

Elaine Spencer, Editor  
jcar@ilga.gov

Joint Committee on Administrative Rules  
Illinois General Assembly

700 Stratton Bldg. Springfield IL 62706  
217/785-2254 ilga.gov/commission/jcar

VOL. 43

March 8, 2019

Issue 10

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

## New Rules

### ■ SENTENCE CREDIT

The DEPARTMENT OF CORRECTIONS adopted amendments to Records of Offenders (20 IAC 107; 42 Ill Reg 16574), effective 3/1/19, implementing Public Acts 99-928 and 100-3, which restructured the system through which DOC inmates earn credit for time served toward their sentences. Effective 1/1/18, DOC inmates may receive Earned Discretionary Sentence Credit (EDSC, which replaces Supplemental Sentence Credit) at the sole discretion of the DOC Director or designee, or Earned Program Sentence Credit (EPSC, which generally grants one-half day sentence credit for each day of participation in an eligible program) for successful participation in vocational or academic education programs; substance abuse programs; Correctional Industries

assignments; behavior modification programs; life skills courses; or re-entry planning. The maximum EDSC that may be awarded for good conduct is increased from 90 to 180 days. EDSC or EPSC may not be awarded when it reduces time served to less than 85% for offenders required to serve 85% of their sentence; less than 60% for offenders required to serve 75% of their sentence; or less than 75% for offenders convicted of gun running. These credits also cannot be awarded to offenders who are serving natural life terms or who have been convicted of first degree murder or terrorism. However, offenders returned to DOC for violations of parole or mandatory supervised release or after being terminated from an impact incarceration program are eligible for EDSC (these offenders were not eligible

(cont. page 2)

## Proposed Rulemakings

### UTILITIES

The ILLINOIS COMMERCE COMMISSION proposed amendments to the Part titled The Waiver of Filing and the Approval of Certain Contracts and Arrangements with Affiliated Interests (83 IAC 310; 43 Ill Reg 3079). The rulemaking provides that exempt contracts not exceeding the lesser of \$5 million or 2% of a utility's receipts from all tariffed services from having to be filed with and approved by ICC. It also allows notices and specifications for competitive bidding to be posted on a utility's website or electronically distributed in a manner reasonably designed to achieve broad circulation among prospective bidders (currently, bid notices must be published in the official State newspaper plus a general circulation newspaper

(cont. page 3)

**NEW RULES:** Rules adopted by agencies this week. **EMERGENCY RULES:** Adopted for a temporary period not to exceed 150 days.

**PROPOSED RULES:** Rules proposed by agencies this week, commencing a 45-day First Notice period during which public comments must be accepted.

**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 not-for-profit corporations. Agencies are required to consider comments from these groups and minimize the regulatory burden on them.

**QUESTIONS/COMMENTS:** Submit mail, email or phone calls to the agency personnel listed below each summary.

**RULE TEXT:** Available on the Secretary of State ([www.cyberdriveillinois.com](http://www.cyberdriveillinois.com)) and General Assembly ([www.ilga.gov](http://www.ilga.gov)) websites under Illinois Register. Second Notice text (original version with changes made by the agency during First Notice included) is available on the JCAR website.

# New Rules

(cont. from page 1)

for Supplemental Sentence Credit). Before awarding EDSC, the Director or designee must receive a risk and needs assessment for the offender that has been administered with a validated assessment instrument. With regard to EPSC, the rulemaking increases sentence credit for completion of a high school equivalency program from 60 to 90 days and requires eligible offenders to be enrolled in at least 10 (formerly 15) classroom hours per week for non-college educational programs. It also no longer excludes from EPSC persons who have previously served more than one felony sentence in an adult prison, or who were convicted of a felony committed after receiving a previous sentence credit. In order to receive EPSC for behavior modification programs, life skills courses, and re-entry planning programs, an offender must complete the number of hours determined to be beneficial based on the offender's risk and needs assessment. (Formerly, specific time frames were prescribed for completing these programs.) DOC must prepare an annual report of the number of offenders awarded earned sentence credit, the offenses for which they are incarcerated, the average number of earned sentence credit days awarded, and the number of revocations of earned sentence credit. This report must be submitted to the Governor and General Assembly

no later than Feb. 1 and posted on the DOC website within 48 hours after its submission. Finally, the rulemaking provides for release of criminal history records and transcripts in accordance with rules adopted by the Illinois State Police. Those affected by this rulemaking include DOC inmates, prospective releasees, and persons conducting programs for which inmates may earn sentence credit.

Questions/requests for copies: Echo Beekman, DOC, 1301 Concordia Court, PO Box 19277, Springfield IL 62794-9277, 217/558-220, ext. 6507, [echo.beekman@doc.illinois.gov](mailto:echo.beekman@doc.illinois.gov)

## ■ SOS GRANT PROGRAMS

The SECRETARY OF STATE adopted a new Part titled Grant Application and Award Procedures – Census Participation and Immigrant Community Assistance Grants (89 IAC 1500; 42 Ill Reg 18440) effective 2/22/19. This Part replaces an emergency rulemaking that was effective 9/25/18 and repealed on 1/10/19. This rulemaking implements two grant programs for which funds were appropriated to SOS by Public Act 100-586 (Fiscal Year 2019 State Budget): \$1.5 million for grants to encourage federal census participation and \$2.5 million for grants to assist immigrant communities in navigating government services. The rulemakings establish the application process for

community organizations seeking either or both types of grants, which will be awarded on a competitive basis. An SOS review committee will review all grant applications and awards will be based on demonstrated need, the organization's experience carrying out the proposed program or plan, and the projected outcome. Grant recipients must submit quarterly reports of their grant fund expenditures to SOS. Funds awarded are subject to recovery under the Grant Funds Recovery Act if the recipient fails to comply with conditions of the grant. While this grant program is not subject to the Grant Accountability and Transparency Act (which applies only to State agencies under the authority of the Governor), SOS will not consider applications from any entities on the Illinois Debarred and Suspended List maintained by the Governor's Office of Management and Budget. Since 1<sup>st</sup> Notice, SOS has bifurcated the rulemaking into separate Subparts for each grant program and added more details concerning the application process and grant award criteria. Non-profit organizations, corporations and partnerships seeking grant funds are affected by these rulemakings.

Questions/requests for copies: Amy Williams, SOS, 298 Howlett Bldg., Springfield IL 62756, 217/785-3094, [Awilliams3@ilsos.net](mailto:Awilliams3@ilsos.net)

(cont. page 4)

# Proposed Rulemakings

---

(cont. from page 1)

in the city or town where the utility is headquartered, or where the contract will be performed, and specifications may be kept available for inspection at the public utility's principal Illinois office). Other amendments clarify certain provisions and update statutory and other references.

ICC also proposed amendments to the Part titled Electric Reliability (83 IAC 411; 43 Ill Reg 3088) updating and simplifying various reporting requirements. The rulemaking reflects a requirement in the Public Utilities Act that electric utilities with 100,000 or more customers (currently, 1 million or more customers) keep certain records of service interruptions; removes a requirement that utilities include data for the 3 previous years in their annual reliability reports; allows customer surveys to be conducted online as well as by telephone; and removes a requirement that data on outages and power fluctuations be included in a utility's annual load reports (ICC may request this data if it believes it to be relevant). It also allows computerized data and information in reports to be submitted in any format agreed to by ICC staff (instead of listing outdated file formats). An ICC proceeding to determine damages or expense reimbursement will be required if a power interruption, surge or fluctuation that affects more than 0.8% of a utility's total customers (new threshold) or more than 30,000 customers (threshold in

current rule; the lesser of the two thresholds will apply) and meets other conditions set forth in the Public Utilities Act.

Questions/requests for copies/ comments on the 2 ICC rulemakings through 4/22/19: Elizabeth Rolando, ICC, 527 E. Capitol Ave., Springfield IL 62701, 217/782-7434.

## PENSION BUYOUT PLAN

The STATE UNIVERSITIES RETIREMENT SYSTEM proposed amendments to Universities Retirement (80 IAC 1600; 43 Ill Reg 3163) implementing provisions of Public Act 100-587 that create two accelerated pension benefit payment programs. One program allows Tier 1 System members (hired before 1/1/11) who retire prior to 6/30/21 to forgo the 3% compounded automatic annual increase (AAI) in exchange for a 1.5%, non-compounded AAI that begins on Jan. 1 following their 1<sup>st</sup> anniversary of retirement, or on their 67<sup>th</sup> birthday, whichever is later. SURS members who choose this option will receive a lump sum payment equal to 70% of the difference between the present value of the 3% compounded AAI and the 1.5% non-compounded AAI. Another program, known as the Vested Inactive Buyout (VIB) program, allows inactive members with sufficient service credit to vest into the retirement plan to forfeit all service credit and rights to future retirement benefits in exchange for a lump sum payment equal to

60% of the present value of their earned benefits. Applications for accelerated benefit payments must be submitted no later than 6/1/21, and only service credit earned under SURS may be used to determine eligibility. Persons who receive proportional annuities from a reciprocal State or local government retirement system before 12/1/18, and persons who would be in violation of the minimum distribution requirements of the Internal Revenue Code if they accepted an accelerated payment, are not eligible for these programs. Persons who owe overpayments to SURS are also ineligible for accelerated benefits until their debt is paid in full. The rule also includes provisions for including accelerated benefits in Qualified Illinois Domestic Relations Orders (QILDROs) which allow pension benefits to be divided between spouses as part of a divorce or separation agreement. An employer that fails to make a complete payment of unpaid contributions due within 3 years will have the delinquent amount deducted from other State funds by the Comptroller. Additionally, the rulemaking updates contact information for requests for public information made under the Freedom of Information Act; clarifies the definitions of State fiscal year and Governor's salary for purposes of determining the employer contribution for earnings in excess of the

(cont. page 4)

# New Rules

---

(cont. from page 2)

## INSURANCE

The DEPARTMENT OF INSURANCE adopted amendments to Insurance Department Consumer Complaints (50 IAC 926; 42 Ill Reg 18347), Construction and Filing of Life Insurance and Annuity Forms (50 IAC 1405; 42 Ill Reg 20207), Recognition of the 2001 CSO Mortality Table for Use in Determining Minimum Reserve Liabilities and Nonforfeiture Benefits (50 IAC 1412; 42 Ill Reg 18360), Insurance Oversight Data Collection (50 IAC 2907; 42 Ill Reg 18367), and Summary Document and Disclaimer (50 IAC 3401; 42 Ill Reg 20934), all effective 2/25/19. The first 4

rulemakings make technical corrections and remove outdated or superfluous requirements for information that DOI no longer uses. The Part 3401 amendment updates the Notice of Protection provided by the Illinois Life and Health Insurance Guaranty Association to reflect the inclusion of health maintenance organizations in the Association and to update the Association's address.

Questions/requests for copies: Parts 926 and 3401, Sara Stanberry (217/558-3396); Part 1405, Mike Chrysler (217/558-2744); Part 1412, Bruce Sartain (217/785-0903); Part 2907, C.J. Metcalf (217/558-0853); DOI, 320 W. Washington St., Springfield IL 62767.

## MEAT INSPECTION

The DEPARTMENT OF AGRICULTURE adopted amendments to Meat and Poultry Inspection Act (8 IAC 125; 42 Ill Reg 20174) effective 2/25/19, incorporating federal regulations that were effective 7/30/18. The federal regulations (published in the 5/30/18 *Federal Register* at 83 FR 25302) eliminate outdated requirements for pork and pork products to be treated to destroy trichinosis bacteria and consolidate other regulations regarding canned food products containing meat or poultry.

Questions/requests for copies: Albert Coll, DOA, State Fairgrounds, PO Box 19821, Springfield IL 62974-9281, 217/782-5051, [Albert.coll@illinois.gov](mailto:Albert.coll@illinois.gov)

# Proposed Rulemakings

---

(cont. from page 3)

Governor's salary; and removes certain provisions for determining full time equivalent (FTE) earnings exclusions (only payments made for unused sick leave or unused vacation time under a collective bargaining agreement are excluded).

Questions/requests for copies/ comments through 4/22/19: Albert J. Lee, SURS, 1901 Fox Drive, Champaign IL 61820, 217/378-8861.

## NURSING SCHOOLS

The BOARD OF HIGHER EDUCATION proposed

amendments to Nursing School Grant Program (23 IAC 1100; 43 Ill Reg 3106) to replace an emergency rule that was effective 8/6/18 and expired 1/2/19. The rulemaking combines what were formerly two categories of grants to nursing schools (expansion grants and improvement grants) into a single category, includes master's degree entry programs as well as bachelor's degree programs, establishes priorities for program appropriations, lists acceptable uses of grant funds, and outlines the application and award determination process. Factors to be considered in awarding grants include performance measures from the previous 3 years, such as the

number of nursing degrees conferred, the first-year retention rate, the nursing exam pass rate for first-time test takers, and job placement within 6 months after degree completion. Institutions of higher education that offer nursing degrees are affected by this rulemaking.

Questions/requests for copies: Karen Helland, BHE, 1 N. Old State Capitol Plaza, Suite 333, Springfield IL 62701, 217/557-7358, fax 217/782-8548, e-mail: [Helland@ibhe.org](mailto:Helland@ibhe.org)

(cont. page 5)

# Proposed Rulemakings

---

(cont. from page 4)

## UNIVERSITY EMPLOYMENT

The STATE UNIVERSITIES CIVIL SERVICE SYSTEM proposed amendments to the Part titled State Universities Civil Service System (80 IAC 250; 43 Ill Reg 3129) that outline procedures for appointing current or former officers of municipal, county or State police departments as university police officers. Applicants must have successfully completed at least 2 years of employment as a full-time, sworn and certified officer; must satisfy the requirements of the Law Enforcement Training and Standards Board; and cannot have been suspended for disciplinary reasons by the current or most recent employer. Applicants hired under these provisions must serve a probationary period of 12 months. No more than 2 positions at any university may be filled and occupied in this manner in any given 5-year period. For cases in which an employer has filed written charges for discharge against an employee and the employee has requested a hearing before the Merit Board, the rulemaking provides that under certain circumstances, the employer may enter an agreement that includes a suspension of no more than 120 days for the disciplined employee (normally, this suspension is limited to 30 days). The minimum number of days that the Merit Board can suspend an employee is reduced from 60 to 3 days.

Questions/requests for copies/ comments through 4/22/19: Jeff Brownfield, SUCSS, 1717 Philo Rd., Suite 24, Urbana IL 61802, 2 1 7 / 2 7 8 - 3 1 5 0 , [jeffb@sucss.illinois.gov](mailto:jeffb@sucss.illinois.gov) or [teresar@sucss.illinois.gov](mailto:teresar@sucss.illinois.gov)

## ■ TECH DEVELOPMENT

The OFFICE OF THE TREASURER proposed a new Part titled Technology Development Account (TDA) Program (74 IAC 719; 43 Ill Reg 3191) which allows the Treasurer to use a portion of the State's investment portfolio to provide capital to funds that finance technology businesses seeking to locate, expand or remain in Illinois. Technology businesses eligible for the program include companies whose principal function is to provide computer, information transfer, communication, processing, administrative, experimental, developmental, or testing services; that engage in robotics, biological or pharmaceutical industrial activities; or that engage in emerging or technology oriented industrial activity. Venture capital funds participating in the program must have a track record of having, on average, at least one investment in an Illinois company in each of its funds (if the firm has multiple funds) or at least two investments in Illinois companies if the firm has only one fund. The new Part also outlines the management responsibilities of the Treasurer and the investment advisors and establishes investment policy

and objectives. Small businesses may be affected.

Questions/requests for copies/ comments through 4/22/19: Laura Duque, Office of the Treasurer, 100 W. Randolph St., Suite 15-600, Chicago IL 60601, 312/814-3573, fax 217/785-2777, [LDuque@illinoistreasurer.gov](mailto:LDuque@illinoistreasurer.gov)

## ■ HORSE BREEDING

The DEPARTMENT OF AGRICULTURE proposed amendments to the Part titled Standardbred, Thoroughbred and Quarter Horse Breeding and Racing Program, Illinois (8 IAC 270; 43 Ill Reg 3054) implementing provisions of the Horse Racing Act that provide a temporary exception to criteria that determine whether a foal can be registered in Illinois. Effective 1/1/18 through 12/31/21, foals conceived with semen from an Illinois stallion are eligible for registration even if the semen is transported out of State and the mare (dam) is not in Illinois at the time of conception or for 30 days before or after foaling. Beginning 1/1/22, semen from Illinois-certified stallions cannot be transported out of State and mares must be in Illinois at the time of the foal's conception for the foal to be eligible for Illinois registration. The rulemaking also allows registration certificates to be returned to a horse's owner via any mail delivery system with tracking capabilities (currently,

(cont. page 6)

# Proposed Rulemakings

(cont. from page 5)

registered mail). Owners and breeders of racing horses are affected by this rulemaking.

Questions/requests for copies/ comments through 4/22/19: Pamela Harmon, DOA, State Fairgrounds, PO Box 19281, Springfield IL 62794-9281, 217/ 524-6905, fax 217/785-4505.

## HOSPITAL ASSISTANCE

The OFFICE OF THE ATTORNEY GENERAL proposed an amendment to Hospital Financial Assistance under the Fair Patient Billing Act (77 IAC 4500; 43 Ill Reg 3068) reflecting the 2019 Federal Poverty Level income guidelines used to determine eligibility for financial assistance.

Questions/requests for copies/ comments through 4/22/19: Lynn

Patton, OAG, 500 S. Second St., Springfield IL 62701, 217/524-1504 or David F. Buysse, OAG, 100 W. Randolph St., 12<sup>th</sup> Fl., Chicago IL 60601, 312/814-7236.

## AIDS DRUG ASSISTANCE

The DEPARTMENT OF PUBLIC HEALTH proposed an amendment to AIDS Drug Assistance Program (77 IAC 692; 43 Ill Reg 3124) updating the Federal Poverty Level income guidelines and the income threshold for program eligibility (300% of FPL) to reflect the 2019 FPL figures issued by the federal Department of Health and Human Services.

Questions/requests for copies/ comments through 4/22/19: Erin Conley, DPH, 535 W. Jefferson St., 5<sup>th</sup> Fl., Springfield IL 62761, 217/ 782-2043, [dph.rules@illinois.gov](mailto:dph.rules@illinois.gov)

## STATE TRAVEL

The DEPARTMENT OF CENTRAL MANAGEMENT SERVICES proposed an amendment to the Part titled The Travel Regulation Council (80 IAC 3000; 43 Ill Reg 3072) increasing daily reimbursement rates for overnight lodging to \$95 (currently \$80) in the Chicago metro area, \$85 (currently \$70) in urban Downstate counties (e.g., Champaign, McLean, Peoria, Sangamon), and \$75 (currently \$60) in all other Downstate counties.

Questions/requests for copies/ comments through 4/22/19: Kelley Wells, Governor's Travel Control Board, 100 E. Converse, Springfield IL 62702, 217/782-4705.

## Joint Committee on Administrative Rules

**Senator Don Harmon**  
**Senator Kimberly Lightford**  
**Senator Tony Muñoz**  
**Senator Sue Rezin**  
**Senator Paul Schimpf**  
**Senator Chuck Weaver**

**Representative Tom Demmer**  
**Representative Michael Halpin**  
**Representative Frances Ann Hurley**  
**Representative Steven Reick**  
**Representative André Thapedi**  
**Representative Keith Wheeler**

**Vicki Thomas**  
**Executive Director**

## **Second Notices**

---

The following rulemakings were moved to Second Notice this week by the agencies listed below, commencing the JCAR review period. The DFPR, HFS and SOS rulemakings will be considered at the March 12, 2019 JCAR meeting, while the remaining rulemakings will be considered at the April 9, 2019 meeting. Other items not listed in the Illinois Register or The Flinn Report may also be considered. Further comments concerning these rulemakings may be sent to JCAR using the contact information on page 1.

### **DEPT OF FINANCIAL & PROFESSIONAL REGULATION**

Administrative Procedures for General Professional Regulation Under the Administrative Code (68 IAC 1130; 42 Ill Reg 22314) proposed 12/14/18

### **DEPT OF HEALTHCARE & FAMILY SERVICES**

Medical Payment (89 IAC 140; 42 Ill Reg 7285) proposed 4/20/18

Children's Health Insurance Program (89 IAC 125; 42 Ill Reg 7280) proposed 4/20/18

### **SECRETARY OF STATE**

Public Use of Capitol Complex and Springfield Facilities (71 IAC 2005; 42 Ill Reg 24819) proposed 12/28/18

Secretary of State Standard Procurement (44 IAC 2000; 42 Ill Reg 24773) proposed 12/28/18

### **DEPT OF AGRICULTURE**

Egg and Egg Products Act (8 IAC 65; 42 Ill Reg 24323) proposed 12/28/18

Bovine Brucellosis (8 IAC 75; 42 Ill Reg 24335) proposed 12/28/18

Diseased Animals (8 IAC 85; 42 Ill Reg 24340) proposed 12/28/18

### **CAPITAL DEVELOPMENT BOARD**

Illinois Energy Conservation Code (71 IAC 600; 42 Ill Reg 21491) proposed 12/7/18

### **DEPT OF CENTRAL MANAGEMENT SERVICES**

Marking, Inventory, Transfer and Disposal of State-Owned Personal Property (44 IAC 5010; 42 Ill Reg 19247) proposed 11/2/18

### **DEPT OF NATURAL RESOURCES**

Revocation Procedures for Conservation Offenses (17 IAC 2530; 43 Ill Reg 115) proposed 1/4/19