

The Flinn Report Illinois Regulation

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Joint Committee on Administrative Rules
Illinois General Assembly

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Issue 4

Illinois Regulation is a summary of the weekly regulatory decisions of State agencies published in the Illinois Register and action taken by the Illinois General Assembly's Joint Committee on Administrative Rules. Illinois Regulation, also titled The Flinn Report in memory of founding JCAR member Rep. Monroe Flinn, is designed to inform and involve the public in changes taking place in agency administration.

Proposed Rulemakings

■ STATE LOTTERY

The DEPARTMENT OF THE LOTTERY proposed amendments to the Parts titled Lottery Hearings (11 IAC 1700; 47 Ill Reg 1168) and Lottery (General) (11 IAC 1770; 46 Ill Reg 1206) updating these Parts to reflect current practice with regard to administrative hearings, licensure of Lottery retailers, and the conduct of Lottery ticket sales and prize drawings. Amendments to Part 1700 allow hearing notices to be sent by e-mail; update and clarify terminology; detail the duties of the Administrative Law Judge, Lottery Board and Director with regard to hearings; establish provisions for consolidating, severing, and withdrawing cases and for intervening in an existing case; align legal representation rules with those observed in Illinois courts; establish the burden of proof for various types of cases; and revise or establish procedures

for discovery, dispositions, admission of evidence and other actions. Amendments to Part 1770 clarify references to the Lottery Act (to distinguish between it and the Sports Wagering Act) and change references to the Superintendent to the Director. The rulemaking also clarifies the definitions of an agent and of a Lottery Game

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Ticket; clarifies who is eligible to purchase Lottery Game Tickets; adds definitions of erroneous, altered, effaced, mutilated, and canceled tickets; changes "person" to "player" throughout the Part when referring to the player of a Lottery game or game ticket; raises the licensing fee for Lottery retailers from \$50 to \$100 and increases fees for other transactions; clarifies the process

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Adopted Rules

■ TAX CREDITS

The DEPARTMENT OF REVENUE adopted amendments to Income Tax (86 IAC 100; 46 Ill Reg 14492) effective 1/10/23 implementing PA 102-669, which establishes the Reimagining Electric Vehicles (REV) investment tax credit for tax years that begin on or after 11/16/21. The rulemaking allows taxpayers to claim this credit for investments in depreciable tangible property (e.g., equipment, vehicles, or machinery) at the site of a REV Illinois project (electric vehicle or battery manufacturing facility) approved by the Department of Commerce and Economic Opportunity (DCEO). The credit is equal to 0.5% of the basis of the qualified property and applies to the tax year in which the property is placed in service, unless the

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ADOPTED RULES: Rules adopted by agencies this week. **EMERGENCY RULES:** Adopted for a temporary period not to exceed 150 days.
PROPOSED RULES: Rules proposed by agencies this week, commencing a 45-day First Notice period during which public comments must be accepted.
PEREMPTORY RULES: Rules adopted without prior public notice or JCAR review as authorized by 5 ILCS 100/5-50.
■ Designates rules of special interest to small businesses, small municipalities, and not-for-profit corporations. Agencies are required to consider comments from these groups and minimize the regulatory burden on them.
QUESTIONS/COMMENTS: Submit mail, email or phone calls to the agency personnel listed below each summary.
RULE TEXT: Available on the Secretary of State (www.cyberdriveillinois.com) and General Assembly (www.ilga.gov) websites under Illinois Register. Second Notice text (original version with changes made by the agency during First Notice included) is available on the JCAR website.

Adopted Rules

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credit reduces the taxpayer's liability to zero, in which case it must be carried forward and applied to the following 5 years of tax liability. Property disposed of by the taxpayer within 48 months after it is purchased will cease to qualify for the credit and will increase the taxpayer's subsequent liability. Businesses investing in REV projects are affected.

■ SALES TAXES

DOR also adopted amendments to Retailer's Occupation Tax (86 IAC 130; 46 III Reg 14631), Cannabis Cultivation Privilege Tax (86 IAC 422; 46 III Reg 14650), Cannabis Purchaser Excise Tax (86 IAC 423; 46 III Reg 14657), Medical Cannabis Cultivation Privilege Tax Law (86 IAC 429; 46 III Reg 14664), Illinois Hydraulic Fracturing Tax Act (86 IAC 475; 46 III Reg 14671), Telecommunications Excise Tax (86 IAC 495; 46 III Reg 14677), and Tobacco Products Tax Act of 1995 (86 IAC 660; 46 III Reg 14684), all effective 1/17/23, reflecting PA 102-40. These rulemakings extend to 23 years (formerly, 20 years) the look back period for past unpaid tax liabilities that can be considered when DOR decides whether to deny tax registration certificates to general retailers; cannabis related businesses; gas and oil companies subject to the hydraulic fracturing tax; providers subject to the telecommunications excise tax; and retailers or distributors of tobacco products.

The Part 130 rulemaking also updates provisions for sales tax registration of retailers who sell items via vending machines. Small retail businesses may be affected by these rulemakings.

■ MOTOR FUEL TAX

DOR adopted an amendment to Motor Fuel Tax (86 IAC 500; 46 III Reg 13956) effective 1/17/23, implementing PA 102-700, which delays until 1/1/23 the inflationary increase in motor fuel taxes that was scheduled to take effect on 7/1/22. Businesses that sell motor fuel are affected by this rulemaking.

■ UTILITY CHARGES

Finally, DOR adopted a new Part titled Energy Transition Assistance Charge (86 IAC 518; 46 III Reg 14517) effective 1/17/23, implementing PA 102-662. The new Part requires electric utilities serving more than 500,000 customers to assess an energy transition assistance charge, determined by DCEO and revised annually, in cents per kilowatt-hour on all retail customers. Affected utilities must file tariffs with the Illinois Commerce Commission to incorporate the energy transition assistance charge and must remit all collected charges to DOR by the 20th day of the month after the month in which the charges were collected. Those affected by this rulemaking include customers of large electric utilities.

Questions/requests for copies/ comments on the 10 DOR

rulemakings: Part 100, Jennifer Uhles; Part 500, Samuel J. Moore; Parts 130 through 495 and Parts 518 and 660, Alexis K. Overstreet; DOR, 101 W. Jefferson St., Springfield IL 62794, 217/782-2844.

EARLY INTERVENTION

The DEPARTMENT OF HUMAN SERVICES adopted amendments to Early Intervention Program (89 IAC 500; 46 III Reg 12404) effective 1/12/23, implementing Public Act 101-654. The rulemaking allows Early Intervention services to be extended past a child's third birthday when the child's birthday falls between May 1 and August 31 and the child's parents wish to continue services until the beginning of the school year. Since 1st Notice, DHS has clarified the definition of "extended services".

Questions/requests for copies: Tracie Drew, DHS, 100 S. Grand Ave. East, Harris Building, 3rd Floor, Springfield IL 62762, 217/785-9772.

HOSPITAL ASSISTANCE

The OFFICE OF THE ATTORNEY GENERAL adopted amendments to Hospital Financial Assistance under the Fair Patient Billing Act (77 IAC 4500; 46 III Reg 14822) effective 1/11/23 that define the Federal Poverty Income Guidelines upon which the income criteria for assistance under this Part are based, refer to the federal

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Proposed Rulemakings

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of assigning a Lottery prize to a person or persons other than the winner and limits the maximum number of assignments to three; simplifies the process of determining who is liable for a Lottery licensee's debt; removes obsolete references to drawings conducted with air- or gravity-driven equipment; and updates the Voluntary Self-Exclusion Program (through which persons with gambling-related disorders may voluntarily exclude themselves from purchasing tickets or winning prizes). Those affected by these rulemakings include Lottery retailers, ticket purchasers, and prize winners.

Questions/requests for copies/comments on the 2 Lottery rulemakings through 3/13/23: Cornell Wilson III, Department of the Lottery, 122 S. Michigan Ave., 19th Flr., Chicago IL 60603, 312/814-3512, fax 312/793-5514.

CASINO GAMING

The ILLINOIS GAMING BOARD proposed amendments to the Part titled Riverboat and Casino Gambling (86 IAC 3000; 47 Ill Reg 1115) updating the Part to reflect changes in gaming technology and practices. The rulemaking places an affirmative duty upon casino owner licensees to prevent persons ineligible to participate in gaming (e.g., those who are underage or on an exclusion list) from gaining access to the gaming

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Emergency Rules

■ CDL TESTING

The SECRETARY OF STATE adopted emergency amendments to Issuance of Licenses (92 IAC 1030; 47 Ill Reg 1531) effective 1/13/23 for a maximum of 150 days. Identical proposed amendments appear in this week's *Illinois Register* at 47 Ill Reg 1295. The emergency and proposed rulemakings waive additional testing for holders of out of State Commercial Driver's Licenses (CDLs) who wish to obtain Illinois CDLs and whose previous CDLs have been expired for less than 12 months. (Previously, only current valid CDL holders were exempt from testing.) Out of State CDL holders with passenger or school bus endorsements who are seeking the same endorsements in Illinois are exempt from testing only if their CDL has been expired for 30 days or less. Holders of out of State CDLs and their employers are affected.

Questions/requests for copies/comments on the proposed rulemaking through 3/13/23: Pamela Wright, SOS, 298 Howlett Building, Springfield, IL 62756, pwright@ilsos.gov

■ CPA EXAMS

The BOARD OF EXAMINERS adopted emergency amendments to the Part titled Certificate of Education and Examination Requirements (23 IAC 1400; 46 Ill

Reg 1494) effective 1/10/23 for a maximum of 150 days. The emergency rules implement Public Act 102-222 concerning administration of the Uniform Certified Public Accountant examination. (Identical proposed rules appeared in the 11/4/23 *Register* at 46 Ill Reg 17504.) Previous education and examination requirements for Illinois CPAs that took effect 1/1/21 were effective through 12/31/22. Effective 1/1/23, CPA examination candidates must have completed a bachelor's degree or higher with at least 120 (formerly, 150) semester credit hours, of which 24 (formerly 30) credit hours must be in accounting and 12 (formerly 24) credit hours must be in business courses other than accounting. Both the accounting and non-accounting course requirements can include up to 3 credit hours for internships or life experience. The accounting courses must cover auditing and taxation, but will no longer be required to also include financial and management accounting. The rulemaking also clarifies Board voting and notice of hearing procedures and eliminates proxy voting by Board members. Persons seeking CPA certification are affected by this emergency rule.

Questions/requests for copies: Russ Friedewald, BOE, 1120 E. Diehl Road, Suite 107, Naperville IL 60563, 815/753-8900.

Adopted Rules

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Department of Health and Human Services website address where current and updated guidelines are posted, and repeal an appendix that lists the current calendar year's poverty income levels.

Questions/requests for copies: David F. Buysse, OAG, 100 W. Randolph St., 12th Fl., Chicago IL 60601, 312/814-7236.

■ ENVIRONMENTAL HEALTH

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION adopted amendments to the Part titled Environmental Health Practitioner Licensing Act (68 IAC 1247; 46 Ill Reg 11067) effective 1/10/23, that address dishonorable, unprofessional, and unethical conduct and remove obsolete provisions regarding variances and fees. Licensed environmental health practitioners are affected.

Questions/requests for copies: Craig Cellini, DFPR, 320 W. Washington, 2nd Floor, Springfield IL 62786, 217/785-0810, Fax: 217/557-4451.

■ DRYCLEANERS

The POLLUTION CONTROL BOARD repealed the Part titled General Information (35 IAC 1500; 46 Ill Reg 4575) and adopted a new Part titled Drycleaner Environmental Response Trust Fund Program (35 IAC 1501; 46 Ill Reg 4621), both effective 1/17/23, to reflect recent changes to the Drycleaner Environmental Response Trust Fund Act. Responsibility for the trust fund, formerly administered by the Drycleaner Environmental Response Trust Fund Council, was transferred to the Illinois Environmental Protection Agency effective 7/1/20. The rules formerly established by the Council in Part 1500 were repealed and new rules establishing IEPA administration of the fund (which assists with cleanup of toxic chemicals from drycleaner properties) have been established in Part 1501. PCB also repealed the Part titled Public Information (2 IAC 3100; 47 Ill Reg 1334) effective 1/17/23, as this Part contained Freedom of Information Act (FOIA) rules for the now-defunct Council. Those affected by these rulemakings include drycleaners seeking assistance from the Drycleaner Environmental Response Trust Fund.

Questions/requests for copies of the 3 PCB rulemakings: Clerk's Office, PCB, 100 W. Randolph St., Suite 11-500, Chicago IL 60601. Please reference Docket R21-19. Copies of the Board's opinion and order are available by calling 312/814-3620 or at the Board's website, <https://pcb.illinois.gov>

SOS FUNCTIONS

The SECRETARY OF STATE adopted amendments to the Parts titled Public Information, Rulemaking and Organization (2 IAC 550; 47 Ill Reg 1494) and Departmental Duties (2 IAC 552; 47 Ill Reg 1501) effective 1/13/23, clarifying the functions of the SOS Inspector General Department and removing references to the Executive Inspector General, which is a separate and independent office under State statute. The amendments to Part 550 additionally clarify that the Vehicle Services Department's duties include vehicle registration renewals and titles.

Questions/requests for copies of the 2 SOS rulemakings: Paul Thompson (pthompson@ilsos.gov) or Megan Morgan (mmorgan@ilsos.gov), SOS, 324 W. Monroe St., Springfield IL 62704.

Proposed Rulemakings

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floor, and requires installation of magnetometers or similar weapon-detecting equipment on gaming floors. Other provisions change the method of counting gaming positions for electronic gaming devices, in order to reflect the practice of stadium- or arena-style gaming; remove a prohibition against electromechanical gaming devices; and update technical requirements for surveillance equipment, storage and retrieval of data and for remote access to surveillance systems.

Questions/requests for copies/ comments through 3/13/23: Daniel Gerber, IGB, 160 N. LaSalle St., Chicago IL 60601, IGB.RuleComments@igb.illinois.gov

HOSPITALS

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES proposed an amendment to Hospital Services (89 IAC 148; 47 Ill Reg 1145) implementing PA 102-4, which established a \$50 million annual funding pool for Safety Net Obstetrical Payments. These payments will be disbursed among Safety Net Hospitals that maintain designation by the Department of Public Health as perinatal centers with facilities for labor and delivery. Criteria for determining payments to qualifying hospitals include the number of admissions for deliveries during each base year (the calendar year ending 18 months prior to the State fiscal year in which the payments are

made). The maximum payment per hospital is \$5 million.

Questions/requests for copies/ comments through 3/13/23: Steffanie Garrett, HFS, 201 S. Grand Ave. East, 3rd Floor, Springfield IL 62763-0002, HFS.Rules@illinois.gov

■ CHILD CARE

The DEPARTMENT OF HUMAN SERVICES proposed amendments to Child Care (89 IAC 50; 47 Ill Reg 1159) that extend eligibility for the Strengthen and Grow Child Care Grant Program to licensed child care providers who earn no more than 75% (currently, 50%) of their revenue through payments from Preschool for All, Head Start, Early Head Start, or the Prevention Initiative, and who meet the enrollment threshold for the program for at least one month any time after 12/31/19 (currently, 1/1/20 through 12/31/22). Child care providers may be affected by this rulemaking.

Questions/requests for copies/ comments through 3/13/23: Tracie Drew, DHS, 100 S. Grand Ave. East, Harris Building, 3rd Floor, Springfield IL 62762, 217/785-9772.

■ DNR GRANTS

The DEPARTMENT OF NATURAL RESOURCES proposed amendments to the Parts titled Land and Water Conservation Fund (LWCF) Grant Program (17 IAC 3030; 47 Ill Reg 1286) and Boat Access Area

Development Program (17 IAC 3035; 47 Ill Reg 1291) removing existing requirements that grant award recommendations for these programs be reviewed by DNR's Natural Resources Advisory Board before being submitted to the DNR Director for final approval. Entities that apply for these grants will be affected.

Questions/requests for copies/ comments through 3/13/23: John Fischer, DNR, One Natural Resources Way, Springfield, IL 62702, 217/782-1809.

STATE RETIREMENT

The STATE EMPLOYEES' RETIREMENT SYSTEM proposed amendments to The Administration and Operation of the State Employees' Retirement System of Illinois (80 IAC 1540; 47 Ill Reg 1298) clarifying that occupational death benefits payable to an eligible survivor of a deceased Tier 2 System member (whose State employment began on or after 1/1/11) shall receive annual increases in accordance with the Tier 2 plan, and clarifying the definition of an unconditional military discharge other than by dishonorable discharge (a term no longer used in the U.S. Armed Services but relevant to certain provisions of the Pension Code).

Questions/requests for copies/ comments through 3/13/23: Jeff Houch, SERS, 2101 S. Veterans Parkway, PO Box 19255, Springfield IL 62794-9255, 217/524-8105, fax 217/557-3943, jeff.houch@srs.illinois.gov

Second Notices

The following rulemakings were moved to Second Notice this week by the agencies listed below, commencing the JCAR review period. These rulemakings will appear in next week's *Illinois Register* and be considered at the February 14, 2023, meeting in Springfield. Other items not published in the *Register* or The Flinn Report may also be considered. Further comments concerning these rulemakings should be addressed to JCAR using the contact information on page 1.

DEPT OF CENTRAL MANAGEMENT SERVICES

State Employees Group Health Insurance Program
(80 IAC 2210; 46 Ill Reg 17774) proposed 11/14/22

DEPT OF PUBLIC HEALTH

Compassionate Use of Medical Cannabis Pilot Program
(77 IAC 946; 46 Ill Reg 14483) proposed 8/19/22

JCAR Membership Changes

JCAR welcomes new members Rep. Eva-Dina Delgado, D-Chicago, and Rep. Dave Vella, D-Rockford. Rep. Delgado and Rep. Vella were appointed to succeed former Rep. (now Sen.) Michael Halpin, D-Rock Island, and Rep. Frances Ann Hurley, D-Mt. Greenwood.

Joint Committee on Administrative Rules

Senator Cristina Castro

Representative Eva-Dina Delgado

Senator Bill Cunningham, *co-chair*

Representative Steven Reick

Senator John F. Curran

Representative Curtis Tarver, II

Senator Donald DeWitte

Representative Dave Vella

Senator Kimberly Lightford

Senator Sue Rezin

**Kim Schultz
Executive Director**