

THE FLINN REPORT

ILLINOIS GENERAL ASSEMBLY
JOINT COMMITTEE ON ADMINISTRATIVE RULES

Elaine Spencer, Editor

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The Flinn Report is a weekly summary of regulatory actions of State agencies published in the *Illinois Register* and action taken by the Illinois General Assembly's Joint Committee on Administrative Rules (JCAR). The Flinn Report honors founding JCAR member Representative Monroe Flinn, and is designed to inform and involve the public in changes taking place in agency administration.

Proposed Rulemakings

• TAX CREDITS

The DEPARTMENT OF REVENUE proposed a new Part titled Illinois Gives Tax Credit Act (86 IAC 1050; 49 Ill Reg 1532) implementing Public Act 103-592, the Illinois Gives Tax Credit Act. (A companion emergency rule at 48 Ill Reg 18291 was adopted on 12/12/24 for a maximum of 150 days, and a previous version of the proposed Part was withdrawn in the 1/31/25 *Illinois Register*.) The PA and the new Part establish (for tax years 2025 through 2029) income tax credits equal to 25% of each qualified contribution to a permanent endowment fund held by a qualified community foundation. To qualify for this credit, taxpayers must receive contribution authorization certificates from DOR and endowment funds must receive approval to issue certificates of receipt to taxpayers making qualified contributions. Applications are available through the DOR website. Endowment funds must

renew their certificate of receipt approval annually. A taxpayer must make the intended qualified contribution within 15 business days before or 10 business days after receiving a contribution authorization certificate, and the community foundation must issue a written certificate of receipt to the taxpayer

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within 30 business days after receiving the contribution. In order to receive qualified contributions, an endowment fund must provide charitable grants exclusively for the benefit of Illinois residents or a variety of charities or charitable projects located in Illinois; must be intended to exist in perpetuity; must have an annual spending rate based on the foundation spending policy, but not exceeding 7%; must be held by a

qualified community foundation, as defined in the federal Internal Revenue Code, that complies with the Community Foundations National Standards or has accreditation from the Community Foundations National Standards Board; and must not be a donor advised fund (tax advantaged investment fund for charitable contributions) as defined by the IRS. A foundation that funds only its own operations or programs, or that issues grants to only a particular religious sect or charitable cause, is not eligible to receive qualified contributions. The total amount of tax credits awarded cannot exceed \$5 million per year, of which 25% must be reserved as credits for small gifts of \$25,000 or less, and the maximum amount of credits per individual per year is \$100,000. Qualified contributions to any single endowment fund cannot exceed \$3 million per year. Examples of information to be provided to DOR

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ADOPTED RULES: Rules adopted by agencies this week. **EMERGENCY RULES:** Temporary rules adopted for no more than 150 days.
PROPOSED RULEMAKINGS: Rules proposed by agencies this week, commencing a First Notice public comment period of at least 45 days.
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/or non-profit organizations. Agencies must consider comments from these groups and attempt to minimize regulatory burdens on them.
QUESTIONS/COMMENTS: Submit mail, e-mail or phone calls to the agency personnel listed below each summary.
RULE TEXT: First Notice proposed text, emergency rule and peremptory rule text is available at the Secretary of State website (<https://www.ilsos.gov/departments/index/register/home.html>) or at the Illinois General Assembly website (<http://www.ilga.gov>) under "Illinois Register". Second Notice text for proposed rulemakings (original version with any changes made by the agency during First Notice included) is available at the JCAR website.

Proposed Rulemakings

(cont. from page 1)

and that demonstrate how the authorization certificate and certificate of receipt process works are included. Those affected by this rulemaking include businesses that donate to qualified community foundations and non-profit community foundations.

▪ SALES TAXES

DOR also proposed amendments to the Parts titled Retailers' Occupation Tax (86 IAC 130; 49 Ill Reg 1444), Leveling the Playing Field for Illinois Retail Act (86 IAC 131; 49 Ill Reg 1468), Use Tax (86 IAC 150; 49 Ill Reg 1498), and Home Rule Municipal Retailers' Occupation Tax (86 IAC 270; 49 Ill Reg 1514), all implementing Public Act 103-983. The PA and these rulemakings change the tax obligation for retailers that maintain a place of business in this State and make sales to Illinois customers from outside of this State. Prior to 1/1/25, these sales incurred use tax only. On and after 1/1/25, these retailers will incur destination-based retailers' occupation tax on these sales. The Part 270 rulemaking additionally implements PA 103-592, which applies the home rule sales tax to leases of tangible personal property made on and after 1/1/25. Retailers who pay these taxes may be affected.

Questions/requests for copies/comments on the 5 DOR rulemakings through 3/24/25: Parts 130 through 270, Alexis K. Overstreet (217-782-7055); Part 1050, Brian Fliflet (217-782-2844); DOR, 101 W. Jefferson St., Springfield IL 62794, REV.GCO@illinois.gov

▪ SPECIES CONSERVATION

The DEPARTMENT OF NATURAL RESOURCES proposed an amendment to the Part titled Incidental Taking of Endangered or Threatened Species (17 IAC 1080; 49 Ill Reg 1392) updating the procedures for giving public notice of a conservation plan that must be filed with DNR when a construction, land management or other project will result in incidental taking of an endangered or threatened species. Notice of a completed conservation plan must be published in a local newspaper of general circulation in the affected area at least once a week for 3 consecutive weeks, with at least 13 (currently 14) days between the first and last publications of the notice. The notice must also be published in the official State newspaper within 7 business days of (currently, concurrent with) its first publication in a local newspaper. Businesses, municipalities, and non-profits that file conservation plans are affected.

Questions/requests for copies/comments through 3/24/25: Nicole Thomas, DNR, One Natural Resources Way, Springfield IL 62702, 217-782-1809, dnr.rules@illinois.gov

▪ NURSING HOMES

The DEPARTMENT OF PUBLIC HEALTH proposed amendments to Skilled Nursing and Intermediate Care Facilities Code (77 IAC 300; 49 Ill Reg xxxx) that define a medical ventilator and require facilities to obtain DPH approval and meet National Fire Protection Association Standards 70 (National Electrical Code) and 99 (Health Care Facilities Code) before providing medical ventilator care to residents. The rulemaking also requires licensed staff who administer

life-sustaining treatments or high acuity services (e.g., ventilator care, on-site dialysis, infusion therapy, artificial nutrition/hydration) to be adequately trained to administer these treatments.

Questions/requests for copies/comments through 3/24/25: Tracey Trigillo, DPH, 524 S. Sixth St., 6th Fl., Springfield IL 62701, 217-782-1159, dph.rules@illinois.gov

▪ DEFERRED COMPENSATION

The ILLINOIS STATE BOARD OF INVESTMENT proposed amendments to State (of Illinois) Employees' Deferred Compensation Plan (80 IAC 2700; 49 Ill Reg 1378) that implement recent changes in federal law. These amendments provide for additional age-based catch-up provisions allowed by the federal SECURE 2.0 Act of 2022 for participants ages 60 through 63; qualified disaster recovery distributions of up to \$22,000 for persons who live in federally declared disaster areas and have suffered economic losses from the disaster; require mandatory cash-out distributions to participants who leave State employment with a deferred compensation balance of \$1,000 or less; and increase from \$5,000 to \$7,000 the threshold for in-service distributions (when a participant voluntarily chooses to cash out a balance below the threshold amount).

Questions/requests for copies/comments through 3/24/25: Mary Cahill, ISBI, 180 N. LaSalle St., Suite 2015, Chicago IL 60601, 312-793-5712, mcahill@isbinvestment.com

JCAR Meeting Action

At its February 4, 2025 meeting in Springfield, the Joint Committee on Administrative Rules took the following actions. Proposed rulemakings not listed below received No Objection and may now be adopted by their agencies. Emergency or peremptory rules not acted upon at this meeting may be reconsidered at future meetings.

OBJECTION

JCAR objects to the Department of Healthcare and Family Services' rulemaking titled Hospital Services (89 Ill. Adm. Code 148; 48 Ill Reg 15982) because the Department has implemented the Safety Net Obstetrical Payments program outside of rule for more than three years. Public Act 102-4, which became effective on April 27, 2021, established a \$50 million annual funding pool for Safety Net Obstetrical Payments to safety net hospitals designated by the Department of Public Health as perinatal centers and required the Department to establish a methodology in rule for distributing the payment pool among these hospitals.

RECOMMENDATION

With regard to the Department of Healthcare and Family Services rulemaking titled Medical Payment (89 Ill. Adm. Code 140; 48 Ill. Reg. 14451) JCAR recommends that HFS be more timely in updating its rules to reflect current policy and in implementing State Plan Amendments in rule. State Plan Amendment 23-0049, implemented in this rulemaking, was approved on February 20, 2024. Additionally, HFS has been covering all child and adult vaccines recommended by the federal Advisory Committee on Immunization Practices (ACIP) since at least 2019, but has not until now updated its list of covered vaccines in Sec. 140.488.

JCAR Membership Change

The Joint Committee on Administrative Rules welcomes **Senator Sally Turner, R-Lincoln**, as its newest member. Senator Turner succeeds Senator Sue Rezin, R-Morris, who recently resigned from the Committee after having been a JCAR member in 2013, 2014 and from 2018 through 2024.

EXTENSIONS

JCAR, with the concurrence of the listed agencies, has extended the Second Notice periods for the following rulemakings an additional 45 days. These rulemakings will be considered again at the March 4 meeting.

Department of Commerce and Economic Opportunity, Illinois Works Jobs Program Act (14 IAC 680; 48 Ill Reg 10489)

Department of Human Services, Alcoholism and Substance Abuse Treatment and Intervention Licenses (Repealer) (77 IAC 2060; 48 Ill Reg 5389) and Substance Use Disorder Treatment and Intervention Services (New Part) (77 IAC 2060; 48 Ill Reg 5484)

Law Enforcement Training and Standards Board, Rules of Procedure in Administrative Hearings (20 IAC 1790; 48 Ill Reg 14491)

Pollution Control Board, Groundwater Quality (35 IAC 620; 48 Ill Reg 4608)

Adopted Rules

▪ VEHICLE TITLES

The SECRETARY OF STATE adopted amendments to Certificates of Title, Registration of Vehicles (92 IAC 1010; proposed at 48 Ill Reg 10809) effective 1/22/25 at 49 Ill Reg 1590, that cap the required fee to be charged by Electronic Lien and Title (ELT) providers for implementation and maintenance of the ELT system at no more than \$2.25 per lien transaction. However, ELT service providers may charge additional fees in their agreements with contractors. ELT service providers will be eligible to participate in the system provided they are registered, in good standing, and authorized to do business in Illinois; comply with all applicable laws and rules; and enter into a contract with a contractor. When a lien is satisfied, SOS will print and mail a certificate of title to the owner/lienholder as required by law. Since 1st Notice, SOS has clarified that a lien which is filed electronically can only be released through the ELT system. A lien may be removed from a title record and the title issued to the owner or second lienholder, even if there is no notice of the lien being satisfied or released, when the lien is more than 7 years old; the vehicle is more than 10 years old; or SOS records indicate that the lienholder is out of business. Another change since 1st Notice clarifies that all required forms must be filed and fees paid before a lien can be removed in this manner. The rulemaking also provides that a salvage certificate must be issued for a repossessed vehicle if it has been damaged in excess of 50% (currently,

33 1/3%) of its fair market value and establishes conditions for issuance of special plates to a vehicle transporter. Those affected by this rulemaking include vehicle dealers and other businesses that issue vehicle titles.

Questions/requests for copies: Pamela Wright, SOS, 298 Howlett Building, Springfield IL 62756, 217-785-3094, pwright@ilsos.gov

▪ BUILDING PROJECTS

The CAPITAL DEVELOPMENT BOARD adopted amendments to the Part titled Selection of Architects/Engineers (A/E) (44 IAC 1000; proposed at 48 Ill Reg 12660) effective 1/27/25 at 49 Ill Reg 1578, that update and clarify various aspects of architect/engineer prequalification and other processes. The rulemaking codifies the role of CDB as an agency and of the Board itself in the selection of A/Es and aligns the definition of A/E with CDB's other administrative rules related to A/E prequalification. It also establishes that program goals under Business Enterprise for Minorities, Women, and Persons with Disabilities Act are based on estimated total project costs rather than the estimated basic services fee, and updates or clarifies other provisions related to the Business Enterprise Act. Other provisions codify the role of CDB and of the Commission on Equity and Inclusion (CEI) in the Business Enterprise Program (BEP) process; require user agencies to verify compliance with the Business Enterprise Act; require interviews for projects with an estimated basic

services fee of \$500,000 (previously \$300,000) and allow the selection committee chair, with approval of the CDB Executive Director, to choose to conduct interviews for projects under \$500,000; allow selection committees to include members of the public; and remove duplicative statutory language. Architectural and engineering firms seeking State contracts may be affected.

Questions/requests for copies: Lauren Noll, CDB, 401 S. Spring St., 3rd Floor Stratton Building, Springfield IL 62706, 217-524-5065, Lauren.Noll@illinois.gov

▪ CPA EXAMS

The BOARD OF EXAMINERS adopted an amendment to Certificate of Education and Examination Requirements (23 IAC 1400; proposed at 48 Ill Reg 11381) effective 1/21/25 at 49 Ill Reg 1545, that allows candidates for the Certified Public Accountant (CPA) examination to include up to 30 hours of work for credit in their required 150 semester hours of college-level instruction. "Work for credit" is defined as faculty approved and supervised courses that award credit hours based on work experience that meets related course objectives. Candidates for CPA examinations are affected.

Questions/requests for copies: Carlarta Ratchford, BOE, 1120 E. Diehl Road, Suite 107, Naperville IL 60563, 815-753-8900, cratchford@ilboe.org

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 be considered at the March 4, 2025 meeting in Springfield. Other items not published in the *Illinois Register* or The Flinn Report may also be considered. Further comments concerning these rulemakings should be addressed to JCAR at jcar@ilga.gov.

DEPT OF HEALTHCARE AND FAMILY SERVICES

Medical Assistance Programs (89 IAC 120; 48 Ill Reg 17194) proposed 12/2/24

Medical Payment (89 IAC 140; 48 Ill Reg 15737) proposed 11/8/24

Medical Payment (89 IAC 140; 48 Ill Reg 17432) proposed 12/6/24

DEPT OF PUBLIC HEALTH

Home Health, Home Services, and Home Nursing Agency Code (77 IAC 245; 48 Ill Reg 17466) proposed 12/6/24

Skilled Nursing and Intermediate Care Facilities Code (77 IAC 300; 48 Ill Reg 17210) proposed 12/2/24

Long-Term Care Assistants and Aides Training Programs Code (77 IAC 395; 48 Ill Reg 17475) proposed 12/6/24

IL STATE BOARD OF EDUCATION

Special Education (23 IAC 226; 48 Ill Reg 6946) proposed 5/17/24

Special Education Facilities Under Section 14-7.02 of the School Code (23 IAC 401; 48 Ill Reg 6974) proposed 5/17/24

Next JCAR Meeting: Tuesday, March 4, 10:30 a.m.

Room C-1, Stratton Bldg., 401 S. Spring St., Springfield
Meeting will be live streamed on the JCAR website

Joint Committee on Administrative Rules

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

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

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