



Executive Committee

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LRB096 20419 HLH 44687 a

1 AMENDMENT TO SENATE BILL 3461

2 AMENDMENT NO. _____. Amend Senate Bill 3461 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Administrative Procedure Act is
5 amended by changing Section 5-45 as follows:

6 (5 ILCS 100/5-45) (from Ch. 127, par. 1005-45)

7 Sec. 5-45. Emergency rulemaking.

8 (a) "Emergency" means the existence of any situation that
9 any agency finds reasonably constitutes a threat to the public
10 interest, safety, or welfare.

11 (b) If any agency finds that an emergency exists that
12 requires adoption of a rule upon fewer days than is required by
13 Section 5-40 and states in writing its reasons for that
14 finding, the agency may adopt an emergency rule without prior
15 notice or hearing upon filing a notice of emergency rulemaking
16 with the Secretary of State under Section 5-70. The notice

1 shall include the text of the emergency rule and shall be
2 published in the Illinois Register. Consent orders or other
3 court orders adopting settlements negotiated by an agency may
4 be adopted under this Section. Subject to applicable
5 constitutional or statutory provisions, an emergency rule
6 becomes effective immediately upon filing under Section 5-65 or
7 at a stated date less than 10 days thereafter. The agency's
8 finding and a statement of the specific reasons for the finding
9 shall be filed with the rule. The agency shall take reasonable
10 and appropriate measures to make emergency rules known to the
11 persons who may be affected by them.

12 (c) An emergency rule may be effective for a period of not
13 longer than 150 days, but the agency's authority to adopt an
14 identical rule under Section 5-40 is not precluded. No
15 emergency rule may be adopted more than once in any 24 month
16 period, except that this limitation on the number of emergency
17 rules that may be adopted in a 24 month period does not apply
18 to (i) emergency rules that make additions to and deletions
19 from the Drug Manual under Section 5-5.16 of the Illinois
20 Public Aid Code or the generic drug formulary under Section
21 3.14 of the Illinois Food, Drug and Cosmetic Act, (ii)
22 emergency rules adopted by the Pollution Control Board before
23 July 1, 1997 to implement portions of the Livestock Management
24 Facilities Act, (iii) emergency rules adopted by the Illinois
25 Department of Public Health under subsections (a) through (i)
26 of Section 2 of the Department of Public Health Act when

1 necessary to protect the public's health, (iv) emergency rules
2 adopted pursuant to subsection (n) of this Section, or (v)
3 emergency rules adopted pursuant to subsection (o) of this
4 Section. Two or more emergency rules having substantially the
5 same purpose and effect shall be deemed to be a single rule for
6 purposes of this Section.

7 (d) In order to provide for the expeditious and timely
8 implementation of the State's fiscal year 1999 budget,
9 emergency rules to implement any provision of Public Act 90-587
10 or 90-588 or any other budget initiative for fiscal year 1999
11 may be adopted in accordance with this Section by the agency
12 charged with administering that provision or initiative,
13 except that the 24-month limitation on the adoption of
14 emergency rules and the provisions of Sections 5-115 and 5-125
15 do not apply to rules adopted under this subsection (d). The
16 adoption of emergency rules authorized by this subsection (d)
17 shall be deemed to be necessary for the public interest,
18 safety, and welfare.

19 (e) In order to provide for the expeditious and timely
20 implementation of the State's fiscal year 2000 budget,
21 emergency rules to implement any provision of this amendatory
22 Act of the 91st General Assembly or any other budget initiative
23 for fiscal year 2000 may be adopted in accordance with this
24 Section by the agency charged with administering that provision
25 or initiative, except that the 24-month limitation on the
26 adoption of emergency rules and the provisions of Sections

1 5-115 and 5-125 do not apply to rules adopted under this
2 subsection (e). The adoption of emergency rules authorized by
3 this subsection (e) shall be deemed to be necessary for the
4 public interest, safety, and welfare.

5 (f) In order to provide for the expeditious and timely
6 implementation of the State's fiscal year 2001 budget,
7 emergency rules to implement any provision of this amendatory
8 Act of the 91st General Assembly or any other budget initiative
9 for fiscal year 2001 may be adopted in accordance with this
10 Section by the agency charged with administering that provision
11 or initiative, except that the 24-month limitation on the
12 adoption of emergency rules and the provisions of Sections
13 5-115 and 5-125 do not apply to rules adopted under this
14 subsection (f). The adoption of emergency rules authorized by
15 this subsection (f) shall be deemed to be necessary for the
16 public interest, safety, and welfare.

17 (g) In order to provide for the expeditious and timely
18 implementation of the State's fiscal year 2002 budget,
19 emergency rules to implement any provision of this amendatory
20 Act of the 92nd General Assembly or any other budget initiative
21 for fiscal year 2002 may be adopted in accordance with this
22 Section by the agency charged with administering that provision
23 or initiative, except that the 24-month limitation on the
24 adoption of emergency rules and the provisions of Sections
25 5-115 and 5-125 do not apply to rules adopted under this
26 subsection (g). The adoption of emergency rules authorized by

1 this subsection (g) shall be deemed to be necessary for the
2 public interest, safety, and welfare.

3 (h) In order to provide for the expeditious and timely
4 implementation of the State's fiscal year 2003 budget,
5 emergency rules to implement any provision of this amendatory
6 Act of the 92nd General Assembly or any other budget initiative
7 for fiscal year 2003 may be adopted in accordance with this
8 Section by the agency charged with administering that provision
9 or initiative, except that the 24-month limitation on the
10 adoption of emergency rules and the provisions of Sections
11 5-115 and 5-125 do not apply to rules adopted under this
12 subsection (h). The adoption of emergency rules authorized by
13 this subsection (h) shall be deemed to be necessary for the
14 public interest, safety, and welfare.

15 (i) In order to provide for the expeditious and timely
16 implementation of the State's fiscal year 2004 budget,
17 emergency rules to implement any provision of this amendatory
18 Act of the 93rd General Assembly or any other budget initiative
19 for fiscal year 2004 may be adopted in accordance with this
20 Section by the agency charged with administering that provision
21 or initiative, except that the 24-month limitation on the
22 adoption of emergency rules and the provisions of Sections
23 5-115 and 5-125 do not apply to rules adopted under this
24 subsection (i). The adoption of emergency rules authorized by
25 this subsection (i) shall be deemed to be necessary for the
26 public interest, safety, and welfare.

1 (j) In order to provide for the expeditious and timely
2 implementation of the provisions of the State's fiscal year
3 2005 budget as provided under the Fiscal Year 2005 Budget
4 Implementation (Human Services) Act, emergency rules to
5 implement any provision of the Fiscal Year 2005 Budget
6 Implementation (Human Services) Act may be adopted in
7 accordance with this Section by the agency charged with
8 administering that provision, except that the 24-month
9 limitation on the adoption of emergency rules and the
10 provisions of Sections 5-115 and 5-125 do not apply to rules
11 adopted under this subsection (j). The Department of Public Aid
12 may also adopt rules under this subsection (j) necessary to
13 administer the Illinois Public Aid Code and the Children's
14 Health Insurance Program Act. The adoption of emergency rules
15 authorized by this subsection (j) shall be deemed to be
16 necessary for the public interest, safety, and welfare.

17 (k) In order to provide for the expeditious and timely
18 implementation of the provisions of the State's fiscal year
19 2006 budget, emergency rules to implement any provision of this
20 amendatory Act of the 94th General Assembly or any other budget
21 initiative for fiscal year 2006 may be adopted in accordance
22 with this Section by the agency charged with administering that
23 provision or initiative, except that the 24-month limitation on
24 the adoption of emergency rules and the provisions of Sections
25 5-115 and 5-125 do not apply to rules adopted under this
26 subsection (k). The Department of Healthcare and Family

1 Services may also adopt rules under this subsection (k)
2 necessary to administer the Illinois Public Aid Code, the
3 Senior Citizens and Disabled Persons Property Tax Relief and
4 Pharmaceutical Assistance Act, the Senior Citizens and
5 Disabled Persons Prescription Drug Discount Program Act (now
6 the Illinois Prescription Drug Discount Program Act), and the
7 Children's Health Insurance Program Act. The adoption of
8 emergency rules authorized by this subsection (k) shall be
9 deemed to be necessary for the public interest, safety, and
10 welfare.

11 (l) In order to provide for the expeditious and timely
12 implementation of the provisions of the State's fiscal year
13 2007 budget, the Department of Healthcare and Family Services
14 may adopt emergency rules during fiscal year 2007, including
15 rules effective July 1, 2007, in accordance with this
16 subsection to the extent necessary to administer the
17 Department's responsibilities with respect to amendments to
18 the State plans and Illinois waivers approved by the federal
19 Centers for Medicare and Medicaid Services necessitated by the
20 requirements of Title XIX and Title XXI of the federal Social
21 Security Act. The adoption of emergency rules authorized by
22 this subsection (l) shall be deemed to be necessary for the
23 public interest, safety, and welfare.

24 (m) In order to provide for the expeditious and timely
25 implementation of the provisions of the State's fiscal year
26 2008 budget, the Department of Healthcare and Family Services

1 may adopt emergency rules during fiscal year 2008, including
2 rules effective July 1, 2008, in accordance with this
3 subsection to the extent necessary to administer the
4 Department's responsibilities with respect to amendments to
5 the State plans and Illinois waivers approved by the federal
6 Centers for Medicare and Medicaid Services necessitated by the
7 requirements of Title XIX and Title XXI of the federal Social
8 Security Act. The adoption of emergency rules authorized by
9 this subsection (m) shall be deemed to be necessary for the
10 public interest, safety, and welfare.

11 (n) In order to provide for the expeditious and timely
12 implementation of the provisions of the State's fiscal year
13 2010 budget, emergency rules to implement any provision of this
14 amendatory Act of the 96th General Assembly or any other budget
15 initiative authorized by the 96th General Assembly for fiscal
16 year 2010 may be adopted in accordance with this Section by the
17 agency charged with administering that provision or
18 initiative. The adoption of emergency rules authorized by this
19 subsection (n) shall be deemed to be necessary for the public
20 interest, safety, and welfare. The rulemaking authority
21 granted in this subsection (n) shall apply only to rules
22 promulgated during Fiscal Year 2010.

23 (o) In order to provide for the expeditious and timely
24 implementation of the provisions of the State's fiscal year
25 2011 budget, emergency rules to implement any provision of this
26 amendatory Act of the 96th General Assembly or any other budget

1 initiative authorized by the 96th General Assembly for fiscal
2 year 2011 may be adopted in accordance with this Section by the
3 agency charged with administering that provision or
4 initiative. The adoption of emergency rules authorized by this
5 subsection (o) is deemed to be necessary for the public
6 interest, safety, and welfare. The rulemaking authority
7 granted in this subsection (o) applies only to rules
8 promulgated on or after the effective date of this amendatory
9 Act of the 96th General Assembly through June 30, 2011 ~~January~~
10 ~~9, 2011~~.

11 (Source: P.A. 95-12, eff. 7-2-07; 95-331, eff. 8-21-07; 96-45,
12 eff. 7-15-09; 96-958, eff. 7-1-10.)

13 Section 10. The State Finance Act is amended by changing
14 Section 5h as follows:

15 (30 ILCS 105/5h)

16 Sec. 5h. Cash flow borrowing and general funds liquidity.

17 (a) In order to meet cash flow deficits and to maintain
18 liquidity in the General Revenue Fund and the Common School
19 Fund, on and after July 1, 2010 and through June 30, 2011
20 ~~January 9, 2011~~, the State Treasurer and the State Comptroller
21 shall make transfers to the General Revenue Fund or the Common
22 School Fund, as directed by the Governor, out of special funds
23 of the State, to the extent allowed by federal law. No transfer
24 may be made from a fund under this Section that would have the

1 effect of reducing the available balance in the fund to an
2 amount less than the amount remaining unexpended and unreserved
3 from the total appropriation from that fund estimated to be
4 expended for that fiscal year. No such transfer may reduce the
5 cumulative balance of all of the special funds of the State to
6 an amount less than the total debt service payable during the
7 12 months immediately following the date of the transfer on any
8 bonded indebtedness of the State and any certificates issued
9 under the Short Term Borrowing Act. Notwithstanding any other
10 provision of this Section, no such transfer may be made from
11 any special fund that is exclusively collected by or
12 appropriated to any other constitutional officer without the
13 written approval of that constitutional officer.

14 (b) If moneys have been transferred to the General Revenue
15 Fund or the Common School Fund pursuant to subsection (a) of
16 this Section, this amendatory Act of the 96th General Assembly
17 shall constitute the irrevocable and continuing authority for
18 and direction to the State Treasurer and State Comptroller to
19 reimburse the funds of origin from the General Revenue Fund or
20 the Common School Fund, as appropriate, by transferring to the
21 funds of origin, at such times and in such amounts as directed
22 by the Governor when necessary to support appropriated
23 expenditures from the funds, an amount equal to that
24 transferred from them plus any interest that would have accrued
25 thereon had the transfer not occurred, except that any moneys
26 transferred pursuant to subsection (a) of this Section shall be

1 repaid to the fund of origin within 18 months after the date on
2 which they were borrowed.

3 (c) On the first day of each quarterly period in each
4 fiscal year, the Governor's Office of Management and Budget
5 shall provide to the President and the Minority Leader of the
6 Senate, the Speaker and the Minority Leader of the House of
7 Representatives, and the Commission on Government Forecasting
8 and Accountability a report on all transfers made pursuant to
9 this Section in the prior quarterly period. The report must be
10 provided in both written and electronic format. The report must
11 include all of the following:

12 (1) The date each transfer was made.

13 (2) The amount of each transfer.

14 (3) In the case of a transfer from the General Revenue
15 Fund or the Common School Fund to a fund of origin pursuant
16 to subsection (b) of this Section, the amount of interest
17 being paid to the fund of origin.

18 (4) The end of day balance of both the fund of origin
19 and the General Revenue Fund or the Common School Fund,
20 whichever the case may be, on the date the transfer was
21 made.

22 (Source: P.A. 96-958, eff. 7-1-10.)

23 Section 15. The Emergency Budget Act of Fiscal Year 2011 is
24 amended by changing Sections 1-10, 1-15, and 1-20 as follows:

1 (30 ILCS 187/1-10)

2 (Section scheduled to be repealed on July 1, 2011)

3 Sec. 1-10. Designation of contingency reserve. Beginning
4 on July 1, 2010 and until June 30, 2011 ~~January 9, 2011~~, the
5 Governor may designate amounts to be set aside as a contingency
6 reserve from the amounts appropriated from the General Revenue
7 Fund, the Common School Fund, the Education Assistance Fund,
8 and any special fund of the State for State fiscal year 2011
9 for all boards, commissions, agencies, institutions,
10 authorities, colleges, universities, and bodies politic and
11 corporate of the State, but not other constitutional officers,
12 the legislative or judicial branch, the office of the Executive
13 Inspector General, or the Executive Ethics Commission. The
14 total contingency reserve may not exceed one-third of the sum
15 of (i) the total dollar amount of vouchers that have been
16 submitted to the State Comptroller for payment but for which
17 warrants have not been issued by the Comptroller as of July 1,
18 2010 and (ii) the total dollar amount of any fiscal year 2010
19 mandated statutory transfers that have not been executed as of
20 July 1, 2010. The State Comptroller shall certify the total
21 dollar amount of those outstanding vouchers and transfers to
22 the Governor on or before July 8, 2010.

23 (Source: P.A. 96-958, eff. 7-1-10.)

24 (30 ILCS 187/1-15)

25 (Section scheduled to be repealed on July 1, 2011)

1 Sec. 1-15. Contingency reserve restrictions. Until June
2 30, 2011 ~~January 9, 2011~~, the amounts placed in contingency
3 reserve shall not be transferred, obligated, encumbered,
4 expended, or otherwise committed unless the Governor
5 authorizes the removal of the amounts from the contingency
6 reserve or the State, by an Act of the 96th General Assembly,
7 generates incremental revenues sufficient to support such
8 transfers, obligations, encumbrances, expenditures, or other
9 commitments.

10 (Source: P.A. 96-958, eff. 7-1-10.)

11 (30 ILCS 187/1-20)

12 (Section scheduled to be repealed on July 1, 2011)

13 Sec. 1-20. All State programs subject to appropriation.
14 Notwithstanding any other Act to the contrary, during State
15 fiscal year 2011, any expenditure from State funds authorized
16 or required by any State law are made subject to appropriation
17 through June 30, 2011 ~~January 9, 2011~~ of that fiscal year. No
18 moneys shall be obligated or expended during that time unless
19 they are supported by available State fiscal year 2011
20 appropriations that are not otherwise obligated or reserved
21 pursuant to Section 1-10 of this Act. The provisions of this
22 Section do not apply to non-appropriated funds,
23 non-appropriated accounts, locally held funds, or
24 appropriations with continuing authority.

25 (Source: P.A. 96-958, eff. 7-1-10.)

1 Section 99. Effective date. This Act takes effect upon
2 becoming law.".