

August 14, 2009

To the Honorable Members of the House of Representatives,  
96<sup>th</sup> General Assembly:

I hereby return HB 276 with the following specific recommendations for change.

HB 276 provides that "for purposes of clarification only", agencies must adopt rules in accordance with the currently-applicable requirements of the Illinois Administrative Procedure Act unless there is a specific exemption set forth in statute. HB 276 also states that the requirement to adopt rules unless exempted from doing so pursuant to an explicit statutory exemption applies to "in addition to all other agency policies affecting persons or entities outside the agency, grant-making policies."

Existing law requires agencies to perform the actions this bill contemplates. This legislation confuses an issue made very clear by existing law. The Illinois Administrative Procedure Act ("Act") provides a definition of the term "rule" that indicates when an agency must promulgate rules and when it need not. 5 ILCS 100/1-70. The first sentence of this legislation restates a part of the Act's definition of rules. It is therefore a redundant and incomplete statement of the law that already binds us.

The second and third sentences of HB 276 indicate a desire to make sure that agencies adhere to rulemaking procedures when soliciting applications for, awarding, disbursing, and making records of, grants. I note that under Section 5-15(a)(2) of the Act, agencies must "maintain as rules ... the current procedures by which the public can obtain information or make submissions or requests on subjects, programs, and activities of the agency." 5 ILCS 100/5-15(a)(2). Therefore, existing law mandates that agencies adhere to the rulemaking procedures as contemplated by House Bill 276.

I agree with members of the General Assembly that the processes by which agencies distribute grants must be formalized, transparent, and fair. However, HB 276 restates, incompletely and out of context, existing provisions of law and frustrates the realization of that shared goal.

Because I share the goal of a formal, transparent and efficient process for distributing grants, I hereby make the specific recommendations for change set forth below.

Therefore, pursuant to Article IV, Section 9(e) of the Illinois Constitution of 1970, I hereby return House Bill 557, entitled "AN ACT concerning government, with the following specific recommendation for change:

On Page 1, delete lines 22-23;

On Page 2, delete lines 1-13;

On Page 5, by inserting after line 4:

"Section 5. The Illinois Administrative Procedure Act is amended by changing Section 5-20 as follows:

Sec. 5-20. Implementing discretionary powers. Each rule that implements a discretionary power to be exercised by an agency shall include the standards by which the agency

shall exercise the power. The standards shall be stated as precisely and clearly as practicable under the conditions to inform fully those persons affected. For purposes of this Section 5-20, the term "discretionary power" shall include the authority to award monetary grants."

With these changes, House Bill 276 will have my approval. I respectfully request your concurrence.

Sincerely,

PAT QUINN  
Governor