

AN ACT concerning State government.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

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

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

Sec. 5-45. Emergency rulemaking.

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

(b) If any agency finds that an emergency exists that requires adoption of a rule upon fewer days than is required by Section 5-40 and states in writing its reasons for that finding, the agency may adopt an emergency rule without prior notice or hearing upon filing a notice of emergency rulemaking with the Secretary of State under Section 5-70. The notice shall include the text of the emergency rule and shall be published in the Illinois Register. Consent orders or other court orders adopting settlements negotiated by an agency may be adopted under this Section. Subject to applicable constitutional or statutory provisions, an emergency rule becomes effective immediately upon filing under Section 5-65 or at a stated date less than 10 days thereafter. The agency's

finding and a statement of the specific reasons for the finding shall be filed with the rule. The agency shall take reasonable and appropriate measures to make emergency rules known to the persons who may be affected by them.

(c) An emergency rule may be effective for a period of not longer than 150 days, but the agency's authority to adopt an identical rule under Section 5-40 is not precluded. No emergency rule may be adopted more than once in any 24 month period, except that this limitation on the number of emergency rules that may be adopted in a 24 month period does not apply to (i) emergency rules that make additions to and deletions from the Drug Manual under Section 5-5.16 of the Illinois Public Aid Code or the generic drug formulary under Section 3.14 of the Illinois Food, Drug and Cosmetic Act, (ii) emergency rules adopted by the Pollution Control Board before July 1, 1997 to implement portions of the Livestock Management Facilities Act, (iii) emergency rules adopted by the Illinois Department of Public Health under subsections (a) through (i) of Section 2 of the Department of Public Health Act when necessary to protect the public's health, (iv) emergency rules adopted pursuant to subsection (n) of this Section, or (v) emergency rules adopted pursuant to subsection (o) of this Section. Two or more emergency rules having substantially the same purpose and effect shall be deemed to be a single rule for purposes of this Section.

(d) In order to provide for the expeditious and timely

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

(e) In order to provide for the expeditious and timely implementation of the State's fiscal year 2000 budget, emergency rules to implement any provision of this amendatory Act of the 91st General Assembly or any other budget initiative for fiscal year 2000 may be adopted in accordance with this Section by the agency charged with administering that provision or initiative, except that the 24-month limitation on the adoption of emergency rules and the provisions of Sections 5-115 and 5-125 do not apply to rules adopted under this subsection (e). The adoption of emergency rules authorized by this subsection (e) shall be deemed to be necessary for the public interest, safety, and welfare.

(f) In order to provide for the expeditious and timely implementation of the State's fiscal year 2001 budget, emergency rules to implement any provision of this amendatory

Act of the 91st General Assembly or any other budget initiative for fiscal year 2001 may be adopted in accordance with this Section by the agency charged with administering that provision or initiative, except that the 24-month limitation on the adoption of emergency rules and the provisions of Sections 5-115 and 5-125 do not apply to rules adopted under this subsection (f). The adoption of emergency rules authorized by this subsection (f) shall be deemed to be necessary for the public interest, safety, and welfare.

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

(h) In order to provide for the expeditious and timely implementation of the State's fiscal year 2003 budget, emergency rules to implement any provision of this amendatory Act of the 92nd General Assembly or any other budget initiative for fiscal year 2003 may be adopted in accordance with this

Section by the agency charged with administering that provision or initiative, except that the 24-month limitation on the adoption of emergency rules and the provisions of Sections 5-115 and 5-125 do not apply to rules adopted under this subsection (h). The adoption of emergency rules authorized by this subsection (h) shall be deemed to be necessary for the public interest, safety, and welfare.

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

(j) In order to provide for the expeditious and timely implementation of the provisions of the State's fiscal year 2005 budget as provided under the Fiscal Year 2005 Budget Implementation (Human Services) Act, emergency rules to implement any provision of the Fiscal Year 2005 Budget Implementation (Human Services) Act may be adopted in accordance with this Section by the agency charged with

administering that provision, except that the 24-month limitation on the adoption of emergency rules and the provisions of Sections 5-115 and 5-125 do not apply to rules adopted under this subsection (j). The Department of Public Aid may also adopt rules under this subsection (j) necessary to administer the Illinois Public Aid Code and the Children's Health Insurance Program Act. The adoption of emergency rules authorized by this subsection (j) shall be deemed to be necessary for the public interest, safety, and welfare.

(k) In order to provide for the expeditious and timely implementation of the provisions of the State's fiscal year 2006 budget, emergency rules to implement any provision of this amendatory Act of the 94th General Assembly or any other budget initiative for fiscal year 2006 may be adopted in accordance with this Section by the agency charged with administering that provision or initiative, except that the 24-month limitation on the adoption of emergency rules and the provisions of Sections 5-115 and 5-125 do not apply to rules adopted under this subsection (k). The Department of Healthcare and Family Services may also adopt rules under this subsection (k) necessary to administer the Illinois Public Aid Code, the Senior Citizens and Disabled Persons Property Tax Relief and Pharmaceutical Assistance Act, the Senior Citizens and Disabled Persons Prescription Drug Discount Program Act (now the Illinois Prescription Drug Discount Program Act), and the Children's Health Insurance Program Act. The adoption of

emergency rules authorized by this subsection (k) shall be deemed to be necessary for the public interest, safety, and welfare.

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

(m) In order to provide for the expeditious and timely implementation of the provisions of the State's fiscal year 2008 budget, the Department of Healthcare and Family Services may adopt emergency rules during fiscal year 2008, including rules effective July 1, 2008, in accordance with this subsection to the extent necessary to administer the Department's responsibilities with respect to amendments to the State plans and Illinois waivers approved by the federal Centers for Medicare and Medicaid Services necessitated by the requirements of Title XIX and Title XXI of the federal Social

Security Act. The adoption of emergency rules authorized by this subsection (m) shall be deemed to be necessary for the public interest, safety, and welfare.

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

(o) In order to provide for the expeditious and timely implementation of the provisions of the State's fiscal year 2011 budget, emergency rules to implement any provision of this amendatory Act of the 96th General Assembly or any other budget initiative authorized by the 96th General Assembly for fiscal year 2011 may be adopted in accordance with this Section by the agency charged with administering that provision or initiative. The adoption of emergency rules authorized by this subsection (o) is deemed to be necessary for the public interest, safety, and welfare. The rulemaking authority granted in this subsection (o) applies only to rules

promulgated on or after the effective date of this amendatory Act of the 96th General Assembly through June 30, 2011 ~~January 9, 2011~~.

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

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

(30 ILCS 105/5h)

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

(a) In order to meet cash flow deficits and to maintain liquidity in the General Revenue Fund and the Common School Fund, on and after July 1, 2010 and through June 30, 2011 ~~January 9, 2011~~, the State Treasurer and the State Comptroller shall make transfers to the General Revenue Fund or the Common School Fund, as directed by the Governor, out of special funds of the State, to the extent allowed by federal law. No transfer may be made from a fund under this Section that would have the effect of reducing the available balance in the fund to an amount less than the amount remaining unexpended and unreserved from the total appropriation from that fund estimated to be expended for that fiscal year. No such transfer may reduce the cumulative balance of all of the special funds of the State to an amount less than the total debt service payable during the 12 months immediately following the date of the transfer on any

bonded indebtedness of the State and any certificates issued under the Short Term Borrowing Act. Notwithstanding any other provision of this Section, no such transfer may be made from any special fund that is exclusively collected by or appropriated to any other constitutional officer without the written approval of that constitutional officer.

(b) If moneys have been transferred to the General Revenue Fund or the Common School Fund pursuant to subsection (a) of this Section, this amendatory Act of the 96th General Assembly shall constitute the irrevocable and continuing authority for and direction to the State Treasurer and State Comptroller to reimburse the funds of origin from the General Revenue Fund or the Common School Fund, as appropriate, by transferring to the funds of origin, at such times and in such amounts as directed by the Governor when necessary to support appropriated expenditures from the funds, an amount equal to that transferred from them plus any interest that would have accrued thereon had the transfer not occurred, except that any moneys transferred pursuant to subsection (a) of this Section shall be repaid to the fund of origin within 18 months after the date on which they were borrowed.

(c) On the first day of each quarterly period in each fiscal year, the Governor's Office of Management and Budget shall provide to the President and the Minority Leader of the Senate, the Speaker and the Minority Leader of the House of Representatives, and the Commission on Government Forecasting

and Accountability a report on all transfers made pursuant to this Section in the prior quarterly period. The report must be provided in both written and electronic format. The report must include all of the following:

(1) The date each transfer was made.

(2) The amount of each transfer.

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

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

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

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

(30 ILCS 187/1-10)

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

Sec. 1-10. Designation of contingency reserve. Beginning on July 1, 2010 and until June 30, 2011 ~~January 9, 2011~~, the Governor may designate amounts to be set aside as a contingency reserve from the amounts appropriated from the General Revenue Fund, the Common School Fund, the Education Assistance Fund,

and any special fund of the State for State fiscal year 2011 for all boards, commissions, agencies, institutions, authorities, colleges, universities, and bodies politic and corporate of the State, but not other constitutional officers, the legislative or judicial branch, the office of the Executive Inspector General, or the Executive Ethics Commission. The total contingency reserve may not exceed one-third of the sum of (i) the total dollar amount of vouchers that have been submitted to the State Comptroller for payment but for which warrants have not been issued by the Comptroller as of July 1, 2010 and (ii) the total dollar amount of any fiscal year 2010 mandated statutory transfers that have not been executed as of July 1, 2010. The State Comptroller shall certify the total dollar amount of those outstanding vouchers and transfers to the Governor on or before July 8, 2010.

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

(30 ILCS 187/1-15)

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

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

transfers, obligations, encumbrances, expenditures, or other commitments.

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

(30 ILCS 187/1-20)

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

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

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

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