



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB5982

by Rep. David McSweeney

SYNOPSIS AS INTRODUCED:

See Index

Amends the Illinois Administrative Procedure Act. Provides that an agency that proposes a new rule or amendment to a rule shall, before or during the first notice period, provide an opportunity for private sector entities to participate in the rulemaking process by utilizing specified techniques, as well as providing those private sector entities with the opportunity to submit their own estimates on the cost of compliance with the proposed rule or amendment. Requires an agency to include those estimates in both a final regulatory flexibility analysis and an analysis of the economic and budgetary effects of the proposed rulemaking. Provides that prior to the filing for publication in the Illinois Register of any proposed rule or amendment, each agency shall estimate the compliance and implementation costs for private parties for that proposed rule or amendment. Extends the maximum length of the second notice period from 90 days to 135 days. Provides that a rule estimated either by an agency or during the second notice period to generate compliance and implementation costs of \$10,000,000 or more over a 2-year period shall be deemed objectionable and automatically prohibited, and the Joint Committee on Administrative Rules shall issue a statement to that effect in accordance with specified provisions. Provides that the proposed rule or amendment shall remain prohibited until otherwise authorized by legislation passed by both houses of the General Assembly and signed by the Governor. Provides that any adopted emergency rule estimated to generate compliance and implementation costs of \$10,000,000 or more over the term of the emergency rule shall be automatically suspended until otherwise authorized by legislation passed by both houses of the General Assembly and signed by the Governor. Requires the Commission on Government Forecasting and Accountability to publish an annual inflation index to measure the rise in costs stemming from the implementation of rules and amendments to rules. Provides that the Joint Committee has the power to request the Auditor General to perform an independent estimate to assess the cost of a proposed rule or amendment, or the cost of an emergency rule. Provides further requirements concerning the prohibition of proposed rules or amendments. Makes conforming changes.

LRB100 23490 RJF 42528 b

A BILL FOR

1 AN ACT concerning government.

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

4 Section 5. The Illinois Administrative Procedure Act is
5 amended by changing Sections 5-30, 5-40, 5-45, 5-100, and 5-115
6 as follows:

7 (5 ILCS 100/5-30) (from Ch. 127, par. 1005-30)

8 (Text of Section before amendment by P.A. 100-688)

9 Sec. 5-30. Regulatory flexibility. When an agency proposes
10 a new rule or an amendment to an existing rule that may have an
11 impact on small businesses, not for profit corporations, or
12 small municipalities, the agency shall do each of the
13 following:

14 (a) The agency shall consider each of the following
15 methods for reducing the impact of the rulemaking on small
16 businesses, not for profit corporations, or small
17 municipalities. The agency shall reduce the impact by
18 utilizing one or more of the following methods if it finds
19 that the methods are legal and feasible in meeting the
20 statutory objectives that are the basis of the proposed
21 rulemaking.

22 (1) Establish less stringent compliance or
23 reporting requirements in the rule for small

1 businesses, not for profit corporations, or small
2 municipalities.

3 (2) Establish less stringent schedules or
4 deadlines in the rule for compliance or reporting
5 requirements for small businesses, not for profit
6 corporations, or small municipalities.

7 (3) Consolidate or simplify the rule's compliance
8 or reporting requirements for small businesses, not
9 for profit corporations, or small municipalities.

10 (4) Establish performance standards to replace
11 design or operational standards in the rule for small
12 businesses, not for profit corporations, or small
13 municipalities.

14 (5) Exempt small businesses, not for profit
15 corporations, or small municipalities from any or all
16 requirements of the rule.

17 (b) Before or during the notice period required under
18 subsection (b) of Section 5-40, the agency shall provide an
19 opportunity for small businesses, not for profit
20 corporations, or small municipalities to participate in
21 the rulemaking process. The agency shall utilize one or
22 more of the following techniques. These techniques are in
23 addition to other rulemaking requirements imposed by this
24 Act or by any other Act.

25 (1) The inclusion in any advance notice of possible
26 rulemaking of a statement that the rule may have an

1 impact on small businesses, not for profit
2 corporations, or small municipalities.

3 (2) The publication of a notice of rulemaking in
4 publications likely to be obtained by small
5 businesses, not for profit corporations, or small
6 municipalities.

7 (3) The direct notification of interested small
8 businesses, not for profit corporations, or small
9 municipalities.

10 (4) The conduct of public hearings concerning the
11 impact of the rule on small businesses, not for profit
12 corporations, or small municipalities.

13 (5) The use of special hearing or comment
14 procedures to reduce the cost or complexity of
15 participation in the rulemaking by small businesses,
16 not for profit corporations, or small municipalities.

17 (c) Prior to the filing for publication in the Illinois
18 Register of any proposed rule or amendment that may have an
19 adverse impact on small businesses, each agency must
20 prepare an economic impact analysis. The economic impact
21 analysis shall include the following:

22 (1) an identification of the types and estimate of
23 the number of the small businesses subject to the
24 proposed rule or amendment;

25 (2) the projected reporting, recordkeeping, and
26 other administrative costs required for compliance

1 with the proposed rule or amendment, including the type
2 of professional skills necessary for preparation of
3 the report or record;

4 (3) a statement of the probable positive or
5 negative economic effect on impacted small businesses;
6 and

7 (4) a description of any less intrusive or less
8 costly alternative methods of achieving the purpose of
9 the proposed rule or amendment. The alternatives must
10 be consistent with the stated objectives of the
11 applicable statutes and the proposed rulemaking.

12 The Business Assistance Office shall prepare an impact
13 analysis of the rule or amendment describing its effect on
14 small businesses whenever the Office believes, in its
15 discretion, that an analysis is warranted or whenever
16 requested to do so by 25 interested persons, an association
17 representing at least 100 interested persons, the
18 Governor, a unit of local government, or the Joint
19 Committee on Administrative Rules. The impact analysis
20 shall be completed before or within the notice period as
21 described in subsection (b) of Section 5-40. Upon
22 completion of any analysis in accordance with this
23 subsection (c), the preparing agency or the Business
24 Assistance Office shall submit the analysis to the Joint
25 Committee on Administrative Rules, to any interested
26 person who requested the analysis, and, if the agency

1 prepared the analysis, to the Business Assistance Office.

2 This subsection does not apply to rules and standards
3 described in paragraphs (1) through (5) of subsection (c)
4 of Section 1-5.

5 (Source: P.A. 96-1448, eff. 1-1-11.)

6 (Text of Section after amendment by P.A. 100-688)

7 Sec. 5-30. Regulatory flexibility. When an agency proposes
8 a new rule or an amendment to an existing rule that may have an
9 impact on small businesses, not for profit corporations, or
10 small municipalities, the agency shall do each of the
11 following:

12 (a) The agency shall consider each of the following
13 methods for reducing the impact of the rulemaking on small
14 businesses, not for profit corporations, or small
15 municipalities. The agency shall reduce the impact by
16 utilizing one or more of the following methods if it finds
17 that the methods are legal and feasible in meeting the
18 statutory objectives that are the basis of the proposed
19 rulemaking.

20 (1) Establish less stringent compliance or
21 reporting requirements in the rule for small
22 businesses, not for profit corporations, or small
23 municipalities.

24 (2) Establish less stringent schedules or
25 deadlines in the rule for compliance or reporting

1 requirements for small businesses, not for profit
2 corporations, or small municipalities.

3 (3) Consolidate or simplify the rule's compliance
4 or reporting requirements for small businesses, not
5 for profit corporations, or small municipalities.

6 (4) Establish performance standards to replace
7 design or operational standards in the rule for small
8 businesses, not for profit corporations, or small
9 municipalities.

10 (5) Exempt small businesses, not for profit
11 corporations, or small municipalities from any or all
12 requirements of the rule.

13 (b) Before or during the notice period required under
14 subsection (b) of Section 5-40, the agency shall provide an
15 opportunity for small businesses, not for profit
16 corporations, or small municipalities to participate in
17 the rulemaking process. The agency shall utilize one or
18 more of the following techniques. These techniques are in
19 addition to other rulemaking requirements imposed by this
20 Act or by any other Act.

21 (1) The inclusion in any advance notice of possible
22 rulemaking of a statement that the rule may have an
23 impact on small businesses, not for profit
24 corporations, or small municipalities.

25 (2) The publication of a notice of rulemaking in
26 publications likely to be obtained by small

1 businesses, not for profit corporations, or small
2 municipalities.

3 (3) The direct notification of interested small
4 businesses, not for profit corporations, or small
5 municipalities.

6 (4) The conduct of public hearings concerning the
7 impact of the rule on small businesses, not for profit
8 corporations, or small municipalities.

9 (5) The use of special hearing or comment
10 procedures to reduce the cost or complexity of
11 participation in the rulemaking by small businesses,
12 not for profit corporations, or small municipalities.

13 (b-5) In addition to the requirements of subsection
14 (b), before or during the first notice period required
15 under subsection (b) of Section 5-40, the agency shall also
16 provide an opportunity for private sector entities other
17 than small businesses to participate in the rulemaking
18 process by utilizing the techniques provided under
19 subsection (b) of this Section, as well as providing those
20 private sector entities with the opportunity to submit
21 their own estimates on the cost of compliance with the
22 proposed rule or amendment to a rule. The agency shall
23 include those estimates in both a final regulatory
24 flexibility analysis and an analysis of the economic and
25 budgetary effects of the proposed rulemaking as required
26 under subsection (c) of Section 5-40.

1 (c) Prior to the filing for publication in the Illinois
2 Register of any proposed rule or amendment that may have an
3 adverse impact on small businesses, each agency must
4 prepare an economic impact analysis which shall be filed
5 with the proposed rule and publicized in the Illinois
6 Register together with the proposed rule. The economic
7 impact analysis shall include the following:

8 (1) An identification of the types and estimate of
9 the number of the small businesses subject to the
10 proposed rule or amendment. The agency shall identify
11 the types of businesses subject to the proposed rule
12 using the following 2-digit codes from the North
13 American Industry Classification System (NAICS):

14 11 Agriculture, Forestry, Fishing and Hunting.

15 21 Mining.

16 22 Utilities.

17 23 Construction.

18 31-33 Manufacturing.

19 42 Wholesale Trade.

20 44-45 Retail Trade.

21 48-49 Transportation and Warehousing.

22 51 Information.

23 52 Finance and Insurance.

24 53 Real Estate Rental and Leasing.

25 54 Professional, Scientific, and Technical
26 Services.

- 1 55 Management of Companies and Enterprises.
2 56 Administrative and Support and Waste
3 Management and Remediation Services.
4 61 Educational Services.
5 62 Health Care and Social Assistance.
6 71 Arts, Entertainment, and Recreation.
7 72 Accommodation and Food Services.
8 81 Other Services (except Public
9 Administration).
10 92 Public Administration.

11 The agency shall also identify the impact of the
12 proposed rule by identifying as many of the following
13 categories that the agency reasonably believes the
14 proposed rule will impact:

- 15 A. Hiring and additional staffing.
16 B. Regulatory requirements.
17 C. Purchasing.
18 D. Insurance changes.
19 E. Licensing fees.
20 F. Equipment and material needs.
21 G. Training requirements.
22 H. Record keeping.
23 I. Compensation and benefits.
24 J. Other potential impacted categories.

25 (2) The projected reporting, recordkeeping, and
26 other administrative costs required for compliance

1 with the proposed rule or amendment, including the type
2 of professional skills necessary for preparation of
3 the report or record.

4 (3) A statement of the probable positive or
5 negative economic effect on impacted small businesses.

6 (4) A description of any less intrusive or less
7 costly alternative methods of achieving the purpose of
8 the proposed rule or amendment. The alternatives must
9 be consistent with the stated objectives of the
10 applicable statutes and the proposed rulemaking.

11 The Department of Commerce and Economic Opportunity
12 shall place notification of all proposed rules affecting
13 small business on its website. The notification shall
14 include the information provided by the agency under this
15 subsection (c) together with the summary of the proposed
16 rule published by the Joint Committee on Administrative
17 Rules in the Flinn Report.

18 The Business Assistance Office shall prepare an impact
19 analysis of the rule or amendment describing its effect on
20 small businesses whenever the Office believes, in its
21 discretion, that an analysis is warranted or whenever
22 requested to do so by 25 interested persons, an association
23 representing at least 100 interested persons, the
24 Governor, a unit of local government, or the Joint
25 Committee on Administrative Rules. The impact analysis
26 shall be completed before or within the notice period as

1 described in subsection (b) of Section 5-40. Upon
2 completion of any analysis in accordance with this
3 subsection (c), the preparing agency or the Business
4 Assistance Office shall submit the analysis to the Joint
5 Committee on Administrative Rules, to any interested
6 person who requested the analysis, and, if the agency
7 prepared the analysis, to the Business Assistance Office.

8 For purposes of this subsection (c), "small business"
9 means a business with fewer than 50 full-time employees or
10 less than \$4,000,000 in gross annual sales.

11 This subsection does not apply to rules and standards
12 described in paragraphs (1) through (5) of subsection (c)
13 of Section 1-5.

14 (d) Prior to the filing for publication in the Illinois
15 Register of any proposed rule or amendment, each agency
16 shall estimate the compliance and implementation costs for
17 private parties for that proposed rule or amendment. If the
18 agency determines that proposed rule or amendment will
19 generate compliance and implementation costs for private
20 parties of \$10,000,000 or more over a 2-year period, the
21 agency shall include this information with the filing for
22 publication in the Illinois Register of the proposed rule
23 or amendment, and shall provide notice of this
24 determination to the Joint Committee on Administrative
25 Rules.

26 (Source: P.A. 100-688, eff. 1-1-19.)

1 (5 ILCS 100/5-40) (from Ch. 127, par. 1005-40)

2 Sec. 5-40. General rulemaking.

3 (a) In all rulemaking to which Sections 5-45 and 5-50 do
4 not apply, each agency shall comply with this Section.

5 (b) Each agency shall give at least 45 days' notice of its
6 intended action to the general public. This first notice period
7 shall commence on the first day the notice appears in the
8 Illinois Register. The first notice shall include all the
9 following:

10 (1) The text of the proposed rule, the old and new
11 materials of a proposed amendment, or the text of the
12 provision to be repealed.

13 (2) The specific statutory citation upon which the
14 proposed rule, the proposed amendment to a rule, or the
15 proposed repeal of a rule is based and by which it is
16 authorized.

17 (3) A complete description of the subjects and issues
18 involved.

19 (3.5) A descriptive title or other description of any
20 published study or research report used in developing the
21 rule, the identity of the person who performed such study,
22 and a description of where the public may obtain a copy of
23 any such study or research report. If the study was
24 performed by an agency or by a person or entity that
25 contracted with the agency for the performance of the

1 study, the agency shall also make copies of the underlying
2 data available to members of the public upon request if the
3 data are not protected from disclosure under the Freedom of
4 Information Act.

5 (4) For all proposed rules and proposed amendments to
6 rules, an initial regulatory flexibility analysis
7 containing a description of the types of small businesses
8 subject to the rule; a brief description of the proposed
9 reporting, bookkeeping, and other procedures required for
10 compliance with the rule; and a description of the types of
11 professional skills necessary for compliance.

12 (5) The time, place, and manner in which interested
13 persons may present their views and comments concerning the
14 proposed rulemaking.

15 During the first notice period, the agency shall accept
16 from any interested persons data, views, arguments, or
17 comments, including submission of estimates on the cost of
18 compliance with the proposed rule or amendment to a rule for
19 private sector entities. These may, in the discretion of the
20 agency, be submitted either orally or in writing or both. The
21 notice published in the Illinois Register shall indicate the
22 manner selected by the agency for the submissions. The agency
23 shall consider all submissions received.

24 The agency shall hold a public hearing on the proposed
25 rulemaking during the first notice period if (i) during the
26 first notice period, the agency finds that a public hearing

1 would facilitate the submission of views and comments that
2 might not otherwise be submitted or (ii) the agency receives a
3 request for a public hearing, within the first 14 days after
4 publication of the notice of proposed rulemaking in the
5 Illinois Register, from 25 interested persons, an association
6 representing at least 100 interested persons, the Governor, the
7 Joint Committee on Administrative Rules, or a unit of local
8 government that may be affected. At the public hearing, the
9 agency shall allow interested persons to present views and
10 comments on the proposed rulemaking. A public hearing in
11 response to a request for a hearing may not be held less than
12 20 days after the publication of the notice of proposed
13 rulemaking in the Illinois Register unless notice of the public
14 hearing is included in the notice of proposed rulemaking. A
15 public hearing on proposed rulemaking may not be held less than
16 5 days before submission of the notice required under
17 subsection (c) of this Section to the Joint Committee on
18 Administrative Rules. Each agency may prescribe reasonable
19 rules for the conduct of public hearings on proposed rulemaking
20 to prevent undue repetition at the hearings. The hearings must
21 be open to the public and recorded by stenographic or
22 mechanical means. At least one agency representative shall be
23 present during the hearing who is qualified to respond to
24 general questions from the public regarding the agency's
25 proposal and the rulemaking process.

26 (c) Each agency shall provide additional notice of the

1 proposed rulemaking to the Joint Committee on Administrative
2 Rules. The period commencing on the day written notice is
3 received by the Joint Committee shall be known as the second
4 notice period and shall expire 45 days thereafter unless before
5 that time the agency and the Joint Committee have agreed to
6 extend the second notice period beyond 45 days for a period not
7 to exceed an additional 90 ~~45~~ days or unless the agency has
8 received a statement of objection from the Joint Committee or
9 notification from the Joint Committee that no objection will be
10 issued. The written notice to the Joint Committee shall include
11 (i) the text and location of any changes made to the proposed
12 rulemaking during the first notice period in a form prescribed
13 by the Joint Committee; (ii) for all proposed rules and
14 proposed amendments to rules, a final regulatory flexibility
15 analysis containing a summary of issues raised by small
16 businesses and other private sector entities during the first
17 notice period and a description of actions taken on any
18 alternatives to the proposed rule suggested by small businesses
19 and other private sector entities during the first notice
20 period, including reasons for rejecting any alternatives not
21 utilized; and (iii) ~~if a written request has been made by the~~
22 ~~Joint Committee within 30 days after initial notice appears in~~
23 ~~the Illinois Register under subsection (b) of this Section,~~ an
24 analysis of the economic and budgetary effects of the proposed
25 rulemaking, including estimates submitted during the first
26 notice period concerning the cost of compliance for private

1 sector entities. After commencement of the second notice
2 period, no substantive change may be made to a proposed
3 rulemaking unless it is made in response to an objection or
4 suggestion of the Joint Committee. The agency shall also send a
5 copy of the final regulatory flexibility analysis to each small
6 business and other private sector entities that has presented
7 views or comments on the proposed rulemaking during the first
8 notice period and to any other interested person who requests a
9 copy. The agency may charge a reasonable fee for providing the
10 copies to cover postage and handling costs.

11 (c-5) Any proposed rule or amendment to a rule estimated
12 either by the agency or during the second notice period to
13 generate compliance and implementation costs of \$10,000,000 or
14 more over a 2-year period, or an amount which may later be
15 established in consultation with the Commission on Government
16 Forecasting and Accountability, shall be deemed objectionable
17 and automatically prohibited, and the Joint Committee shall
18 issue a statement in accordance with Section 5-115. The
19 proposed rule or amendment shall remain prohibited until
20 otherwise authorized by legislation passed by both houses of
21 the General Assembly and signed by the Governor. The
22 \$10,000,000 threshold established under this subsection (c-5)
23 may be adjusted by rule over time based upon information
24 provided by the Commission on Government Forecasting and
25 Accountability, which shall be required to publish an annual
26 inflation index to measure the rise in costs stemming from the

1 implementation of rules and amendments to rules.

2 (d) After the expiration of the second notice period, after
3 notification from the Joint Committee that no objection will be
4 issued, or after a response by the agency to a statement of
5 objections issued by the Joint Committee, whichever is
6 applicable, the agency shall file, under Section 5-65, a
7 certified copy of each rule, modification, or repeal of any
8 rule adopted by it. The copy shall be published in the Illinois
9 Register. Each rule hereafter adopted under this Section is
10 effective upon filing unless a later effective date is required
11 by statute or is specified in the rulemaking.

12 (e) No rule or modification or repeal of any rule may be
13 adopted, or filed with the Secretary of State, more than one
14 year after the date the first notice period for the rulemaking
15 under subsection (b) commenced. Any period during which the
16 rulemaking is prohibited from being filed under Section 5-115
17 shall not be considered in calculating this one-year time
18 period.

19 (Source: P.A. 92-330, eff. 1-1-02.)

20 (5 ILCS 100/5-45) (from Ch. 127, par. 1005-45)

21 Sec. 5-45. Emergency rulemaking.

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

25 (b) If any agency finds that an emergency exists that

1 requires adoption of a rule upon fewer days than is required by
2 Section 5-40 and states in writing its reasons for that
3 finding, the agency may adopt an emergency rule without prior
4 notice or hearing upon filing a notice of emergency rulemaking
5 with the Secretary of State under Section 5-70. The notice
6 shall include the text of the emergency rule, an economic
7 impact estimate for the emergency rule, and shall be published
8 in the Illinois Register. Consent orders or other court orders
9 adopting settlements negotiated by an agency may be adopted
10 under this Section. Subject to applicable constitutional or
11 statutory provisions, an emergency rule becomes effective
12 immediately upon filing under Section 5-65 or at a stated date
13 less than 10 days thereafter. The agency's finding and a
14 statement of the specific reasons for the finding shall be
15 filed with the rule. The agency shall take reasonable and
16 appropriate measures to make emergency rules known to the
17 persons who may be affected by them.

18 (c) An emergency rule may be effective for a period of not
19 longer than 150 days, but the agency's authority to adopt an
20 identical rule under Section 5-40 is not precluded. No
21 emergency rule may be adopted more than once in any 24-month
22 period, except that this limitation on the number of emergency
23 rules that may be adopted in a 24-month period does not apply
24 to (i) emergency rules that make additions to and deletions
25 from the Drug Manual under Section 5-5.16 of the Illinois
26 Public Aid Code or the generic drug formulary under Section

1 3.14 of the Illinois Food, Drug and Cosmetic Act, (ii)
2 emergency rules adopted by the Pollution Control Board before
3 July 1, 1997 to implement portions of the Livestock Management
4 Facilities Act, (iii) emergency rules adopted by the Illinois
5 Department of Public Health under subsections (a) through (i)
6 of Section 2 of the Department of Public Health Act when
7 necessary to protect the public's health, (iv) emergency rules
8 adopted pursuant to subsection (n) of this Section, (v)
9 emergency rules adopted pursuant to subsection (o) of this
10 Section, or (vi) emergency rules adopted pursuant to subsection
11 (c-5) of this Section. Two or more emergency rules having
12 substantially the same purpose and effect shall be deemed to be
13 a single rule for purposes of this Section.

14 (c-3) Notwithstanding any provision to the contrary, any
15 emergency rule adopted under this Section estimated as provided
16 under subsection (g) of Section 5-100 to generate compliance
17 and implementation costs of \$10,000,000 or more over the term
18 of the emergency rule shall be automatically suspended until
19 otherwise authorized by legislation passed by both houses of
20 the General Assembly and signed by the Governor. Upon the
21 signing of authorizing legislation under this subsection
22 (c-3), the Governor shall provide the Secretary of State Index
23 Department with a copy of the legislation, and the suspension
24 of the emergency rule shall be rescinded.

25 (c-5) To facilitate the maintenance of the program of group
26 health benefits provided to annuitants, survivors, and retired

1 employees under the State Employees Group Insurance Act of
2 1971, rules to alter the contributions to be paid by the State,
3 annuitants, survivors, retired employees, or any combination
4 of those entities, for that program of group health benefits,
5 shall be adopted as emergency rules. The adoption of those
6 rules shall be considered an emergency and necessary for the
7 public interest, safety, and welfare.

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

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

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

6 (f) In order to provide for the expeditious and timely
7 implementation of the State's fiscal year 2001 budget,
8 emergency rules to implement any provision of Public Act 91-712
9 or any other budget initiative for fiscal year 2001 may be
10 adopted in accordance with this Section by the agency charged
11 with administering that provision or initiative, except that
12 the 24-month limitation on the adoption of emergency rules and
13 the provisions of Sections 5-115 and 5-125 do not apply to
14 rules adopted under this subsection (f). The adoption of
15 emergency rules authorized by this subsection (f) shall be
16 deemed to be necessary for the public interest, safety, and
17 welfare.

18 (g) In order to provide for the expeditious and timely
19 implementation of the State's fiscal year 2002 budget,
20 emergency rules to implement any provision of Public Act 92-10
21 or any other budget initiative for fiscal year 2002 may be
22 adopted in accordance with this Section by the agency charged
23 with administering that provision or initiative, except that
24 the 24-month limitation on the adoption of emergency rules and
25 the provisions of Sections 5-115 and 5-125 do not apply to
26 rules adopted under this subsection (g). The adoption of

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

4 (h) In order to provide for the expeditious and timely
5 implementation of the State's fiscal year 2003 budget,
6 emergency rules to implement any provision of Public Act 92-597
7 or any other budget initiative for fiscal year 2003 may be
8 adopted in accordance with this Section by the agency charged
9 with administering that provision or initiative, except that
10 the 24-month limitation on the adoption of emergency rules and
11 the provisions of Sections 5-115 and 5-125 do not apply to
12 rules adopted under this subsection (h). The adoption of
13 emergency rules authorized by this subsection (h) shall be
14 deemed to be necessary for the public interest, safety, and
15 welfare.

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

1 welfare.

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

18 (k) In order to provide for the expeditious and timely
19 implementation of the provisions of the State's fiscal year
20 2006 budget, emergency rules to implement any provision of
21 Public Act 94-48 or any other budget initiative for fiscal year
22 2006 may be adopted in accordance with this Section by the
23 agency charged with administering that provision or
24 initiative, except that the 24-month limitation on the adoption
25 of emergency rules and the provisions of Sections 5-115 and
26 5-125 do not apply to rules adopted under this subsection (k).

1 The Department of Healthcare and Family Services may also adopt
2 rules under this subsection (k) necessary to administer the
3 Illinois Public Aid Code, the Senior Citizens and Persons with
4 Disabilities Property Tax Relief 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
14 Public Act 96-45 or any other budget initiative authorized by
15 the 96th General Assembly for fiscal year 2010 may be adopted
16 in accordance with this Section by the agency charged with
17 administering that provision or initiative. The adoption of
18 emergency rules authorized by this subsection (n) shall be
19 deemed to be necessary for the public interest, safety, and
20 welfare. The rulemaking authority granted in this subsection
21 (n) shall apply only to rules promulgated during Fiscal Year
22 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
26 Public Act 96-958 or any other budget initiative authorized by

1 the 96th General Assembly for fiscal year 2011 may be adopted
2 in accordance with this Section by the agency charged with
3 administering that provision or initiative. The adoption of
4 emergency rules authorized by this subsection (o) is deemed to
5 be necessary for the public interest, safety, and welfare. The
6 rulemaking authority granted in this subsection (o) applies
7 only to rules promulgated on or after July 1, 2010 (the
8 effective date of Public Act 96-958) through June 30, 2011.

9 (p) In order to provide for the expeditious and timely
10 implementation of the provisions of Public Act 97-689,
11 emergency rules to implement any provision of Public Act 97-689
12 may be adopted in accordance with this subsection (p) by the
13 agency charged with administering that provision or
14 initiative. The 150-day limitation of the effective period of
15 emergency rules does not apply to rules adopted under this
16 subsection (p), and the effective period may continue through
17 June 30, 2013. The 24-month limitation on the adoption of
18 emergency rules does not apply to rules adopted under this
19 subsection (p). The adoption of emergency rules authorized by
20 this subsection (p) is deemed to be necessary for the public
21 interest, safety, and welfare.

22 (q) In order to provide for the expeditious and timely
23 implementation of the provisions of Articles 7, 8, 9, 11, and
24 12 of Public Act 98-104, emergency rules to implement any
25 provision of Articles 7, 8, 9, 11, and 12 of Public Act 98-104
26 may be adopted in accordance with this subsection (q) by the

1 agency charged with administering that provision or
2 initiative. The 24-month limitation on the adoption of
3 emergency rules does not apply to rules adopted under this
4 subsection (q). The adoption of emergency rules authorized by
5 this subsection (q) is deemed to be necessary for the public
6 interest, safety, and welfare.

7 (r) In order to provide for the expeditious and timely
8 implementation of the provisions of Public Act 98-651,
9 emergency rules to implement Public Act 98-651 may be adopted
10 in accordance with this subsection (r) by the Department of
11 Healthcare and Family Services. The 24-month limitation on the
12 adoption of emergency rules does not apply to rules adopted
13 under this subsection (r). The adoption of emergency rules
14 authorized by this subsection (r) is deemed to be necessary for
15 the public interest, safety, and welfare.

16 (s) In order to provide for the expeditious and timely
17 implementation of the provisions of Sections 5-5b.1 and 5A-2 of
18 the Illinois Public Aid Code, emergency rules to implement any
19 provision of Section 5-5b.1 or Section 5A-2 of the Illinois
20 Public Aid Code may be adopted in accordance with this
21 subsection (s) by the Department of Healthcare and Family
22 Services. The rulemaking authority granted in this subsection
23 (s) shall apply only to those rules adopted prior to July 1,
24 2015. Notwithstanding any other provision of this Section, any
25 emergency rule adopted under this subsection (s) shall only
26 apply to payments made for State fiscal year 2015. The adoption

1 of emergency rules authorized by this subsection (s) is deemed
2 to be necessary for the public interest, safety, and welfare.

3 (t) In order to provide for the expeditious and timely
4 implementation of the provisions of Article II of Public Act
5 99-6, emergency rules to implement the changes made by Article
6 II of Public Act 99-6 to the Emergency Telephone System Act may
7 be adopted in accordance with this subsection (t) by the
8 Department of State Police. The rulemaking authority granted in
9 this subsection (t) shall apply only to those rules adopted
10 prior to July 1, 2016. The 24-month limitation on the adoption
11 of emergency rules does not apply to rules adopted under this
12 subsection (t). The adoption of emergency rules authorized by
13 this subsection (t) is deemed to be necessary for the public
14 interest, safety, and welfare.

15 (u) In order to provide for the expeditious and timely
16 implementation of the provisions of the Burn Victims Relief
17 Act, emergency rules to implement any provision of the Act may
18 be adopted in accordance with this subsection (u) by the
19 Department of Insurance. The rulemaking authority granted in
20 this subsection (u) shall apply only to those rules adopted
21 prior to December 31, 2015. The adoption of emergency rules
22 authorized by this subsection (u) is deemed to be necessary for
23 the public interest, safety, and welfare.

24 (v) In order to provide for the expeditious and timely
25 implementation of the provisions of Public Act 99-516,
26 emergency rules to implement Public Act 99-516 may be adopted

1 in accordance with this subsection (v) by the Department of
2 Healthcare and Family Services. The 24-month limitation on the
3 adoption of emergency rules does not apply to rules adopted
4 under this subsection (v). The adoption of emergency rules
5 authorized by this subsection (v) is deemed to be necessary for
6 the public interest, safety, and welfare.

7 (w) In order to provide for the expeditious and timely
8 implementation of the provisions of Public Act 99-796,
9 emergency rules to implement the changes made by Public Act
10 99-796 may be adopted in accordance with this subsection (w) by
11 the Adjutant General. The adoption of emergency rules
12 authorized by this subsection (w) is deemed to be necessary for
13 the public interest, safety, and welfare.

14 (x) In order to provide for the expeditious and timely
15 implementation of the provisions of Public Act 99-906,
16 emergency rules to implement subsection (i) of Section 16-115D,
17 subsection (g) of Section 16-128A, and subsection (a) of
18 Section 16-128B of the Public Utilities Act may be adopted in
19 accordance with this subsection (x) by the Illinois Commerce
20 Commission. The rulemaking authority granted in this
21 subsection (x) shall apply only to those rules adopted within
22 180 days after June 1, 2017 (the effective date of Public Act
23 99-906). The adoption of emergency rules authorized by this
24 subsection (x) is deemed to be necessary for the public
25 interest, safety, and welfare.

26 (y) In order to provide for the expeditious and timely

1 implementation of the provisions of this amendatory Act of the
2 100th General Assembly, emergency rules to implement the
3 changes made by this amendatory Act of the 100th General
4 Assembly to Section 4.02 of the Illinois Act on Aging, Sections
5 5.5.4 and 5-5.4i of the Illinois Public Aid Code, Section 55-30
6 of the Alcoholism and Other Drug Abuse and Dependency Act, and
7 Sections 74 and 75 of the Mental Health and Developmental
8 Disabilities Administrative Act may be adopted in accordance
9 with this subsection (y) by the respective Department. The
10 adoption of emergency rules authorized by this subsection (y)
11 is deemed to be necessary for the public interest, safety, and
12 welfare.

13 (z) In order to provide for the expeditious and timely
14 implementation of the provisions of this amendatory Act of the
15 100th General Assembly, emergency rules to implement the
16 changes made by this amendatory Act of the 100th General
17 Assembly to Section 4.7 of the Lobbyist Registration Act may be
18 adopted in accordance with this subsection (z) by the Secretary
19 of State. The adoption of emergency rules authorized by this
20 subsection (z) is deemed to be necessary for the public
21 interest, safety, and welfare.

22 (aa) In order to provide for the expeditious and timely
23 initial implementation of the changes made to Articles 5, 5A,
24 12, and 14 of the Illinois Public Aid Code under the provisions
25 of this amendatory Act of the 100th General Assembly, the
26 Department of Healthcare and Family Services may adopt

1 emergency rules in accordance with this subsection (aa). The
2 24-month limitation on the adoption of emergency rules does not
3 apply to rules to initially implement the changes made to
4 Articles 5, 5A, 12, and 14 of the Illinois Public Aid Code
5 adopted under this subsection (aa). The adoption of emergency
6 rules authorized by this subsection (aa) is deemed to be
7 necessary for the public interest, safety, and welfare.

8 (Source: P.A. 99-2, eff. 3-26-15; 99-6, eff. 1-1-16; 99-143,
9 eff. 7-27-15; 99-455, eff. 1-1-16; 99-516, eff. 6-30-16;
10 99-642, eff. 7-28-16; 99-796, eff. 1-1-17; 99-906, eff. 6-1-17;
11 100-23, eff. 7-6-17; 100-554, eff. 11-16-17; 100-581, eff.
12 3-12-18.)

13 (5 ILCS 100/5-100) (from Ch. 127, par. 1005-100)

14 Sec. 5-100. Powers of the Joint Committee. The Joint
15 Committee shall have the following powers under this Act:

16 (a) The function of the Joint Committee shall be the
17 promotion of adequate and proper rules by agencies and an
18 understanding on the part of the public respecting those rules.
19 This function shall be advisory only, except as provided in
20 Sections 5-115 and 5-125.

21 (b) The Joint Committee may undertake studies and
22 investigations concerning rulemaking and agency rules.

23 (c) The Joint Committee shall monitor and investigate
24 agencies' compliance with the provisions of this Act, make
25 periodic investigations of the rulemaking activities of all

1 agencies, and evaluate and report on all rules in terms of
2 their propriety, legal adequacy, relation to statutory
3 authorization, economic and budgetary effects, and public
4 policy.

5 (d) Hearings and investigations conducted by the Joint
6 Committee under this Act may be held at times and places within
7 the State as the Committee deems necessary.

8 (e) The Joint Committee may request from any agency an
9 analysis of the following:

10 (1) The effect of a new rule, amendment, or repealer,
11 including any direct economic effect on the persons
12 regulated by the rule; any anticipated effect on the
13 proposing agency's budget and the budgets of other State
14 agencies; and any anticipated effects on State revenues.

15 (2) The agency's evaluation of the submissions
16 presented to the agency under Section 5-40.

17 (3) A description of any modifications from the
18 initially published proposal made in the finally accepted
19 version of the intended rule, amendment, or repealer.

20 (4) The agency's justification and rationale for the
21 intended rule, amendment, or repealer.

22 (f) Failure of the Joint Committee to object to any
23 proposed rule, amendment, or repealer or any existing rule
24 shall not be construed as implying direct or indirect approval
25 of the rule or proposed rule, amendment, or repealer by the
26 Joint Committee or the General Assembly.

1 (g) In addition to other estimates which may be provided,
2 the Joint Committee may request the Auditor General to perform
3 an independent estimate before or during the second notice
4 period to assess the cost of a proposed rule or amendment, or
5 to assess the cost of an emergency rule after its adoption. The
6 Joint Committee shall use such estimates in determining whether
7 to prohibit a proposed rule or amendment to a rule under
8 subsection (c-5) of Section 5-40 or to suspend an emergency
9 rule under subsection (c-3) of Section 5-45.

10 (Source: P.A. 87-823.)

11 (5 ILCS 100/5-115) (from Ch. 127, par. 1005-115)

12 Sec. 5-115. Other action by the Joint Committee.

13 (a) If the Joint Committee determines that the adoption and
14 effectiveness of a proposed rule, amendment, or repealer or
15 portion of a proposed rule, amendment, or repealer by an agency
16 would be objectionable under any of the standards for the Joint
17 Committee's review specified in Section 5-100, 5-105, 5-110,
18 5-120, or 5-130 and would constitute a serious threat to the
19 public interest, safety, or welfare, the Joint Committee may
20 issue a statement to that effect at any time before the
21 proposed rule, amendment, or repealer takes effect. The
22 statement may be issued by the Joint Committee only upon the
23 affirmative vote of three-fifths of the members appointed to
24 the Joint Committee. The Joint Committee, however, may withdraw
25 a statement within 180 days after it is issued upon the

1 affirmative vote of a majority of the members appointed to the
2 Joint Committee. A certified copy of each statement and
3 withdrawal shall be transmitted to the proposing agency and to
4 the Secretary of State for publication in the next available
5 issue of the Illinois Register.

6 (a-5) Notwithstanding the provisions of subsection (a), if
7 a proposed rule or amendment to a rule is deemed objectionable
8 under subsection (c-5) of Section 5-40, the Joint Committee
9 shall issue a statement to that effect any time before the
10 proposed rule or amendment takes effect. The proposed rule or
11 amendment deemed objectionable under this subsection (a-5)
12 shall remain prohibited until otherwise authorized by
13 legislation passed by both houses of the General Assembly and
14 signed by the Governor as provided under subsection (c-5). A
15 certified copy of each statement shall be transmitted to the
16 proposing agency and to the Secretary of State for publication
17 in the next available issue of the Illinois Register.

18 (b) The proposed rule, amendment, or repealer or the
19 portion of the proposed rule, amendment, or repealer to which
20 the Joint Committee has issued a statement under subsection (a)
21 or (a-5) shall not be accepted for filing by the Secretary of
22 State and shall not take effect unless the statement is
23 withdrawn, ~~or~~ a joint resolution is passed as provided in
24 subsection (c), or legislation is passed as provided under
25 subsection (c-5). The agency may not enforce or invoke for any
26 reason a proposed rule, amendment, or repealer or any portion

1 thereof that is prohibited from being filed by this subsection.

2 (c) After the issuance of a statement under subsection (a),
3 any member of the General Assembly may introduce in the General
4 Assembly a joint resolution stating that the General Assembly
5 desires to discontinue the prohibition against the proposed
6 rule, amendment, or repealer or the portion thereof to which
7 the statement was issued being filed and taking effect. If the
8 joint resolution is not passed by both houses of the General
9 Assembly within 180 days after receipt of the statement by the
10 Secretary of State or the statement is not withdrawn as
11 provided in subsection (a), the agency shall be prohibited from
12 filing the proposed rule, amendment, or repealer or the portion
13 thereof and the proposed rule, amendment, or repealer or the
14 portion thereof shall not take effect. The Secretary of State
15 shall not accept for filing the proposed rule, amendment, or
16 repealer or the portion thereof with respect to which the Joint
17 Committee has issued a statement under subsection (a) unless
18 that statement is withdrawn or a joint resolution is passed as
19 provided in this subsection. If the 180-day period expires
20 before passage of the joint resolution, the agency may not file
21 the proposed rule, amendment, or repealer or the portion
22 thereof as adopted and it shall not take effect.

23 (c-5) After the issuance of a statement under subsection
24 (a-5), any member of the General Assembly may introduce a bill
25 stating that the General Assembly desires to discontinue the
26 prohibition against the proposed rule or amendment, and

1 authorize the terms of the proposed rule or amendment despite
2 its objectionable nature. If the bill is not passed by both
3 houses of the General Assembly within 180 days after receipt of
4 the statement by the Secretary of State, and then signed by the
5 Governor thereafter, the agency shall be prohibited from filing
6 the proposed rule or amendment, and the proposed rule or
7 amendment shall not take effect. The Secretary of State shall
8 not accept for filing the proposed rule or amendment with
9 respect to which the Joint Committee has issued a statement
10 under subsection (a-5) unless authorizing legislation is
11 passed as provided in this subsection (c-5). If the 180-day
12 period expires before passage of the bill through both houses,
13 the agency may not file the proposed rule or amendment, and it
14 shall not take effect. Upon the signing of authorizing
15 legislation under this subsection (c-5), the Governor shall
16 provide the Secretary of State Index Department with a copy of
17 the legislation, and the agency shall then be authorized to
18 file the proposed rule or amendment, and it shall be allowed to
19 take effect.

20 (d) If a statement is issued under this Section, then, in
21 response to an objection or suggestion of the Joint Committee,
22 the agency may propose changes to the proposed rule, amendment,
23 or repealer or portion of a proposed rule, amendment, or
24 repealer. If the agency proposes changes, it must provide
25 additional notice to the Joint Committee under the same terms
26 and conditions and shall be subject to the same requirements

1 and limitations as those set forth for a second notice period
2 under subsection (c) of Section 5-40.

3 (Source: P.A. 93-1035, eff. 9-10-04; 93-1074, eff. 1-18-05.)

4 Section 95. No acceleration or delay. Where this Act makes
5 changes in a statute that is represented in this Act by text
6 that is not yet or no longer in effect (for example, a Section
7 represented by multiple versions), the use of that text does
8 not accelerate or delay the taking effect of (i) the changes
9 made by this Act or (ii) provisions derived from any other
10 Public Act.

1

INDEX

2

Statutes amended in order of appearance

3

5 ILCS 100/5-30

from Ch. 127, par. 1005-30

4

5 ILCS 100/5-40

from Ch. 127, par. 1005-40

5

5 ILCS 100/5-45

from Ch. 127, par. 1005-45

6

5 ILCS 100/5-100

from Ch. 127, par. 1005-100

7

5 ILCS 100/5-115

from Ch. 127, par. 1005-115