**Section 1100.130 Rulemaking Procedures**

The Authority has authority to adopt and promulgate rules pursuant to the Illinois Finance Authority Act [20 ILCS 3501] and the Illinois Administrative Procedure Act [5 ILCS 100]. The Authority shall follow the following procedure in the adoption of rules:

a) The Authority may at any time and in any manner direct the Executive Director to recommend a proposed rule to the Board for its review. Such directive may specify the policy to be implemented by such proposed rule or may allow the Executive Director to recommend a policy to be implemented by such proposed rule.

b) At the meeting specified by the Board or the Chairman, the Executive Director shall submit the recommended proposed rule to the Board. Upon consideration of such submission, the Board may, upon a vote in accordance with this Part, either direct the Executive Director to revise such recommended proposed rule or approve the proposed rule as submitted or as modified by the Authority.

1) Upon such approval of a rule as a proposed rule, the Authority shall:

A) give at least 45 days' notice to the general public of its intent to adopt a final rule. This period (hereinafter the "First Notice Period") shall commence on the first day the notice appears in the Illinois Register. The notice shall be in the form prescribed by the Secretary of State and shall be submitted for publication in the Illinois Register in accordance with the rules promulgated by the Secretary of State. The notice shall include a text of the proposed rule, or the old and new materials of a proposed amendment, or the text of the provision to be repealed; the specific statutory citation upon which the proposed rule or proposed amendment or proposed repealer is based and is authorized; a complete description of the subjects and issues involved; and the time, place and manner in which interested persons may present their views and comments concerning the intended action (see 5 ILCS 100/ 5-40(b)).

B) afford all interested persons reasonable opportunity to submit data, views, arguments or comments, which may, in the discretion of the Authority, be submitted either orally or in writing or both. The notice published in the Illinois Register shall indicate the manner selected by the Authority for such submissions. The Authority shall consider fully all submissions respecting the proposed rule (see 5 ILCS 100/5-40(b)).

2) The Executive Director may, within five days of the commencement of the First Notice Period, request in writing that the Joint Committee on Administrative Rules conduct a preliminary review of the proposed rulemaking. The Executive Director shall thereafter cooperate with the Joint Committee on Administrative Rules in its review of the proposed rulemaking during the First Notice Period. (See 1 Ill. Adm. Code 220, Review of Proposed Rulemaking, and the Illinois Administrative Procedure Act [5 ILCS 100].)

3) Upon fulfilling the requirements specified in Section 1100.130(b)(1), the Authority may modify the proposed rule in light of the submitted comments.

4) The Authority shall, after taking the action prescribed in Section 1100.130(b)(3), provide up to 45 days additional notice (hereinafter the "Second Notice Period") of its intended action to the Joint Committee on Administrative Rules. The Second Notice Period shall commence on the day written notice is received by the Joint Committee on Administrative Rules, and shall expire 45 days thereafter unless prior to that time the Authority shall have received a statement of objection from the Joint Committee on Administrative Rules or notification from the Joint Committee on Administrative Rules that no objection will be issued. The written notice to the Joint Committee on Administrative Rules shall include the text and location of any changes made to the proposed rule during the First Notice Period, and, if written request has been made by the Joint Committee on Administrative Rules within 30 days after initial notice appears in the Illinois Register, shall include an analysis of the economic and budgetary effects of the proposed rule. The Executive Director shall thereafter cooperate with the Joint Committee on Administrative Rules in its review of the proposed rule. After commencement of the Second Notice Period, no substantive change may be made to a proposed rule unless it is made in response to an objection or suggestion of the Joint Committee on Administrative Rules. (See 5 ILCS 100/5-40(c).)

5) Response to JCAR Objection

A) If the Joint Committee on Administrative Rules objects to the proposed rulemaking, the Executive Director shall promptly notify the Board of such objection. The Executive Director shall also recommend that the Board respond to the objection by:

i) modifying the proposed rulemaking to meet all specific objections of the Joint Committee on Administrative Rules;

ii) withdrawing the proposed rulemaking; or

iii) refusing to modify or withdraw the proposed rulemaking.

B) After considering the objection of the Joint Committee on Administrative Rules and the Executive Director's recommended response, the Board shall determine what response it will make with respect to the objection of the Joint Committee on Administrative Rules. The Executive Director shall promptly, and no later in any event than ninety days after the Board's receipt of the statement of objection by the Joint Committee on Administrative Rules, notify the Joint Committee on Administrative Rules of the Authority's response and rationale for such response. (See 1 Ill. Adm. Code 220, Review of Proposed Rulemaking.)

c) After the expiration of the forty-five day Second Notice Period, after notification from the Joint Committee on Administrative Rules that no objection will be issued, or after response to a statement of objections issued by the Joint Committee on Administrative Rules, whichever is applicable, the Authority shall file in its principal office and in the Office of the Secretary of State a certified copy of each rule and modification or repeal of any rule adopted by it; such filing and certification shall be accomplished in the manner specified by the Secretary of State. Each rule hereafter adopted is effective upon such filing, unless a later effective date is required by statute or is specified in the rule. At the same time as such filing, the Authority shall submit to the Secretary of State, in the manner prescribed by the Secretary of State, for publication in the next available issue of the Illinois Register, a notice of rulemaking which presents:

1) if the material is a new rule, the full text of the new rule; or

2) if the material is an amendment to a rule or rules, the full text of the rule or rules as amended; or

3) if the material is a repealer, such notice or repeal shall be published (see 5 ILCS 100/5-40(d) and 5-65) .

d) The following exceptions exist with respect to the foregoing provisions:

1) The provisions of this Section do not apply to any action of the Authority which does not constitute the adoption, amendment, or repeal or a statement of general applicability that implements, applies, interprets, or prescribes law or policy; statements concerning only the internal management of an agency and not affecting private rights or procedures available to persons or entities outside the agency; informal advisory rulings; intra-agency memoranda; and the prescription of standardized forms (see 5 ILCS 100/1-70).

2) The notice and publication requirements of this Section do not apply to a matter relating solely to agency management, personnel practices, or to public property. In such instances, the Authority may proceed without prior notice or hearing or upon any abbreviated notice and hearing that it finds practicable to adopt a rule at a meeting and upon a vote in conformance with this Part. (See 5 ILCS 100/5-40(d).)

3) Emergency Rules

A) For purposes of this subsection (d)(3), "emergency" means the existence of any situation which the Authority finds reasonably constitutes a threat to the public interest, safety or welfare. Where the Authority finds that an emergency exists which requires adoption of a rule upon fewer days than is required herein, and states in writing its reasons for that finding, the Authority may adopt an emergency rule without prior notice or hearing, upon filing the required notice of emergency rulemaking with the Secretary of State. Such notice shall include the text of the emergency rule and shall be published in the Illinois Register. Subject to applicable constitutional or statutory provisions, an emergency rule becomes effective immediately upon filing, or at a stated date less than 10 days thereafter. The Authority's finding and a statement of the specific reasons therefor shall be filed with the rule. The Authority shall take reasonable and appropriate measures to make emergency rules known to the persons who may be affected by them. Emergency rulemaking shall not be effective for a period of more than 150 days, and no emergency rule shall be adopted more than once in a 24 month period. (See 5 ILCS 100/5-45.)

B) The Executive Director shall cooperate with the Joint Committee on Administrative Rules in its review of the Authority's emergency rule. If the Joint Committee objects to the emergency rulemaking, the Executive Director shall promptly notify the Authority of such objection and the Executive Director shall also recommend that the Authority respond to the objection by modifying the emergency rulemaking to meet all specific objections of the Joint Committee on Administrative Rules, withdrawing the emergency rulemaking, or refusing to modify or withdraw the emergency rulemaking. After considering the objection of the Joint Committee on Administrative Rules and the Executive Director's recommended response, the Authority shall determine what response it will make with respect to the objection of the Joint Committee on Administrative Rules. The Executive Director shall promptly, and in no event later than ninety days after the Authority's receipt of the statement of objection by the Joint Committee on Administrative Rules, notify the Joint Committee on Administrative Rules of the Authority's Response and rationale for such response. (See 1 Ill. Adm. Code 230, Review of Emergency Rules.)

4) Peremptory Rulemaking

A) For purposes of this subsection (d)(4), "peremptory rulemaking" means any rulemaking which is required as a result of federal law, federal rules and regulations, or an order of a court, under conditions which preclude compliance with general rulemaking requirements imposed herein and which preclude the exercise of discretion by the agency as to the content of the rule it is required to adopt. Where the Authority finds that peremptory rulemaking is necessary and states in writing its reasons for that finding, the Authority may adopt peremptory rulemaking upon filing the required notice of rulemaking with the Secretary of State. Such notice shall be published in the Illinois Register. A rule adopted under the peremptory rulemaking provisions of this Section becomes effective immediately upon filing with the Secretary of State and in the Authority's principal office, or at a date required or authorized by the relevant federal law, federal rules and regulations, or court order, as stated in the notice of rulemaking. Notice of rulemaking under this Section shall be published in the Illinois Register, and shall specifically refer to the appropriate State or federal court order or federal law, rules and regulations, and shall be in such form as the Secretary of State may reasonably prescribed by rule. The Authority shall file the notice of peremptory rulemaking within 30 days after a change in rules is required. (See 5 ILCS 5/5-50.)

B) On the same day the notice of peremptory rulemaking is filed with the Secretary of State, the Executive Director shall submit to the Joint Committee on Administrative Rules a copy of the court order or specific citation of federal law requiring the peremptory rulemaking. The Executive Director shall thereafter cooperate with the Joint Committee on Administrative Rules in its review of the Authority's peremptory rulemaking. If the Joint Committee on Administrative Rules objects to the peremptory rulemaking, the Executive Director shall promptly notify the Authority of such objection and the Executive Director shall also recommend that the Authority respond to the objection by modifying the peremptory rulemaking to meet all specific objections of the Joint Committee on Administrative Rules, withdrawing the peremptory rulemaking, or refusing to modify or withdraw the peremptory rulemaking. After considering the objection of the Joint Committee on Administrative Rules and the Executive Director's recommended response, the Authority shall determine what response it will make with respect to the objection of the Joint Committee on Administrative Rules. The Executive Director shall promptly, and in no event later than ninety days after the Authority's receipt of the statement of objection by the Joint Committee on Administrative Rules, notify the Joint Committee on Administrative Rules of the Authority's response and rationale for such response. (See 1 Ill. Adm. Code 240, Review of Peremptory Rulemaking.)

(Source: Recodified from 8 Ill. Adm. Code 1400.110 at 31 Ill. Reg. 12104)