT	Uniform Electronic Transactions Act	Proposed	7/16/24			Obj		Contradicts Statute
14-530-24-12684	DCEO	Business Exit Survey	Proposed	12/10/24	1/3/25		Rec		Timeliness
14-645-23-19258	DCEO	Grocery Store Initiative Grant Program	Proposed	4/16/24	5/16/24		Obj	Modification	Prior Implementation
2-2175-24-15643	PCB	Organization, Public Information, and Types of Proceedings	Required	12/10/24	9/18/24		Rec		IAPA Compliance
20-1230-23-13846	ISP	Firearm Owner's Identification Card Act	Proposed	1/16/24	2/8/24		Obj	Disagree	Unclear Definitions
59-119-23-14982	DFPR	Minimum Standards for Certification of Developmental Training Programs	Proposed	10/1/24		11/1/24	Obj	Withdraw	Contradicts Statute
59-132-24-05799E	DHS	Medicaid Community Mental Health Services Program	Emergency	5/14/24	3/28/24		Rec	Agree	Timeliness
77-250-23-18178E	DPH	Hospital Licensing Requirements	Emergency	1/16/24	11/24/23		Obj	Agree	Agency Fault in Emergency
89-140-24-05768E	DHFS	Medical Payment	Emergency	5/14/24	3/28/24		Rec	Agree	Timeliness
89-50-24-09217	DHS	Child Care	Proposed	9/10/24	10/1/24		Obj	Agree	Implementation Outside of Rule

Rule	Agency	Title	Type	Mtg Date	Adopted	Withdrawn	Action	Response	Basis
89-509-24-02769	DHS	Fiscal/Administrative Recordkeeping and Requirements	Proposed	7/16/24	9/27/24		Obj/Prohibition	Agree/Revise	Threat to Public Interest
92-1035-24-05663	SOS	School Bus Driver Permit	Proposed	8/14/24	11/22/24		Obj	Refusal	Contradicts Statute
95-116-23-17433	DVA	MIA/POW Scholarship	Proposed	10/1/24	11/13/24		Rec	Agree	Timeliness

JCAR Agency Response Assessments

N/A No recorded agency response. This could be because the agency response will happen at a future meeting, or it could be because the agency chose not to respond.

DTAR, NFA Due to the appropriateness of the agency's response, no further action.

NFA, SWM No further action, staff will monitor.

NFA No further action.

Agency	DTAR, NFA	N/A	Lift Filing Prohibition	NFA, SWM	NFA
Department of Commerce and Economic Opportunity	1	1	0	0	0
Department of Healthcare and Family Services	0	1	0	0	0
Department of Human Services	2	0	1	1	0
Department of Innovation & Technology	0	1	0	0	0
Department of Public Health	0	0	0	0	1
Department of Veterans' Affairs	0	1	0	0	0
Illinois State Police	0	0	0	1	0
Office of the Secretary of State	0	1	0	0	0
Pollution Control Board	0	1	0	0	0
Total	3	6	1	2	1

Other Reports

Legislation Related to Rulemaking Issues

Rulemakings considered by JCAR occasionally result in Objections or Recommendations based on lack of clear statutory authority, or written agreements with agencies to pursue legislation to clarify statute, resolve ambiguities, or seek specific statutory authority. The following are instances in which legislation considered during 2024 was prompted by a rulemaking issue, or in which suggestions to address statutory issues (if the agency is to pursue the proposed policy) had previously been made by JCAR.

PA 103-594/SB 1 created the Department of Early Childhood (DEC) to consolidate functions related to home visiting, early intervention, preschool, child care services, day care licensing, and other functions currently administered by DCFS (under the Child Care Act of 1969), SBE, and DHS. It required transition planning to begin by 7/1/24 and child care licensing rules currently promulgated by DCFS to be transferred to the DEC effective 7/1/26. The DEC was to observe the rulemaking procedures of the IAPA except that Sec. 5-35 (which requires agencies to use regular, emergency or preemptory rulemaking procedures as applicable) does not apply when the DEC adopts a rule required by federal law and is not exercising discretion. ■ RULEMAKING ISSUE: In 2023 DCFS was the subject of 2 complaint reviews, an Objection/Suspension of an emergency rule, and an Objection to a proposed rule due to its enforcement of policy outside of rule on day care providers. In October 2023 the Governor announced creation of a new agency to oversee all early childhood programs, including day care provider licensing. ■ NOTE: When implementing federal law that allows no agency discretion, DEC should be required to use the preemptory rulemaking process established in 5 ILCS 100/5-50, not a separate process outside of JCAR's review. Upon further review, it appears multiple State agencies' rulemaking authority is written in the same manner.

PA 103-959/SB 3235 amended the Illinois Community Reinvestment Act (ILCRA) to provide that the Commission on Equity and Inclusion shall conduct a disparity study to identify significant disparities by protected classes in financial products or services. DFPR may implement policies to address the findings of the study through rule. The study may not be funded by ILCRA examination fees. Also, **HB 5372** would have amended the Illinois Credit Union Act to provide that credit unions subject to ILCRA would pay an examination fee established by DFPR in rule, with all fees transferred into a dedicated Credit Union Community Reinvestment Act Fund. No action was taken on this bill. ■ RULEMAKING ISSUES: In 2022 DFPR proposed rules for ILCRA-covered financial institutions that included variable surcharges and assessments in the examination fees and provisions for a disparity study. Financial institutions objected to the surcharges and assessments, particularly those on small institutions. DFPR also did not have clear statutory authority at that time to require a disparity study. The industry and DFPR were unable to reach agreement on these and other issues before these rulemakings expired. In January 2024 DFPR proposed new rules without the disparity study and with a different fee structure for credit unions. These rules were adopted effective 5/1/24.

PA 103-1030/SB 3650 amended the Day and Temporary Labor Services Act to provide that, on or after 4/21/24, a day and temporary labor service agency shall pay a laborer who performs work for the same third party client for more than 720 hours within a 12-month period in accordance with a method, chosen at the sole discretion of the third party client, that ensures the laborer receives comparable pay to the third party client's regular employees for performing the same or similar work. This method shall be based on either the third party client's regular employee compensation or on data from the Bureau of Labor Statistics. The PA also clarifies what types of labor disputes (including strikes, lockouts, work stoppages, and informational picketing) day/temporary workers must be informed of at a work site, and advised of their right to refuse assignment to that site. ■ RULEMAKING ISSUE: DOL filed emergency and proposed rules to implement changes to this Act in 2023. JCAR objected to this emergency rule because it was too vague to provide meaningful guidance to employers, especially small businesses, regarding calculation of the equal pay for equal work requirement.

Legislation Related to the IAPA

The following are issues related to the IAPA, or issues that directly affected rulemaking procedures, that engendered or were associated with legislation proposed or considered during the 2024 session.

PA 103-605/HB 4844, the 2024 General Revisory, cleaned up duplicative and outdated emergency rulemaking provisions in IAPA Sec. 5-45, including multiple versions of Sec. 5-45.35.

A number of legislative initiatives approved in 2024 granted emergency rulemaking authority to the agencies charged with implementing these measures. They include:

PA 103-588/HB 4959, the Fiscal Year 2025 Budget Implementation Act, includes the following emergency rulemaking provisions: **IAPA Sec. 5-45.57** – DHS implementation of rate increases (eff. 1/1/25) for direct support and frontline personnel under Sec. 74 of the MH/DD Act. **IAPA Sec. 5-45.55** – DHS implementation of increased reimbursement rates for substance use disorder treatment. **IAPA Sec. 5-45.56** – HFS implementation of changes to the Public Aid Code, including rate increases for ICF/DD and MH/DD facilities. **Summer EBT Program** – DHS is authorized to implement this federal program by emergency rule, subject to federal approval and subject to appropriation. As of 1/1/25 none of the affected agencies had exercised their emergency rulemaking authority for these programs.

PA 103-601/HB 4615 amended IAPA Sec. 5-45.52 to provide that DFPR may adopt emergency rules implementing PA 103-568 (HB 2394, eff. 12/8/23) which allows the DFPR Secretary to extend expiration dates for any class of professional licenses, certificate or registrations to avoid undue hardship on the affected class, or for operational reasons (i.e., delays or backlogs in processing license applications and renewals). Establishes a sunset date of 8/4/25 for the emergency rulemaking provisions.

PA 103-650/HB 5395, eff. 1/1/25, amends the Network Adequacy and Transparency Act. Provides that the minimum ratio for each provider type shall be no less than any such ratio established for qualified health plans in Federally-Facilitated Exchanges (FEEs) by federal law or by federal CMMS. Provides that the maximum travel time and distance standards and appointment wait time standards shall be no greater than any such standards established for qualified health plans in FEEs or by CMMS. Amends the Managed Care Reform and Patient Rights Act and applies these protections to the medical assistance program. Further regulates how utilization review programs may operate and prohibits the practice of step therapy. Revises provisions for notice of nonrenewal or termination and transition of services. Authorizes DOI to adopt emergency rules implementing federal standards for provider ratios, time and distance, or appointment wait times when such standards apply to health insurance coverage regulated by DOI and are more stringent than the State standards extant at the time the final federal standards are published.

Public Act Review

Section 5-105 of the Illinois Administrative Procedure Act [5 ILCS 100] requires JCAR to maintain a review program to monitor the implementation of new laws and changes in the law that require rulemaking by State agencies. JCAR fulfills this statutory obligation through its Public Act review program.

Under this program, JCAR staff reviews each new Public Act and makes a preliminary determination as to whether rulemaking might be necessary for proper implementation. After JCAR staff culls the list of Public Acts that clearly do not require rulemaking (appropriations, criminal and civil law, local government issues), they contact the affected State agency for its opinion. If necessary, these written contacts are followed up with discussion between JCAR and the agency.

The final list of Public Acts for which JCAR and the agency agree that rulemaking is warranted is then monitored as long as necessary to insure that progress is made toward implementation. The primary goal of this program is to ensure that appropriate rules are put into effect in a timely manner, as required by Section 5-105 of the IAPA.

If suitable progress is not made, JCAR, by the vote of a majority of its members, can initiate an investigation into any existing agency rules. If, after the agency appears before the Committee to explain its failure to adopt anticipated rules, the JCAR members are not satisfied with the agency's response, the Committee can object to the agency's conduct and may initiate further legislation to clarify the issue.

Frequently an agency is prompted to complete the necessary rulemaking simply by a conversation with JCAR.

Complaint Review Program

The Illinois Administrative Procedure Act authorizes JCAR to review and investigate the rulemaking activities of State agencies when it receives a written complaint. No complaint review requests were received in 2024.

JCAR operates its complaint review program under Part 260 of its operational rules (1 Ill. Adm. Code 260). Complaints may address one or more of the following: an existing rule of an agency; failure of an agency to fully or properly enforce its rules; absence of rules required by statute or necessary for the proper conduct of an agency program or function; or an agency policy that is applied without being contained in agency rules promulgated under the IAPA.

Upon receipt of a complaint, JCAR initiates a review to determine the need for a full investigation. Staff may raise questions and discuss problems with the agency, and will attempt to inform the agency of the substance of the complaint and any proposals for JCAR action before the meeting. Staff will report the results of the review and a proposal for action at a JCAR monthly meeting. If there is evidence of problems with the rules, any JCAR member or the Executive Director can place a complaint on the agenda for a JCAR meeting. If the same issues have been previously considered by JCAR, a complaint will not be placed on the agenda unless the complaint reveals information not available to JCAR at the time the issue was considered which, if available, would have altered the outcome. Based on the complaint, JCAR may issue an Objection or Recommendation to an existing rule or to an agency's failure to maintain adequate rules, and allow the agency to respond.

Complaints should be sent to the Executive Director of the Joint Committee at:

Joint Committee on Administrative Rules
700 Stratton Building
Springfield, IL 62706
jcar@ilga.gov

Filing Prohibitions and Suspensions Issued by JCAR

2/1/25

IR = Illinois Register; IAC = Illinois Administrative Code

DATE	AGENCY	ACTION	BASIS	ISSUE
6/16/81	Health Fin Auth 4 IR 1915	Prohibition	Economic Impact/ Statutory Authority	Implements IHFA Act. Improper definition of "hospital services"; flawed reporting requirements; payor differentials; tries to establish a "contingent liability" agreement with the federal government. HFA modified; prohibition withdrawn.
4/13/82	EPA/DPH 4 IR 4669	Prohibition	Economic Impact	Public water supply samples; land & water samples; new regs on milk & milk products. Inadequate economic impact analysis; burdensome requirements for wastewater testing laboratories. EPA/DPH withdrew.
1/8/86	DNS 32 IAC 505 9 IR 1573	Prohibition	Economic Impact/ Federal Preemption	Extensive and burdensome regulation of nuclear steam-generating facilities. DNS withdrew.
9/23/87	DPR 68 IAC 250 11 IR 3836	Prohibition	Legislative Intent/ Freedom of Speech/ Economic Impact	Limitation on pre-need solicitation and sale of funeral arrangements. DPR withdrew.
3/7/90	DPR 68 IAC 1400 13 IR 2913	Prohibition	Economic Impact/ Statutory Authority	Requirements for clinical psychologist licensure conflicted with statute or lacked statutory authority. DPR modified; prohibition withdrawn.
9/17/91	DCFS 89 IAC 300 15 IR 8735	Prohibition	Statutory Authority/ Legislative Intent	Disallowed a statutorily required Christian Science exemption in the definition of "neglected child". DCFS modified; prohibition withdrawn.
1/8/92	DOI 50 IAC 2008 15 IR 14859	Prohibition	Economic Impact	Unlawful discrimination against the elderly by severely limiting the commission earned on the sale of Medicare supplement insurance policies, potentially restricting availability. DOI modified; prohibition withdrawn.
1/8/92	DonA 89 IAC 240 15 IR 17398	Suspension	Economic Impact	Program cutbacks without adequate notification and protection of elderly clients. DonA modified; prohibition withdrawn.
5/11/93	OSFM 41 IAC 100 16 IR 15681	Prohibition	Conflicting Regulations/Statutory Authority	Conflict between OSFM and DCFS on standards. OSFM modified; prohibition withdrawn. OSFM modified; prohibition withdrawn.
9/14/93	DOC 17 IAC 590, 17 IR 4554	Prohibition	Legislative Intent	Limits number of persons who can hunt geese from a single blind or hut to 3, without sufficient justification. DOC modified; prohibition withdrawn.

DATE	AGENCY	ACTION	BASIS	ISSUE
10/12/93	DPA 89 IAC 144, 140 17 IR 15162	2 Suspensions	Statutory Authority/ Legislative Intent	Reduction in payments to facilities caring for DD clients, in contradiction of PA 88-88. DPA repealed.
11/16/93	DFI 38 IAC 130 17 IR 6929	Prohibition	Economic Impact/ Legislative Intent	Unfair rate structure for cashing public aid checks. DFI withdrew.
12/14/93	ICC 83 IAC 315 93 IR 202	Prohibition	Economic Impact/ Overburdensome Regulation	Unfair rates paid by cable TV companies to utilities for use of pole space. ICC withdrew.
9/13/94	DPH 77 IAC 790 18 IR 3205, 3202	2 Prohibitions (New Rule & Repeal)	Statutory Authority/ Legislative Intent	Inclusion of drug products in the Ill. Drug Formulary that were not deemed equivalent by FDA or were exempt from FDA consideration. DPH withdrew.
11/15/94	DPA 89 IAC 140 18 IR 10922	Suspension	Statutory Authority	Medicaid coverage of abortions in rape/incest cases conflicted with statute limiting coverage to endangerment of mother's life. DPA repealed emergency rule.
2/7/95	SBE 23 IAC 401 18 IR 9756	Prohibition	Statutory Authority	Regulation of nonpublic special education facilities without statutory authority. SBE modified; prohibition withdrawn.
4/18/95	DASA 77 IAC 2090 19 IR 1156	Prohibition	Statutory Authority/ Legislative Intent/ Due Process	Alcoholism/substance abuse centers applying for certification as Medicaid providers with deficiencies in treatment programs will have applications denied with no chance for remediation and no chance to appeal the denial. DASA modified; prohibition withdrawn.
10/15/96	ICC 83 IAC 761, 762, 763, 764 20 IR 8416, 8407, 8393, 8395, 8527, 8541	2 (761, 763) Suspensions 4 Prohibitions (83 IAC 761, 762, 763, 764)	Overburdensome Regulation	Complex discovery procedures hinder ICC's ability to make an arbitration decision involving local telephone carriers and long distance carriers initiating local service within federal timeframes. ICC refused to modify or withdraw; prohibitions/suspensions withdrawn.
3/18/97	DNR 17 IAC 850 21 IR 322	Prohibition	Economic Impact	Eliminated commercial perch fishing on Lake Michigan will have an undue economic impact on the regulated business. DNR will do further rulemaking; prohibition withdrawn.
11/12/97	DPH 77 IAC 290 21 IR 13908	Suspension	Legislative Intent/ Adverse Impact on Availability of Adequate Health Care Facilities	Health facility plan review is statutorily required only for construction projects costing over \$5,000, not all projects. DPH withdrew.

DATE	AGENCY	ACTION	BASIS	ISSUE
2/17/99	SBEL 26 IAC 201, 202 22 IR 7858, 7862	2 Prohibitions	Statutory Authority/ Legislative Intent	Creates a system for SBEL staff review of nominating petitions for apparent conformity that is not consistent with statutory petition review procedures. SBEL withdrew.
4/11/00	ICC 83 IAC 726 24 IR 1	Prohibition	Statutory Authority/ Economic Impact/ Undue Reg. Burden	Extends application of Enhanced 9-1-1 requirements to schools, governments and not-for-profits in addition to the statutorily intended private businesses, corporations and industries. ICC modified; prohibition withdrawn.
6/13/00	ICC 83 IAC 727 24 IR 8635E	Suspension	Statutory Authority/ Economic Impact	Extends application of Enhanced 9-1-1 requirements to schools, governments and not-for-profits in addition to the statutorily intended private businesses, corporations and industries. ICC refused to modify or withdraw; suspension expired.
11/29/00	DFI 38 IAC 110 24 IR 11717	Prohibition	Economic Impact	This attempt to regulate short-term (payday) loans and cash for title loans creates an unreasonable economic burden for small lenders, which could result in diminished availability of loans for consumers with limited options. DFI refused to modify or withdraw; prohibition expired.
1/9/01	ICC 83 IAC 727 24 IR 8454	Prohibition	Statutory Authority	Extends application of Enhanced 9-1-1 requirements to schools, governments and not-for-profits in addition to the statutorily intended private businesses, corporations and industries. ICC refused to modify or withdraw; prohibition expired.
1/9/01	SBE 23 IAC 28 24 IR 16738	Suspension	Economic Impact	Under these preemptory rules, teachers will not be as qualified to teach children with special needs as current rule provides. Also, teachers will need additional training, which could result in fewer qualified teachers available to serve special education students. SBE implemented the settlement order as agency policy outside rule. PA 97-461 authorized SBE to use preemptory rulemaking to implement the federal court orders SBE adopted rules 8/22/11. SBE refused to modify or withdraw; suspension made permanent by SJR 26.
2/21/01	SBE 23 IAC 25 24 IR 16109	Suspension	Economic Impact	Continued enforcement would constitute a serious threat to the welfare of special education students. Implementation may result in unqualified teachers being assigned to students for whom the teacher has no training or preparation. (See above description.) SBE refused to modify or withdraw; suspension made permanent by SJR 26.
11/19/02	DPA 89 IAC 120 26 IR 5047	Prohibition	Statutory Authority under Federal Law	Exceeds federal statutory authority by adding restrictions on determining whether an annuity was transferred at fair market value. DPA failed to respond to objection within statutory time limit; rulemaking deemed withdrawn.
11/18/03	OBRE 38 IAC 375, 1000, 1075 27 IR 16024, 16029, 16043	3 Suspensions	No Legitimate Emergency	Increases fees assessed on financial institutions without proving the existence of a situation meriting the use of emergency rulemaking. OBRE repealed emergency rules.

DATE	AGENCY	ACTION	BASIS	ISSUE
2/18/04	DPR 68 IAC 1370 28 IR 1760	Suspension	Lack of standards	Lacks sufficient standards to be applied in determining whether a purported kickboxing event is actually an ultimate fighting event. (Amateur and professional kickboxing events are exempt from DPR's authority to ban ultimate fighting.) DPR repealed emergency rule.
2/18/04	ICC 92 IAC 1710 27 IR 8600	Prohibition	Economic Impact	Increasing the amount a commercial relocater of trespassing vehicles is charged for filing relocation tow record forms and numbers, regardless of whether the relocater is reimbursed for the tow, may create an undue economic burden on these businesses, which may result in a decrease in relocater availability. ICC refused to modify or withdraw; prohibition expired.
7/13/04	BHE 23 IAC 1020 28 IR 284	Prohibition	Statutory Authority/ Policy Outside Rule	Statute specifies programs eligible for Health Service Education Grants and does not give BHE authority to further limit that eligibility. BHE withdrew.
1/11/05	DPH 77 IAC 860, 870, 880, 885 28 IR 1652, 1674, 2613, 1684, 1717	4 Prohibitions	Threat to the Public Interest	DPH failed to give all affected parties the opportunity to discuss the proposed manufactured housing rulemakings and potential amendments, creating a threat to the public interest. DPH modified; prohibitions withdrawn; DPH failed to adopt before 1 year expiration.
6/14/05	ESRB 41 IAC 220 29 IR 1101	Prohibition	Statutory Authority	Creates elevator safety rules - Numerous provisions conflicted with statute or lacked statutory authority. ESRB withdrew.
4/11/06	SBE 23 IAC 305 30 IR 86	Prohibition	Threat to the Public Interest	Sets school nutrition standards that do not provide a total approach to child nutrition through diet, nutrition education and exercise; preempts the purview of the State Task Force on Wellness that is to consider the issue of school nutrition and report to the Governor and the General Assembly by January 2007; and largely excludes local school district input and expertise in development of the proposal. SBE modified; prohibition withdrawn.
7/11/06	DCFS 89 IAC 406, 408 29 IR 18180, 18207	2 Prohibitions	Economic Impact	The rulemakings lack clarity, which threatens the public interest in that applicants/licensees and the families they serve could be adversely economically impacted. DCFS modified; prohibition withdrawn.
7/11/06	DFPR 38 IAC 110 30 IR 2449	Prohibition	Statutory Authority	No statutory authority to apply Payday Loan Reform Act restrictions to Consumer Installment Loan Act licensees. DFPR refused to modify or withdraw; prohibition withdrawn on provisions affecting military; remainder is permanently prohibited.
11/14/06	DOL 56 IAC 220 29 IR 19106	Prohibition	Statutory Authority	The provisions regarding when employee breaks may be taken are not statutorily required and appear to be unduly restrictive without significant benefit. DOL withdrew.

DATE	AGENCY	ACTION	BASIS	ISSUE
1/9/07	SBE 23 IAC 226 30 IR 4421	Prohibition	Threat to the Public Interest	Incorporates Special Education federal rules – Adoption of policies is not mandated by the USDoE and poses a serious threat to the interests of children with disabilities and special education teachers. SBE modified; prohibition withdrawn.
2/6/07	DOA 8 IAC 25 30 IR 14664	Prohibition	Statutory Authority	Regulation and licensing of dog daycare – DOA inadequately justified the need for this new regulatory activity, which was not specifically authorized by statute. DOA modified; prohibition withdrawn.
3/13/07	ESRB 41 IAC 1000 30 IR 16522	Prohibition	Threat to the Public Interest	Creates elevator safety rules – Adoption of 1 st Notice modification requiring mechanics to work under the direct supervision of a licensed contractor without an opportunity for public to comment is a serious threat to the public interest. ESRB modified; prohibition withdrawn.
6/19/07	CMS 44 IAC 1 30 IR 19577	Prohibition	Statutory Authority	Allows piggybacking and multi-government procurement. CMS lacks statutory authority to permit numerous purchasing procedures and requirements of the Procurement Code to be bypassed. CMS withdrew.
9/18/07	DFPR 50 IAC 937 31 IR 10699E	Suspension	No Emergency	Sets supplemental quarterly reporting requirements for health insurance firms. No emergency situation warranted adoption of an emergency rule. Use of emergency rulemaking imposes new costs without the opportunity for prior review and comment by the affected public. DFPR repealed emergency rule.
10/10/07	DFPR 50 IAC 937 31 IR 10546	Prohibition	Statutory Authority	Sets supplemental quarterly reporting requirements for health insurance firms. No statutory authority. DFPR refused to modify or withdraw; prohibition permanent.
11/13/07	HFS 89 IAC 120 31 IR 15854E	Suspension	No Emergency	Expands FamilyCare to relatives of children receiving medical assistance with incomes of up to 400% FPL; picks up coverage for persons formerly receiving medical care under a federal State Children's Health Insurance Program waiver that expired 9/30/07. HFS repealed emergency rule.
1/11/08	HFS 89 IAC 140 31 IR 13570	Prohibition	Economic Impact	Authorizes medical assistance payment for routine examinations and preventive services for persons over 18 (currently children only). HFS refused to modify or withdraw; prohibition permanent.
1/11/08	DPH 77 IAC 975 31 IR 13672	Prohibition	Due Process	Implements Smoke Free Illinois Act. DPH refused to modify or withdraw; prohibition permanent.
2/13/08	HFS 89 IAC 147 32 IR 415	Suspension	No Emergency	Retools the Minimum Data System of determining reimbursement rates for medical assistance. HFS refused to modify or withdraw; suspension withdrawn.
2/26/08	HFS 89 IAC 120 31 IR 15424	Prohibition	Economic Impact	Expands FamilyCare to relatives of children receiving medical assistance with incomes of up to 400% FPL; picks up coverage for persons who have been receiving funds under the federal waiver that expired 9/30/07. HFS refused to modify or withdraw; prohibition permanent.

DATE	AGENCY	ACTION	BASIS	ISSUE
5/20/08	HFS 89 IAC 120 32 IR 7212	Suspension	Improper Use of Peremptory Rulemaking	Requires medical assistance recipients to meet TANF work requirements (FamilyCare). IAPA allows use of peremptory rulemaking to implement a court order. There was no court order. HFS refused to modify or withdraw; suspension permanent.
5/20/08	HFS 89 IAC 140 32 IR 6743	Suspension	Improper Use of Peremptory Rulemaking	Requires use of tamper-resistant prescription pads in order for a prescription to be eligible for Medicaid reimbursement. The IAPA deadline for implementing a federal requirement by peremptory rulemaking was exceeded. HFS failed to respond to objection; suspension permanent.
6/17/08	SBE 23 IAC 401 32 IR 4843	Suspension	No Emergency	Nonpublic and out-of-state providers of special ed services to students with disabilities must maintain a written policy that use of behavioral intervention strategies relying on pain will not be applied to any student. SBE repealed emergency rule.
9/16/08	SBE 23 IAC 401 32 IR 4705	Prohibition	Contravenes Statute	Nonpublic and out-of-state providers of special ed services to students with disabilities must maintain a written policy that use of behavioral intervention strategies relying on pain will not be applied to any student. SBE failed to respond to objection; deemed withdrawn.
11/19/08	HFS 89 IAC 120 32 IR 18889	Suspension	Improper Use of Peremptory Rulemaking	Requires medical assistance recipients to meet TANF work requirements (FamilyCare). IAPA allows use of peremptory rulemaking to implement a court order. There was no court order. HFS repealed peremptory rule.
11/19/08	DHS 89 IAC 121 32 IR 16905	Suspension	Improper Use of Peremptory Rulemaking	Implements provisions at the federal Food, Conservation and Energy Act of 2008 that made FS coupons obsolete after 6/18/08. DHS repealed peremptory rule.
3/17/09	HFS 89 IAC 140 32 IR 14003	Prohibition	Statutory Authority	HFS may deny participation in the medical assistance program to providers that owe a debt to HFS or if HFS receives credible evidence of fraud or willful misrepresentation under the medical assistance program. HFS modified; prohibition withdrawn.
6/16/09	HFS 89 IAC 140 32 IR 13761	Prohibition	Threat to the Public Interest	Describes group psychotherapy sessions eligible for medical assistance reimbursement. HFS modified; prohibition withdrawn.
6/16/09	DHS 89 IAC 686 33 IR 7017	Suspension	No Emergency	Implements enhanced rates to assist qualifying homemaker agencies providing healthcare coverage to their direct service employees. DHS repealed emergency rule.
7/14/09	DNR 17 IAC 3703 32 IR 14445	Prohibition	Economic Impact	Designates exclusion zones for run-of-river dams and sets specifications for signs and devices warning persons using public waters of the presence of dams. DNR refused to modify or withdraw; prohibition permanent.
9/15/09	DHS 89 IAC 112, 114 33 IR 5201, 5228	2 Prohibitions	Statutory Authority	Removes assets from consideration when determining an individual's eligibility for TANF and General Assistance. DHS withdrew.

DATE	AGENCY	ACTION	BASIS	ISSUE
9/15/09	DHS 59 IAC 270 33 IR 7054	Prohibition	Contravenes IAPA	Autism Research Fund grants. The rulemaking did not include sufficient grantmaking procedures and standards. DHS modified; prohibition withdrawn.
8/10/10	IEMA 32 IAC 330 33 IR 12061	Prohibition	Economic Impact	Exempts specified water and sewage treatment residuals or sludges containing naturally occurring radium from statutory registration, licensure, fee and reporting requirements and instead requires registration with IEMA. IEMA modified; prohibition withdrawn.
10/19/10	DFPR 68 IAC 1249 34 IR 5047	Prohibition	Economic Impact	Implements the Cemetery Oversight Act. DFPR withdrew.
4/12/11	SBE 23 IAC 30 34 IR 5047	2 Prohibitions	Statutory Authority	Establishes the Principal Preparation Program. SBE modified; prohibition withdrawn.
5/10/11	HFS 89 IAC 120 34 IR 11664	Prohibition	Statutory Authority/ Legislative Intent	Implements federal requirements for Medicaid eligibility for long term care assistance. HFS modified; prohibition withdrawn.
5/10/11	DFPR 50 IAC 8100 34 IAC 15926	Prohibition	Statutory Authority	Clarifies what activities will not be considered inducement for the referral of title insurance business. DFPR modified; prohibition withdrawn.
7/12/11	Treasurer 74 IAC 740 35 IR 8893	Suspension	No Legitimate Emergency	Revises administrative fee for participants in the Public Treasurers Investment Pool. Suspension withdrawn effective with adoption of modified permanent rule.
1/10/12	SOS 92 IAC 1001 35 IR 14916	Prohibition	Statutory Authority	BAIID exemption does not apply to a holder of a monitoring device driving permit using an employer's vehicle for personal use. SOS modified; prohibition withdrawn.
3/6/12	DPH 77 IAC 300 35 IR 9927	Prohibition	Lack of Clarity	Defines personnel delivering "direct care" for long term care facilities. DPH modified; prohibition withdrawn.
6/12/12	ICC 83 IAC 412	Prohibition	Statutory Authority	Sets requirements for retail electric suppliers' consumer education and protection programs providing for electric customer choice for residential or small retail commercial customers. ICC modified; prohibition withdrawn.
8/14/12	HFS 89 IAC 140.442(e)(4) 36 IR 11329	Suspension	Inappropriate Use of Emergency Rulemaking	In a SMART Act emergency rule, added antibiotics to medication types that do not require prior approval when a medical assistance recipient exceeds statutory limit of 4 prescriptions/mo. SMART Act did not address antibiotics. HFS modified; suspension withdrawn.

DATE	AGENCY	ACTION	BASIS	ISSUE
8/14/12	HFS 89 IAC 140.491 36 IR 11329	Suspension	Unauthorized Use of Emergency Rulemaking	Removed exemption from prior approval for transportation of medical assistance patients from one hospital to another to obtain services not available at the discharging hospital. While the extraordinary SMART Act emergency rulemaking authority was used, this change was not required by the SMART Act. HFS modified; suspension withdrawn.
8/14/12	HFS 89 IAC 148.70(g) 36 IR 10326	Suspension	Contravenes Federal Statute	Denies payment for entire hospital admission for medical assistance patients when a Medicare-defined hospital acquired condition occurs. HFS modified; suspension withdrawn.
8/14/12	HFS 89 IAC 148.140(b)(1)(F) 36 IR 10326	Suspension	Inappropriate Use of Emergency Rulemaking	Eliminates enhanced medical assistance payment rates for hospital-based physical therapy. This change was not required or authorized by the SMART Act, but HFS used SMART Act's emergency rulemaking authority. HFS modified; suspension withdrawn.
8/9/13	DOI 50 IAC 5421 36 IR 12957	Prohibition	Threat to the Public Interest	HMO deductibles/copayments must be waived when they exceed the annual maximum out-of-pocket expenses of a high deductible health plan set by the Affordable Care Act. Retaining the 50% cap on deductibles/copayments does not achieve the aim of permitting some HMO customers to obtain high deductible plans, as expressed by statute. DOI modified; prohibition withdrawn.
10/22/13	DNR 17 IAC 3000 37 IR 2843	Prohibition	Threat to the Public Interest/Economic Impact	Establishes a capital grant review system and sets a non-refundable application fee. The fees would create an untenable burden for the principal applicants – local governments and not-for-profits. DNR modified; prohibition withdrawn.
11/19/13	HFSRB 77 IAC 1110 37 IR 3982	Prohibition	Economic Impact	Requires an ASTC to submit to another HRSRB review to deliver services under a service approval already issued by HRSRB but under which the ASTC had not yet begun to implement services.
1/14/14	IGB 11 IAC 1800 37 IR 19882	Suspension	Statutory Authority	Created the Video Gaming Exclusion List and clarified that terminal operators must be licensed at the time they enter into use agreements. IGB repealed the emergency rule; suspension withdrawn.
1/14/14	HFS 89 IAC 147 38 IR 1205	Suspension	Threat to the Public Interest/Safety/ Welfare; Economic Impact	Effective 1/1/14, implemented PAs establishing enhanced rates for ventilator services and traumatic brain injury (TBI) care. Also implemented Resource Utilization Group (RUG) methodology for determining nursing care LTC reimbursement. HFS modified; suspension withdrawn.
6/17/14	DHS 89 IAC 501 37 IR 19437, 19457	Prohibition	Threat to the Public Interest	Updates the Part to clarify Partner Abuse Intervention Program (PAIP) requirements, application and approval procedures, DHS monitoring processes and evaluation procedures. DHS modified; prohibition withdrawn.
10/14/14	ICC 83 IAC 470	Prohibition	Threat to the Public Interest	Outlines procedures for local government electrical aggregation programs operated by retail electric suppliers. ICC modified; prohibition withdrawn.

DATE	AGENCY	ACTION	BASIS	ISSUE
	37 IR 20544			
8/11/15	DPH 77 IAC 775 38 IR 18346	Prohibition	Threat to Public Interest	Expands the Part to include procedures for DPH inspection and permitting of dairy farms that sell or distribute raw milk directly to consumers on their dairy farms. DPH modified; prohibition withdrawn.
11/13/18	PTAB 86 IAC 1910 42 IR 3862	Prohibition	Threat to the Public Interest	Prohibits any Illinois legislator from participating in Board proceedings by representing a taxpayer through any business entity, directly or indirectly, in any capacity other than a legislative capacity.
12/11/18	DFPR 68 IAC 1290 42 IR 23202	Suspension	Threat to the Public Interest	Implements a PA allowing Opioid Alternative Pilot Program participants to enter dispensaries and purchase medical cannabis with written certification from a physician. Although the PA gave DFPR emergency rulemaking authority, DFPR's emergency rule included amendments not addressed in the PA. JCAR suspended portions of this emergency rulemaking not directly attributable to PA 100-1114. The agency agreed to only keep those portions of the rule not suspended and filed those portions of the rule with SOS. At JCAR's 2/19/19 meeting, no further action was taken.
5/14/19	CDB 71 IAC 600 42 IR 21491	Prohibition	Agency could not address public comment	CDB proposed updating its incorporations of the International Energy Conservation Code (IECC) from the 2015 to the 2018 edition and revising the list of Illinois-specific exceptions to that Code. At its 5/14/19 meeting, JCAR objected to and prohibited filing of this rulemaking, finding that the adoption of this rulemaking would constitute a serious threat to the public interest, safety or welfare because the Board was unable to adequately address outstanding public comment. At this point, the Board had two vacant seats. CDB's inability to allow public commentators to present their concerns before a full Board placed the public commentators at a disadvantage, possibly leaving language in the rulemaking that would negatively impact most persons or entities constructing or remodeling a residential or commercial building in Illinois. At the vote, Co-Chair Harmon noted that this was a procedural prohibition designed to give the newly constituted CDB a chance to consider this rulemaking. The motion passed unanimously (10-0-0). CDB presented this rulemaking to the CDB Board for reconsideration at its 5/14/19 meeting, at which both of the groups commenting on the unresolved issue provided comment. The Board voted to reflect provisions initially recommended by the Illinois Energy Conservation Advisory Council but removed by the previous CDB Board. In response, CDB submitted modifications to the rule, contingent upon which JCAR lifted the prohibition at the 6/11/19 meeting.
9/17/19	IGB 11 IAC 1800 43 IR 9261	Suspension	Improper Use of Emergency Rulemaking	IGB adopted an emergency rule authorizing progressive jackpot games, expanding video gaming to large truck stops, and making several other statutorily required changes. At its 9/17/19 meeting, JCAR objected to and suspended all of the emergency rule except for the progressive jackpot provisions, for which automatic emergency rulemaking authority was

DATE	AGENCY	ACTION	BASIS	ISSUE
				granted by PA 101-31, because Section 78 of the Video Gaming Act [230 ILCS 40], which granted emergency authority for the initial adoption of Part 1800, cannot be reused to validate emergency rulemaking for subsequent changes to that Part. IGB agreed to no longer invoke Sec. 78 of the VG Act as its authority to use emergency rulemaking. At its 12/17/19 meeting, JCAR withdrew this suspension on the emergency rule contingent upon and effective with IGB's adoption of the permanent rulemaking, which JCAR was also considering at that meeting.
11/12/19	IGB 11 IAC 1800 43 IR 13464	Suspension	Improper Use of Emergency Rulemaking	IGB adopted an emergency rule requiring transfers of ownership interests in terminal operators to be approved by IGB. JCAR objected to and suspended this emergency rule because IGB failed to adequately show the existence of an emergency that warrants immediate adoption of the rule changes without the public comment and review opportunities afforded by the use of proposed rulemaking. JCAR found that this use of emergency rulemaking constituted a threat to the public interest. IGB responded that, if JCAR withdrew its Suspension, IGB would amend the emergency rule based on its discussions with interested parties to limit application of the emergency rule to licensees who have had disciplinary actions imposed by IGB. In further discussions with JCAR, IGB decided also to provide that it would take action on ownership transfers by disciplined licensees within 2 meetings after the disciplinary action takes place. Based on these amendments, JCAR withdrew its Suspension at its 2/18/20 meeting, contingent upon, and effective with, IGB's adoption of these amendments.
5/20/20	SOS 14 IAC 150, 160, 166, 178 44 IR 7944, 7951, 7956, 7961	Suspension	Contravention of statute	SOS adopted emergency rules extending the statutory deadlines by which SOS is to review, approve and effectuate official paper filings of documents by businesses. JCAR objected to and suspended these emergency rules because the deadlines being extended were statutory. Throughout the COVID-19 emergency period, any statutory requirements that needed to be set aside were waived by Executive Order and only then reflected in emergency rule. Rule cannot alter statute unless the statute specifically allows an agency to modify its requirements through rule. In response, SOS sought and received Executive Order 2020-39 (extended by EO 2020-44, 48, 52, 55, 59, 71 and 74), which waived the statutory requirements. JCAR withdrew its Suspension at its 8/11/20 meeting.
8/18/21	DFPR 68 IAC 1291 45 IR 9586	Suspension	Improper use of emergency rulemaking	DFPR adopted emergency rules establishing a Responsible Vendor Program (RVP) through which cannabis dispensing organization employees receive training in cannabis-related operating requirements. JCAR objected to and suspended the Subpart of the emergency rules pertaining to the RVP because there was no valid emergency and they should have been adopted using general rulemaking. DFPR modified the emergency rule by removing the RVP Subpart. JCAR withdrew its Suspension at its 9/14/21 meeting.

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8/18/21	DOR 86 IAC 131 45 IR 9625	Suspension	Improper use of emergency rulemaking; failure to consider economic impact	DOR adopted emergency rules clarifying the different types of retailers subject to the provisions of the Leveling the Playing Field for Illinois Retail Act. Some of these changes appeared to change tax obligations in the middle of the tax year. JCAR objected to and suspended these emergency rules because DOR failed to provide an adequate explanation in writing of the emergency situation that warranted immediate adoption of this rule without public comment, limit the rule to matters that are required to meet the emergency situation, produce a rulemaking that complies the statutory authority upon which it is based, or consider the economic effects of the rules upon those regulated. DOR agreed to remove the non-emergency portions of the emergency rule and clarify the timetable surrounding changes in tax obligations. JCAR withdrew its Suspension at its 9/14/21 meeting.
2/15/22	DPH 77 IAC 690 46 IR 3434	Suspension	Agency has not taken steps to make emergency rule known to affected public	DPH adopted (for the 2 nd time) emergency rules implementing 2 Executive Orders establishing COVID-19 protocols for K-12 schools that excluded from school premises students and staff who tested positive for COVID-19, showed symptoms, or were close contacts of a confirmed or probable case. These rules also stated that masking, vaccination and testing requirements and exclusion from school were not “isolation or quarantine” as defined in the DPH Act and did not require enforcement by a local health department or court order. Previous emergency rules had been the subject of legal action and a temporary restraining order. JCAR objected to and suspended these emergency rules because DPH failed to clearly state whether they were intended to apply to all K-12 schools in Illinois, or only to schools and school districts that were not parties to the legal action. DPH had not clarified this point either in the rule itself or in the Notice of Emergency Rulemaking. The Executive Orders were allowed to expire on 3/3/22 and DPH repealed the emergency rules on 4/22/22.
7/18/23	DCFS 89 IAC 407 47 IR 8756	Suspension	Imposes unreasonable and unnecessary costs; agency created emergency; failure to consider economic impact	DCFS adopted emergency rules (reflecting COVID-era policy/guidance) allowing a qualified early childhood assistant age 18+ to supervise a day care center classroom in which all children are age 2 or older, without an early childhood teacher present, subject to additional restrictions. JCAR objected to and suspended portions of the emergency rule because they imposed new restrictions on the use of early childhood assistants that previous emergency rules and DCFS guidance did not include. By limiting the times of day when assistants can substitute for teachers and the number and age range of classrooms that can be supervised by assistants, this rule imposes unreasonable and unnecessary economic costs on day care providers, many of whom have relied on this policy for the past 3 years and may be forced to curtail their hours or reduce their number of classrooms as a direct result of this emergency rule. DCFS did not change or withdraw the emergency rule, which it said was necessary to enable day cares to continue to operate while also ensuring the safety of children. At its 10/17/23 meeting, JCAR issued a Notice of Failure to Remedy. The emergency rule was replaced by a permanent rulemaking effective 10/29/23.

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7/16/24	DHS 89 IAC 509 48 IR 2769	Prohibition	Inadequate rationale for allowable and unallowable cost restrictions; lack of standards for agency discretion	DHS proposed amendments to its general rules regarding grant awards. After negotiating a number of 2 nd Notice changes, the agency and JCAR reached an impasse regarding allowable and unallowable travel costs, which had been an issue for some grantee agencies. At its 7/16/24 meeting, JCAR objected to, and prohibited the filing of, the rulemaking because the Department has not provided adequate rationale for allowable and unallowable cost restrictions as required by 1 Ill. Adm. Code 220.900(a)(2)(A). Also, no standards for agency discretion were present as required by 1 Ill. Adm. Code 220.900(a)(1)(B). After further negotiation, DHS agreed to state that travel cost reimbursement could not be categorically denied based on factors such as distance or cost per traveler, unless specified in the original Notice of Funding Opportunity, and to provide the grantee a written explanation (upon request) of any cost reimbursement that is denied. At its 9/10/24 meeting, JCAR lifted the Filing Prohibition contingent upon and effective with DHS adopting the agreed upon language.