

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

▪ SALES TAX

The DEPARTMENT OF REVENUE proposed amendments to Retailers' Occupation Tax (86 IAC 130; 49 Ill Reg 6661) implementing Article 75 of Public Act 103-592, which imposes Retailers' Occupation Tax on leases of tangible personal property beginning 1/1/25. The rulemaking clarifies that this change does not apply to leases of motor vehicles, watercraft, aircraft, and semitrailers that are required to be registered with an agency of this State. This rulemaking also implements PA 98-628, which provides that the taxable "selling price" of first division and certain second division motor vehicles sold incident to the contemporaneous long-term lease of those motor vehicles is equal to the amount due under the lease contract, rather than the amount the lessor pays the seller for the motor vehicle. Businesses that sell or lease motor vehicles,

watercraft, aircraft, and semitrailers are affected.

Questions/requests for copies/comments through 6/30/25: Samuel J. Moore, DOR, 101 West Jefferson St., Springfield IL 62702, 217-782-7055, REV.GCO@illinois.gov

**JCAR Meeting Action, Page 2
Adopted Rules, Page 3
Second Notices, Page 6**

▪ PROCUREMENT PREFERENCES

The CHIEF PROCUREMENT OFFICER FOR GENERAL SERVICES proposed amendments to the Part titled Chief Procurement Officer for General Services Standard Procurement (44 IAC 1; 49 Ill Reg 6643) that define "headquartered in Illinois" for purposes of determining whether a construction or construction-related professional services business is

eligible for the procurement preferences granted to Illinois businesses. "Headquartered in Illinois" means having a physical location, excluding job site trailers, within the State where executives for the business or high-level officers for a corporation direct, control, and coordinate the business' or corporation's activities. A business or corporation that has been headquartered in Illinois, subject to Illinois taxes, and providing construction or construction-related services for at least one year before an invitation for a bid or notice of contract opportunity is first advertised will qualify as an Illinois business if it bids on that contract. The rulemaking also clarifies that a foreign corporation duly authorized to transact business in Illinois will qualify as an Illinois business for this purpose if it has a bona fide establishment within the

(cont. page 2)

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)

State where it is operating, headquartered, and has been performing construction or construction-related professional services for at least one year before an invitation for a bid or notice of contract opportunity is first advertised. Construction and construction-related businesses are affected.

Questions/requests for copies/comments through 6/30/25: Ellen Morris, CPO-GS, 300 W. Jefferson St., Room 202B, Jefferson Terrace, Springfield IL 62702, 217-685-4662, EllenMorris@illinois.gov

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; 49 Ill Reg 6855) clarifying that: interest for death benefits accrues only up to the end of the most recently concluded fiscal year prior to a member's death (not to or beyond the date of death); release of a termination refund payment will be determined by the date the member separated from service or the date SERS received the member's refund application, whichever is later; and if SERS is holding an anticipated payment for an alternate payee under a Qualified Illinois Domestic Relations Order (QILDRO) while awaiting a valid QILDRO Calculation Order, the payment shall be issued to the alternate payee once the calculation order arrives, without adjustment unless a court order decrees otherwise.

Questions/requests for copies/comments through 6/30/25: 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

IEPA REPEALS

The ILLINOIS ENVIRONMENTAL PROTECTION AGENCY proposed amendments to Clean Air Act Permit Program Procedures (35 IAC 270; 49 Ill Reg 6655) repealing Sections 270.407 and 270.408 because they reference and are based upon Pollution Control Board regulations regarding startup/shutdown/malfunction that were repealed by PCB in rulemaking docket R23-18.

Questions/requests for copies/comments through 6/30/25: Matthew Ryan, IEPA, 115 S. LaSalle St., Suite 2203, Chicago IL 60603, 312-832-4838, Matthew.N.Ryan@illinois.gov

JCAR Meeting Action

At its May 13, 2025 meeting in Springfield, the Joint Committee on Administrative Rules approved 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.

EXTENSIONS

JCAR, with the concurrence of the listed agencies, extended the Second Notice periods for the following rulemakings an additional 45 days. These rulemakings will be considered again at the June 17 meeting.

Purchased Care Review Board, Illinois Purchased Care Review Board (89 IAC 900; 49 Ill Reg 2329)

State Board of Education, Educator Licensure (23 IAC 25; 49 Ill Reg 964).

State Board of Elections, Campaign Financing (26 IAC 100; 49 Ill Reg 1642) and Practice and Procedure (26 IAC 125; 49 Ill Reg 1657)

NO ACTION

JCAR removed the Illinois Gaming Board rulemaking titled Video Gaming (General) (11 IAC 1800; 48 Ill Reg 8252) from the No Objection List. Since this rulemaking will reach its one-year expiration date before the end of the Second Notice period, it cannot be adopted.

Adopted Rules

• POLICE CERTIFICATION

The LAW ENFORCEMENT TRAINING AND STANDARDS BOARD adopted a new Part titled Rules of Procedure in Administrative Hearings (20 IAC 1790; proposed at 48 Ill Reg 14491) effective 4/30/25 at 49 Ill Reg 6984, establishing a Certification Review Panel to hear cases involving discretionary decertification under Section 6.3 of the Police Training Act [50 ILCS 705]. (Section 6.3 of the Act allows LETSB to decertify law enforcement officers for committing criminal acts that were not prosecuted or for which the officer was not terminated; engaging in excessive use of force; failing to intervene when another officer is using excessive force; tampering with a dashboard or body camera; knowingly making false statements; tampering with evidence; or engaging in any unprofessional, unethical, deceptive or deleterious conduct harmful to the public.) The new Part establishes the procedures to be followed by the panel when a complainant seeks certification, decertification or recertification of a law enforcement officer; when an officer or law enforcement agency contests LETSB's decision not to recertify an officer; or when an officer contests an emergency order of suspension. An Administrative Law Judge (ALJ) will be appointed to oversee these proceedings, which will include a prehearing conference that may be conducted remotely. Formal hearings may also be conducted remotely if the parties involved agree but must be public. The ALJ's decision and recommendation for final action will be presented to the Certification Review Panel, which will make its recommendation to LETSB by a simple majority vote. If allegations of misconduct are not proven by clear and convincing evidence, the Review Panel will recommend that LETSB

dismiss the complaint or recertify the officer, or will reverse or reduce the order of suspension. If misconduct is proven by clear and convincing evidence, the Review Panel will recommend that LETSB decertify or not recertify the officer, or uphold the order of suspension. LETSB itself will make the final decision regarding certification or suspension (the Review Panel's decision regarding a suspension is final). A motion for reconsideration of LETSB's decision by the Review Committee (not to be confused with the Certification Review Panel) may be filed by the Review Panel or the affected officer within 30 days. Petitions for judicial review of the LETSB decision may be filed in the circuit court of either Cook or Sangamon County, depending on where the hearing took place. Since 1st Notice, LETSB has expanded the scope of the Part to include proceedings in which an officer or law enforcement agency contests a suspension, decertification or refusal to recertify; added or clarified various definitions; and clarified various procedural aspects of the hearing process. Law enforcement officers and agencies are affected by this rulemaking.

Questions/requests for copies: John R. Keiger, LETSB, 500 S. Ninth St., Springfield IL 62701, 217-782-4540, ptb.comments@illinois.gov

SPECIAL EDUCATION

The STATE BOARD OF EDUCATION adopted amendments to Special Education (23 IAC 226; proposed at 48 Ill Reg 6946) and Special Education Facilities Under Section 14-7.02 of the School Code (23 IAC 401; proposed at 48 Ill Reg 6974) both effective 5/5/25 at 49 Ill Reg 6901 and 6929, implementing recent Public Acts and SBE policy changes. Both rulemakings

require nonpublic special education facilities in which students have been placed at their home district's expense (because the home district cannot accommodate their needs) not to terminate any student's enrollment without first requesting an Individualized Education Plan (IEP) meeting from the contracting school district, to provide notice of a termination at least 20 business days in advance, and to include in their notice the reasons for the termination. Amendments to Part 226 additionally require Individualized Education Plans (IEPs) to include any extra accommodation the student may need in an emergency, including a natural disaster or active shooter situation, and to determine the student's Priority of Urgency of Need for Services (PUNS) List status at each annual review. (The PUNS List is the Department of Human Services' database of persons who are in current or future need of Home and Community-Based Waiver services for persons with developmental disabilities.) If an IEP student is not registered with PUNS or the student's registration status is not known, the parents/guardian and student will receive contact information for an Intermediate Service Center that can register the student with PUNS. An IEP for a student age 14½ or older shall note any dual credit courses in which the student has enrolled for either dual college-high school credit or for high school credit only. Other provisions allow parent/guardian requests for an independent educational evaluation at district expense to be submitted to either the applicable district special education administrator or the district superintendent; allow a finalized IEP to be delivered to parents on an agreed-upon date (previously, immed-

(cont. page 4)

Adopted Rules

(cont. from page 3)

ately); clarify the extent of “stay put” agreements allowing a child to remain in the current placement while mediation efforts are in progress; remove references to the Learning Disability Specialist I endorsement and the work assignments that required this obsolete endorsement; and require an IEP meeting to be held when a student will require ongoing home or hospital instruction and allow such instruction to be delivered in person or online. The Part 401 rulemaking additionally clarifies a distinction between residential-only programs (in which all students live on campus) and combination programs (which enroll both day students and resident students). The rulemaking specifies what must be included in a residential-only program’s application for ISBE approval and also provides that applications from any program will be approved on a rolling basis with no specific timeline. If any program’s ISBE approval status is downgraded to “pending further review” of alleged deficiencies or violations, the program must notify all contracting school districts of this change, and school districts may not make any new placements into the program. Programs being downgraded to “nonapproved” status will receive 20 (formerly 10) business days’ notice from the State Superintendent. A program provider in Illinois or another state that loses its license or approval to operate and can no longer accept admissions must notify ISBE of the admissions hold within 5 business days. Other provisions clarify staffing and life-safety inspection requirements. Changes since 1st Notice to the Part 401 rulemaking specify that when virtual instruction is provided to a classroom, there must be sufficient staff physically present in the classroom to maintain a 5:1

student-to-staff ratio. Also, a requirement that each facility's staff include a full-time chief administrator meeting certain qualifications will not take effect until the 2026-27 school year and has been modified to accommodate instances in which the chief administrator oversees more than one program location.

Questions/requests for copies of the 2 ISBE rulemakings: Azita Kakvand, SBE, 555 W. Monroe St., Suite 900, Chicago IL 60661, 312-783-2757, rules@isbe.net

• CONSTRUCTION GRANTS

The CAPITAL DEVELOPMENT BOARD adopted amendments to Early Childhood Construction Grant Rules (71 IAC 43; proposed at 48 Ill Reg 12672) effective 5/5/25 at 49 Ill Reg 6880, that clarify application requirements and scoring criteria; include units of local government, such as community college districts, in the definition of non-profit entities; clarifying that eligible non-profit early childhood providers must be licensed day care centers; and adding a statutory requirement that early childhood centers that qualify for grants cannot be located in private residences. Other provisions change the presumed useful life for equipment from 20 years to 12 years to be consistent with other CDB grant programs; and state that liens may be placed on the property as outlined in the statute. Since 1st Notice, CDB changed a provision that originally allowed joint applications and leasehold improvements when one non-profit organization owns a facility and another operates the early childhood center. Now, the non-profit that operates the facility may apply for the grant as an eligible entity while the non-profit that owns the facility may be required to act as a guarantor for awards of \$200,000 or more (in the event that the grant recipient fails to

meet the requirements of the grant agreement and is obligated to repay all or part of the grant). Units of local government and non-profit entities 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

CASINOS

The ILLINOIS GAMING BOARD adopted an amendment to Riverboat and Casino Gambling (86 IAC 3000; proposed at 48 Ill Reg 17417) effective 5/1/25 at 49 Ill Reg 6960, that requires casino owners and organization gaming licensees to regularly train their employees in how to recognize and report suspected human trafficking. All employees must complete this training within 3 months after beginning employment and annually thereafter. The training program must, at a minimum, address the following topics: the definition of human trafficking and the difference between sex trafficking and labor trafficking; factors that make an individual susceptible to human trafficking; why and how human trafficking takes place in hospitality settings such as hotels and casinos; spotting red flags that may indicate a human trafficking situation; the employee's and owner/licensee's responsibility to document and report suspected human trafficking; agencies that can assist victims of human trafficking; and any other topics approved by the IGB Administrator. Casino owners and organization licensees must also develop protocols for their employees to document, report and respond to suspected instances of human trafficking; provide written copies of their training curricula and protocols to the IGB

(cont. page 5)

Adopted Rules

(cont. from page 4)

Administrator; and post human trafficking awareness notices, consistent with the model notices developed by the Department of Human Services, in restrooms and in a conspicuous place where they can be seen by the public.

Questions/requests for copies: Daniel Gerber, IGB, 160 N. LaSalle St., Chicago IL 60601, 312-814-4700, fax 312-814-7253, IGB.RuleComments@Illinois.gov.

ICF/DD FACILITIES

The DEPARTMENT OF PUBLIC HEALTH adopted amendments to Intermediate Care for the Developmentally Disabled Facilities Code (77 IAC 350; proposed at 49 Ill Reg 51) and Medically Complex for the Developmentally Disabled Facilities Code (77 IAC 390; proposed at 49 Ill Reg 85), both effective 4/30/25 at 49 Ill Reg 7038 and 7071, implementing Public Acts 103-1 and 102-1095. These rulemakings allow DPH to conduct inspections of ICF/DD and MC/DD facilities that normally must be conducted within 30 days of a complaint that does not involve resident abuse or neglect within "an appropriate timeframe to the extent feasible" during statewide public health emergencies. The amendments also implement the Latex Glove Ban Act, which prohibits use of latex gloves in food service and patient care if non-latex gloves are available. If non-latex gloves are in short supply, their use must be prioritized for residents with known or self-stated latex allergies or who cannot communicate their allergy status. Other provisions update statutory language allowing DPH

inspectors to conduct an informal exit conference with staff of an ICF/DD facility when a serious deficiency or violation is found, so that the facility can correct the deficiency as soon as possible. Finally, the Part 350 rulemaking extends a statutory exemption from the 120-day initial training requirement for nursing assistants and habilitation aides (when there is a statewide public health emergency or when the prospective aide/assistant is enrolled in an approved course that is taught on a semester or term basis) to developmental disabilities aides and direct support persons.

DPH PUBLIC INFORMATION

DPH also adopted amendments to Public Information, Rulemaking, and Organization of the Department of Public Health (2 IAC 1125; 49 Ill Reg 7029) effective 5/5/25 that clean up various Sections in Subpart C and correct the name of the "ASPR Hospital Preparedness Program (HPP)" from the unofficial name of "ASPR Healthcare Preparedness Programs (HPP)" as it was previously unofficially called to indicate that more than hospitals were funded. This is an internal rulemaking adopted under Section 5-15 of the Illinois Administrative Procedure Act, so no 1st Notice publication or public comment was required.

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

HEARING AIDS

The DEPARTMENT OF HUMAN SERVICES adopted amendments to the Part titled Services (89 IAC 590;

proposed at 48 Ill Reg 17931) effective 5/1/25 at 49 Ill Reg 6974, concerning approval of hearing aids for customers of the DHS Division of Rehabilitation Services (DHS-DRS) Vocational Rehabilitation (VR) Program. This rulemaking requires audiometric testing evaluation prior to hearing aid evaluation if a customer would benefit from hearing aids but no documentation of their hearing loss exists; establishes testing and evaluation standards; and updates requirements needed for DHS to purchase hearing aids for a customer.

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

STATE EMPLOYEES

The CIVIL SERVICE COMMISSION adopted amendments to the Part titled Civil Service Commission (80 IAC 1; proposed at 49 Ill Reg 957) effective 5/1/25 at 49 Ill Reg 6894, that clarify conditions for the use of e-mail to file appeals and related documents in contested hearings. The rulemaking also replaces existing language regarding cause for discharge with a cross reference to the Department of Central Management Services' standard in 80 IAC 302.700. State employees appealing discharges or other employment actions to the CSC are affected.

Questions/requests for copies: Andrew Barris, CSC, 607 E. Adams St., Suite 801, Springfield IL 62701, 217-782-7373 (phone), 217-524-3706 (fax), <https://icsc.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 be considered at the June 17, 2025 meeting in Chicago. 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.

OFFICE OF THE ATTORNEY GENERAL

Tobacco Products Manufacturer's Escrow Enforcement Act of 2003 (14 IAC 250; 49 Ill Reg 2570) proposed 3/14/25

DEPT OF FINANCIAL AND PROFESSIONAL REGULATION

Real Estate License Act of 2000 (68 IAC 1450; 49 Ill Reg 2702) proposed 3/14/25

DEPT OF PUBLIC HEALTH

Ambulatory Surgical Treatment Center Licensing Requirements (77 IAC 205; 49 Ill Reg 1958) proposed 2/21/25

Student Loan Repayment Program Code (77 IAC 582; 49 Ill Reg 3006) proposed 3/14/25

Next JCAR Meeting: Tuesday, June 17, 11 a.m.

Room C-600, Bilandic Bldg., 160 N. La Salle, Chicago

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

Kim Schultz, Executive Director ■ Kevin Kulavic, Deputy Director

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