

*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.*

## Emergency Rules

### WORKER'S COMP REPEAL

The WORKERS' COMPENSATION COMMISSION repealed an emergency amendment to the Part titled Arbitration (50 IAC 9030; 44 Ill Reg 7809) effective 4/27/20. The original emergency amendment, effective 4/16/20, established that if a COVID-19 first responder or front-line worker (e.g., police or fire personnel, health care provider, other essential workers) was exposed to the COVID-19 virus during the state of disaster proclaimed by the Governor and filed a worker's compensation claim, the Commission would presume that the exposure occurred in the course of the worker's employment unless the employer could rebut that presumption by a preponderance of evidence. However, enforcement of this rule was halted by a temporary restraining order issued 4/24/20,

### COVID-19 ACTIONS

Numerous Executive Orders and emergency rules have been issued in response to the COVID-19 pandemic. Executive Orders of the Governor concerning this pandemic can be accessed at <https://www2.illinois.gov/government/executive-orders>. Emergency rules adopted by State agencies will be summarized in The Flinn Report as they are published in the *Illinois Register*.

in response to which WCC repealed the emergency rule.

*Questions/requests for copies: Cole D. Garrett, WCC, 100 W. Randolph St., Suite 8-200, Chicago IL 60601, [Cole.Garrett@illinois.gov](mailto:Cole.Garrett@illinois.gov)*

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## Proposed Rulemakings

### INTERNET SALES TAX

The DEPARTMENT OF REVENUE proposed an amendment to Use Tax (86 IAC 150; 44 Ill Reg 7855) implementing provisions of Public Acts 101-9 and 101-604 concerning the collection of the 6.25% Illinois use tax by marketplace facilitators. A companion emergency rule was effective 12/23/19 for 150 days. Effective 1/1/20, marketplace facilitators must collect and remit use tax on their sales to Illinois customers if, within any 12-month period, they conduct at least 200 transactions with Illinois customers or collect at least \$100,000 in gross receipts from Illinois customers. Marketplace facilitators are defined as persons or entities that list or advertise tangible personal property items

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**ADOPTED 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.

# Emergency Rules

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## GRADUATION REQUIREMENTS

The STATE BOARD OF EDUCATION adopted emergency amendments to Public Schools Evaluation, Recognition and Supervision (23 IAC 1; 44 Ill Reg 7971), effective 4/27/20 for a maximum of 150 days, waiving various graduation requirements for 8<sup>th</sup> and 12<sup>th</sup> grade students affected by suspension of in-person instruction under the COVID-19 Executive Orders. High school graduation requirements waived for current 12<sup>th</sup> graders for the duration of the Gubernatorial Disaster Proclamations include completion of the final State accountability assessment; minimum time allocations for health, physical education, and consumer education courses; and passage of an examination on patriotism and the principles of representative government. The requirement to pass an examination on American government and the U.S. and Illinois constitutions is also waived for current 8<sup>th</sup> grade students. One semester of required credit in language arts, mathematics, social studies, and music/art/foreign language has been waived for 12<sup>th</sup> grade students. High school seniors enrolled in apprenticeships or career and technical education courses that can be substituted for graduation requirements shall not be denied credit if they were unable to complete these course substitutions due to the suspension of classroom

instruction. School boards are authorized to reduce or waive any additional local graduation requirements that could not be completed this year. Finally, School Code provisions setting minimum requirements for the length of the school calendar and school day are suspended and superseded by SBE's emergency rules for Remote Learning Days (23 IAC 5).

## ■ EDUCATOR LICENSURE

SBE also adopted emergency amendments to Educator Licensure (23 IAC 25; 44 Ill Reg 8013) effective 4/27/20 for a maximum of 150 days, addressing candidates for licensure or endorsement as teachers, administrators, support staff, or paraprofessionals who have been unable to complete certain requirements due to the suspension of in-person instruction. For the duration of the Gubernatorial Disaster Proclamations and suspension of in-person instruction, candidates for licensure or endorsement are exempt from the requirements to maintain at least a C average; document completion of student teaching, internships, or similar professional experience; or pass a teacher performance assessment. Candidates who have completed all required coursework for an endorsement in a given subject or an endorsement as an administrator or support staff, but have not yet completed the applicable content area test or the required field experience, may receive short-term approval until

they are able to complete the content area test. Paraprofessionals (e.g., classroom aides) who have high school diplomas but have not yet taken a professional competency test may also receive short-term approval. A \$50 application fee will be charged for all short-term approvals. Tests normally required for Visiting International Educators are waived for candidates that meet all other licensure requirements. Finally, short-term approvals that were due to expire on 6/30/20 are extended for the duration of the disaster proclamations and mandated suspension of in-person instruction. Those affected by this emergency rule include persons enrolled in teacher preparation programs, student teachers, prospective administrators, and other school staff.

*Questions/requests for copies of the 2 SBE emergency rules: Azita Kakvand, SBE, 100 N. First St., Springfield IL 62777-0001, 217/782-6510, [rules@isbe.net](mailto:rules@isbe.net)*

## PRISONS

The DEPARTMENT OF CORRECTIONS adopted emergency amendments to the Part titled Authorized Absences (20 IAC 530; 44 Ill Reg 7931) effective 4/22/20 for a maximum of 150 days. The emergency rule allows inmates to be granted medical furloughs with the approval of the DOC Medical Director (formerly, a

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# Proposed Rulemakings

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for sale, collect payment from the customer, and transmit payment to the seller (e.g., Amazon, eBay). Use tax does not apply to entities that provide only advertising and leave financial arrangements to the buyer and seller (e.g., Craigslist); those that merely handle financial transactions (e.g., PayPal); or offer only non-tangible items such as discount coupons (e.g., Groupon). It also does not apply to transactions that are subject to State or local sales taxes (e.g., online food-ordering and delivery services) or to certain specialized online marketplaces. Marketplace facilitators that are or may be subject to use tax must determine on a quarterly basis whether they have met either the gross sales or 200-transaction threshold in the preceding 12 months. Those that do meet this test must begin filing regular use tax returns; those that do not must continue to monitor their Illinois sales quarterly. Those affected by this rulemaking include small businesses and other customers of marketplace facilitators.

*Questions/requests for copies/comments through 6/22/20: Jerilynn Troxell Gorden, DOR, 101 W. Jefferson St., Springfield IL 62794, 217/782-2844.*

## ■ OUTPATIENT SURGERY

The DEPARTMENT OF PUBLIC HEALTH proposed amendments to Ambulatory Surgical Treatment Center Licensing Requirements (77 IAC 205; 44 Ill Reg 7833)

## Peremptory Rule

### STATE EMPLOYEES

The DEPARTMENT OF CENTRAL MANAGEMENT SERVICES adopted a peremptory amendment to Pay Plan (80 IAC 310; 44 Ill Reg 8083) effective 4/22/20, implementing a 4-year collective bargaining agreement with Teamsters Local 916, which represents various employees of CMS and the Departments of Transportation, Natural Resources, and Innovation and Technology. The peremptory rule provides annual pay increases of 1.5%,

implementing two Public Acts. The rulemaking implements PA 101-13 by repealing special licensing provisions for pregnancy termination specialty centers (abortion facilities) and excluding from the definition of an ambulatory surgical treatment center (ASTC) any facility that performs only abortion procedures without general, spinal or epidural anesthesia and that is not otherwise required to hold an ASTC license. The rulemaking also implements PA 101-323 by allowing dentists to have privileges at ASTCs when their patients require sedation beyond what the dentist is trained to administer. The dentist must have admitting privileges at a nearby hospital that would handle that dentist's patient emergencies or else have a memorandum of understanding with a physician who has privileges at that hospital. Other provisions clarify the conditions under which

2.1% or 3.95% for each year of the contract; a \$2,500 stipend for all bargaining unit members employed between 7/1/15 and 6/30/19, prorated by 25% for each year of employment; and longevity increases of \$50 to \$115 per month for those employed 5 years or more.

*Questions/requests for copies: Lisa Fendrich, CMS, 504 Stratton Bldg., Springfield IL 62706, 217/782-7976, fax 217/524-4570, [CMS.PayPlan@illinois.gov](mailto:CMS.PayPlan@illinois.gov)*

an ASTC is not required to have a physician on site (e.g., when all current patients have completed surgery, are awake and stable with no complications, and a qualified physician is on call and can arrive within 15 minutes), the staffing requirements when a physician is not on site, and the types of clinical records that must be kept. Outpatient surgery/procedure centers are affected by this rulemaking.

*Questions/requests for copies/comments through 6/22/20: Erin Conley, DPH, 535 W. Jefferson St., 5<sup>th</sup> Fl, Springfield IL 62761, 217/785-9212, [dph.rules@illinois.gov](mailto:dph.rules@illinois.gov)*

## ■ SCHOOLS

The STATE BOARD OF EDUCATION proposed

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# Emergency Rules

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recommendation from the Medical Director or a DOC physician and approval of the chief administrative officer/warden were required). During a medical furlough, continuous in-person supervision or monitoring of the inmate by electronic device (formerly, continuous supervision by a correctional facility employee) is required, unless the offender is classified as minimum security or DOC deems that this supervision is not necessary to ensure public safety. The emergency rule also removes certain restrictions on furloughs for home and family visitation; these furloughs are no longer limited to 3 days and an inmate does not have to be within 6 months of release, parole eligibility, or his/her next parole hearing to be granted a home/family visitation furlough.

*Questions/requests for copies: Echo Beekman, DOC, 1301 Concordia Court, PO Box 19277, Springfield IL 62794-9277, 217/558-2200, ext. 6507, [echo.beekman@doc.illinois.gov](mailto:echo.beekman@doc.illinois.gov)*

## ■ NURSING ASSISTANTS

The DEPARTMENT OF PUBLIC HEALTH adopted an emergency amendment to Long-Term Care Assistants and Aide Training Programs Code (77 IAC 395; 44 Ill Reg 7936) effective 4/21/20 for a maximum of 150 days. The emergency rule establishes a short-term certification program for Temporary Nursing Assistants (TNAs) to perform certain non-

medical patient/resident care tasks that would otherwise have to be performed by Certified Nursing Assistants or licensed nurses. TNAs must complete at least 8 hours of classroom education plus at least 8 hours of on-the-job training in care procedures such as bathing, dressing and feeding patients; assisting them with oral hygiene and shaving; transferring patients to/from wheelchairs or lifts; taking vital signs (temperature, pulse, respirations, blood pressure); hand washing; putting on and taking off non-sterile gloves; and performing the Heimlich maneuver in case of choking. Both phases of training must be supervised by a Registered Professional Nurse (RN). A TNA must report to the employing facility's charge nurse or nursing supervisor and may only be assigned duties authorized by the supervising nurses. All TNA candidates and employees are subject to background checks and will be included in DPH's Health Care Worker Registry. Facilities may employ TNAs only for the duration of the Gubernatorial Disaster Proclamations related to COVID-19, and TNAs are not eligible to take the CNA competency exam without also completing CNA training. The emergency rule also suspends the requirement that students in the Basic Nursing Assistant Training Program (BNATP) pass the written competency examination within 12 months after completing the BNATP. Health care and long-term care facilities that employ nursing assistants are affected by this emergency rule.

*Questions/requests for copies: 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)*

## ■ BUSINESS SERVICES

The SECRETARY OF STATE adopted emergency amendments to emergency rules on the Parts titled Business Corporation Act (14 IAC 150; 44 Ill Reg 7944), General Not For Profit Corporations (14 IAC 160; 44 Ill Reg 7951), Uniform Partnership Act (14 IAC 166; 44 Ill Reg 7956), Uniform Limited Partnership Act (14 IAC 171; 44 Ill Reg 7961), and Limited Liability Company Act (14 IAC 178; 44 Ill Reg 7966), all effective 4/27/20, amending previous emergency rules effective 3/20/20 for a maximum of 150 days. The new emergency amendments provide that paper document filings that ordinarily must be approved or disapproved by SOS within 10 days will instead be processed on a first-in, first-out basis. Additionally, expedited filings of paper documents that normally must be processed within 24 hours will be processed within 24 hours or "as soon as possible thereafter". Small businesses and non-profit organizations required to file documents with SOS are affected by these emergency rules.

*Questions/requests for copies of the 5 SOS emergency rules: Terry McConville, SOS, 100 W. Randolph St., #5-400, Chicago IL 60601, [tmccconville@ilsos.gov](mailto:tmccconville@ilsos.gov)*

## Adopted Rules

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### TEACHERS' RETIREMENT

The TEACHERS' RETIREMENT SYSTEM adopted amendments to The Administration and Operation of the Teachers' Retirement System (80 IAC 1650; 43 Ill Reg 13394) effective 4/24/20, updating various procedures. Beginning 7/1/20, employer reports of System contributions, demographic, enrollment and earnings information must be filed either every pay period or monthly instead of annually and must be filed electronically. Reports and contributions due for the month must be remitted by the 10<sup>th</sup> of the month. All payrolls that cover work performed during the fiscal year ending June 30 must be reported by July 10 even if the affected System members are not paid until later. Required annual physician's examinations to verify continuing disability must occur within 90 days prior to the re-examination due date. TRS members may now

purchase credit for service outside the System under certain conditions. After the initial purchase of service credit, TRS members may purchase additional service credit from outside the System on a periodic basis (to be determined by TRS) up to the lesser of 10 years or 2/5 of the member's total creditable service. Other provisions clarify sick leave allotments; allow TRS to suspend benefits or refunds when felony charges are pending against a member, if a conviction could result in forfeiture of benefits; allow inactive members who reach age 75 (formerly 70) and have not been in contact with TRS for 20 years or more to be presumed dead and their accounts closed; and update various provisions and statutory references to the Accelerated Annual Increase and Accelerated Pension Benefit buyout programs.

*Questions/requests for copies: Cynthia Fain, TRS, 2815 W. Washington St., PO Box 19253, Springfield IL 62794-9243, 217/814-2041.*

### STATE RETIREMENT

The STATE EMPLOYEES' RETIREMENT SYSTEM adopted amendments to The Administration and Operation of the State Employees' Retirement System of Illinois (80 IAC 1540; 43 Ill Reg 13769), effective 4/27/20, clarifying various provisions. The rulemaking increases the quarterly external earnings threshold from \$2,490 to \$3,660 and provide that earnings from income-producing activities established by a SERS member prior to the onset of his or her disability, or income produced from passive investment activities, shall not be counted as earnings from gainful employment.

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## Proposed Rulemakings

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amendments to Pupil Transportation Services Eligible for Reimbursement (23 IAC 120; 44 Ill Reg 7874) and Special Education (23 IAC 226; 44 Ill Reg 7881) addressing issues arising from the COVID-19 pandemic and suspension of in-person instruction. Companion emergency rules on Part 226 were effective 3/25/20 and on Part 120 were effective 3/30/20. The Part 120 rulemaking allows school districts, during a Gubernatorial

Disaster Declaration, to receive reimbursement for transportation expenses beyond those normally incurred in transporting students, such as distribution of food, distribution and pick-up of student assignments, and use of vehicles to provide wi-fi connections. Proposed amendments to Part 226 allow private facilities in which special education students have been placed under Section 14-7.02 of the School Code to continue to charge school districts for this expense for the duration of the Gubernatorial Disaster

Proclamations and mandatory suspension of in-person instruction. Districts shall continue to pay approved per diem, tuition, and room and board expenses for affected students during this period. Private special education facilities may be affected by this rulemaking.

*Questions/requests for copies/comments on the 2 SBE rulemakings through 6/22/20: Azita Kakvand, SBE, 100 N. First St., Springfield IL 62777-0001, 217/782-6510, [rules@isbe.net](mailto:rules@isbe.net)*

## Second Notices

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The following rulemakings were moved to Second Notice this week by the agencies listed below, commencing the JCAR review period. These rulemakings will be considered at the May 19, 2020 JCAR meeting. Other items not published in the *Illinois Register* or The Flinn Report may also be considered. Further comments concerning these rulemakings should be addressed to JCAR using the contact information on page 1.

### DEPT OF AGRICULTURE

Cannabis Regulation and Tax Act (8 IAC 1300; 44 Ill Reg 3586) proposed 3/13/20

### DEPT OF REVENUE

Retailers' Occupation Tax (86 IAC 130; 44 Ill Reg 1811) proposed 1/24/20

### IL GAMING BOARD

Sports Wagering (11 IAC 1900; 44 Ill Reg 84) proposed 1/3/20

### IL STUDENT ASSISTANCE COMMISSION

Illinois National Guard (ING) Grant Program (23 IAC 2730; 44 Ill Reg 3143) proposed 2/21/20

Illinois Veteran Grant (IVG) Program (23 IAC 2733; 44 Ill Reg 3154) proposed 2/21/20

Monetary Award Program (MAP) (23 IAC 2735; 44 Ill Reg 3167) proposed 2/21/20

Adult Vocational Community College Scholarship Program (23 IAC 2745; 44 Ill Reg 3179) proposed 2/21/20

Golden Apple Scholars of Illinois Program (23 IAC 2764; 44 Ill Reg 3185) proposed 2/21/20

AIM High Grant Pilot Program (23 IAC 2766; 44 Ill Reg 3194) proposed 2/21/20

### OFFICE OF THE ATTORNEY GENERAL

Hospital Financial Assistance under the Fair Patient Billing Act (77 IAC 4500; 44 Ill Reg 3337) proposed 3/6/20

## Adopted Rules

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When a SERS member elects a reversionary annuity (deferring his/her SERS pension for payment to a surviving family member after the member's death) and receives payments from a reciprocal retirement system, the reversionary annuity shall begin on the first day of the month following the member's death. Members who receive accelerated pension benefits may not establish service credit for employment that occurred prior to the acceptance of the accelerated payment.

Regarding disability benefits, the rulemaking codifies current procedures for processing disability claims and provides that if a member falsifies or omits pertinent information related to a disability claim, the member's benefit shall be suspended until the correct information has been provided. If the correct information does not substantiate the disability benefit, or if it is determined that the member knowingly attempted to defraud SERS, the benefit shall be terminated. If the correct information substantiates that the member is gainfully employed,

applicable rules related to gainful employment shall be followed.

*Questions/requests for copies:*  
*Jeff Houch, SERS, 2101 S. Veterans Pkwy., PO Box 19255, Springfield IL 62794-9255, 217/5 2 4 - 8 1 0 5 ,*  
[jeff.houch@srs.illinois.gov](mailto:jeff.houch@srs.illinois.gov)