



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB0935

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.

LRB101 07129 RJF 52167 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 Sec. 5-30. Regulatory flexibility. When an agency proposes
9 a new rule or an amendment to an existing rule that may have an
10 impact on small businesses, not for profit corporations, or
11 small municipalities, the agency shall do each of the
12 following:

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

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

1 municipalities.

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

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

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

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

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

24 (1) The inclusion in any advance notice of possible
25 rulemaking of a statement that the rule may have an
26 impact on small businesses, not for profit

1 corporations, or small municipalities.

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

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

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

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

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

1 flexibility analysis and an analysis of the economic and
2 budgetary effects of the proposed rulemaking as required
3 under subsection (c) of Section 5-40.

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

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

17 11 Agriculture, Forestry, Fishing and Hunting.

18 21 Mining.

19 22 Utilities.

20 23 Construction.

21 31-33 Manufacturing.

22 42 Wholesale Trade.

23 44-45 Retail Trade.

24 48-49 Transportation and Warehousing.

25 51 Information.

26 52 Finance and Insurance.

- 1 53 Real Estate Rental and Leasing.
- 2 54 Professional, Scientific, and Technical
- 3 Services.
- 4 55 Management of Companies and Enterprises.
- 5 56 Administrative and Support and Waste
- 6 Management and Remediation Services.
- 7 61 Educational Services.
- 8 62 Health Care and Social Assistance.
- 9 71 Arts, Entertainment, and Recreation.
- 10 72 Accommodation and Food Services.
- 11 81 Other Services (except Public
- 12 Administration).
- 13 92 Public Administration.

14 The agency shall also identify the impact of the
15 proposed rule by identifying as many of the following
16 categories that the agency reasonably believes the
17 proposed rule will impact:

- 18 A. Hiring and additional staffing.
- 19 B. Regulatory requirements.
- 20 C. Purchasing.
- 21 D. Insurance changes.
- 22 E. Licensing fees.
- 23 F. Equipment and material needs.
- 24 G. Training requirements.
- 25 H. Recordkeeping ~~Record-keeping~~.
- 26 I. Compensation and benefits.

1 J. Other potential impacted categories.

2 (2) The projected reporting, recordkeeping, and
3 other administrative costs required for compliance
4 with the proposed rule or amendment, including the type
5 of professional skills necessary for preparation of
6 the report or record.

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

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

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

21 The Business Assistance Office shall prepare an impact
22 analysis of the rule or amendment describing its effect on
23 small businesses whenever the Office believes, in its
24 discretion, that an analysis is warranted or whenever
25 requested to do so by 25 interested persons, an association
26 representing at least 100 interested persons, the

1 Governor, a unit of local government, or the Joint
2 Committee on Administrative Rules. The impact analysis
3 shall be completed before or within the notice period as
4 described in subsection (b) of Section 5-40. Upon
5 completion of any analysis in accordance with this
6 subsection (c), the preparing agency or the Business
7 Assistance Office shall submit the analysis to the Joint
8 Committee on Administrative Rules, to any interested
9 person who requested the analysis, and, if the agency
10 prepared the analysis, to the Business Assistance Office.

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

14 This subsection does not apply to rules and standards
15 described in paragraphs (1) through (5) of subsection (c)
16 of Section 1-5.

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

1 determination to the Joint Committee on Administrative
2 Rules.

3 (Source: P.A. 100-688, eff. 1-1-19; revised 10-10-18.)

4 (5 ILCS 100/5-40) (from Ch. 127, par. 1005-40)

5 Sec. 5-40. General rulemaking.

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

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

13 (1) The text of the proposed rule, the old and new
14 materials of a proposed amendment, or the text of the
15 provision to be repealed.

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

20 (3) A complete description of the subjects and issues
21 involved.

22 (3.5) A descriptive title or other description of any
23 published study or research report used in developing the
24 rule, the identity of the person who performed such study,
25 and a description of where the public may obtain a copy of

1 any such study or research report. If the study was
2 performed by an agency or by a person or entity that
3 contracted with the agency for the performance of the
4 study, the agency shall also make copies of the underlying
5 data available to members of the public upon request if the
6 data are not protected from disclosure under the Freedom of
7 Information Act.

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

15 (5) The time, place, and manner in which interested
16 persons may present their views and comments concerning the
17 proposed rulemaking.

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

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

1 general questions from the public regarding the agency's
2 proposal and the rulemaking process.

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

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

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

1 rise in costs stemming from the implementation of rules and
2 amendments to rules.

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

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

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

21 (5 ILCS 100/5-45) (from Ch. 127, par. 1005-45)

22 Sec. 5-45. Emergency rulemaking.

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

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

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

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

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

26 (c-5) To facilitate the maintenance of the program of group

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

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

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

1 the 24-month limitation on the adoption of emergency rules and
2 the provisions of Sections 5-115 and 5-125 do not apply to
3 rules adopted under this subsection (e). The adoption of
4 emergency rules authorized by this subsection (e) shall be
5 deemed to be necessary for the public interest, safety, and
6 welfare.

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

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

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

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

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

1 deemed to be necessary for the public interest, safety, and
2 welfare.

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

19 (k) In order to provide for the expeditious and timely
20 implementation of the provisions of the State's fiscal year
21 2006 budget, emergency rules to implement any provision of
22 Public Act 94-48 or any other budget initiative for fiscal year
23 2006 may be adopted in accordance with this Section by the
24 agency charged with administering that provision or
25 initiative, except that the 24-month limitation on the adoption
26 of emergency rules and the provisions of Sections 5-115 and

1 5-125 do not apply to rules adopted under this subsection (k).
2 The Department of Healthcare and Family Services may also adopt
3 rules under this subsection (k) necessary to administer the
4 Illinois Public Aid Code, the Senior Citizens and Persons with
5 Disabilities Property Tax Relief Act, the Senior Citizens and
6 Disabled Persons Prescription Drug Discount Program Act (now
7 the Illinois Prescription Drug Discount Program Act), and the
8 Children's Health Insurance Program Act. The adoption of
9 emergency rules authorized by this subsection (k) shall be
10 deemed to be necessary for the public interest, safety, and
11 welfare.

12 (l) In order to provide for the expeditious and timely
13 implementation of the provisions of the State's fiscal year
14 2007 budget, the Department of Healthcare and Family Services
15 may adopt emergency rules during fiscal year 2007, including
16 rules effective July 1, 2007, in accordance with this
17 subsection to the extent necessary to administer the
18 Department's responsibilities with respect to amendments to
19 the State plans and Illinois waivers approved by the federal
20 Centers for Medicare and Medicaid Services necessitated by the
21 requirements of Title XIX and Title XXI of the federal Social
22 Security Act. The adoption of emergency rules authorized by
23 this subsection (l) shall be deemed to be necessary for the
24 public interest, safety, and welfare.

25 (m) In order to provide for the expeditious and timely
26 implementation of the provisions of the State's fiscal year

1 2008 budget, the Department of Healthcare and Family Services
2 may adopt emergency rules during fiscal year 2008, including
3 rules effective July 1, 2008, in accordance with this
4 subsection to the extent necessary to administer the
5 Department's responsibilities with respect to amendments to
6 the State plans and Illinois waivers approved by the federal
7 Centers for Medicare and Medicaid Services necessitated by the
8 requirements of Title XIX and Title XXI of the federal Social
9 Security Act. The adoption of emergency rules authorized by
10 this subsection (m) shall be deemed to be necessary for the
11 public interest, safety, and welfare.

12 (n) In order to provide for the expeditious and timely
13 implementation of the provisions of the State's fiscal year
14 2010 budget, emergency rules to implement any provision of
15 Public Act 96-45 or any other budget initiative authorized by
16 the 96th General Assembly for fiscal year 2010 may be adopted
17 in accordance with this Section by the agency charged with
18 administering that provision or initiative. The adoption of
19 emergency rules authorized by this subsection (n) shall be
20 deemed to be necessary for the public interest, safety, and
21 welfare. The rulemaking authority granted in this subsection
22 (n) shall apply only to rules promulgated during Fiscal Year
23 2010.

24 (o) In order to provide for the expeditious and timely
25 implementation of the provisions of the State's fiscal year
26 2011 budget, emergency rules to implement any provision of

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

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

23 (q) In order to provide for the expeditious and timely
24 implementation of the provisions of Articles 7, 8, 9, 11, and
25 12 of Public Act 98-104, emergency rules to implement any
26 provision of Articles 7, 8, 9, 11, and 12 of Public Act 98-104

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

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

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

1 apply to payments made for State fiscal year 2015. The adoption
2 of emergency rules authorized by this subsection (s) is deemed
3 to be necessary for the public interest, safety, and welfare.

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

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

25 (v) In order to provide for the expeditious and timely
26 implementation of the provisions of Public Act 99-516,

1 emergency rules to implement Public Act 99-516 may be adopted
2 in accordance with this subsection (v) by the Department of
3 Healthcare and Family Services. The 24-month limitation on the
4 adoption of emergency rules does not apply to rules adopted
5 under this subsection (v). The adoption of emergency rules
6 authorized by this subsection (v) is deemed to be necessary for
7 the public interest, safety, and welfare.

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

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

1 (y) In order to provide for the expeditious and timely
2 implementation of the provisions of Public Act 100-23 ~~this~~
3 ~~amendatory Act of the 100th General Assembly~~, emergency rules
4 to implement the changes made by Public Act 100-23 ~~this~~
5 ~~amendatory Act of the 100th General Assembly~~ to Section 4.02 of
6 the Illinois Act on the Aging, Sections 5.5.4 and 5-5.4i of the
7 Illinois Public Aid Code, Section 55-30 of the Alcoholism and
8 Other Drug Abuse and Dependency Act, and Sections 74 and 75 of
9 the Mental Health and Developmental Disabilities
10 Administrative Act may be adopted in accordance with this
11 subsection (y) by the respective Department. The adoption of
12 emergency rules authorized by this subsection (y) is deemed to
13 be necessary for the public interest, safety, and welfare.

14 (z) In order to provide for the expeditious and timely
15 implementation of the provisions of Public Act 100-554 ~~this~~
16 ~~amendatory Act of the 100th General Assembly~~, emergency rules
17 to implement the changes made by Public Act 100-554 ~~this~~
18 ~~amendatory Act of the 100th General Assembly~~ to Section 4.7 of
19 the Lobbyist Registration Act may be adopted in accordance with
20 this subsection (z) by the Secretary of State. The adoption of
21 emergency rules authorized by this subsection (z) is deemed to
22 be necessary for the public interest, safety, and welfare.

23 (aa) In order to provide for the expeditious and timely
24 initial implementation of the changes made to Articles 5, 5A,
25 12, and 14 of the Illinois Public Aid Code under the provisions
26 of Public Act 100-581 ~~this amendatory Act of the 100th General~~

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

9 (bb) In order to provide for the expeditious and timely
10 implementation of the provisions of Public Act 100-587 ~~this~~
11 ~~amendatory Act of the 100th General Assembly~~, emergency rules
12 to implement the changes made by Public Act 100-587 ~~this~~
13 ~~amendatory Act of the 100th General Assembly~~ to Section 4.02 of
14 the Illinois Act on the Aging, Sections 5.5.4 and 5-5.4i of the
15 Illinois Public Aid Code, subsection (b) of Section 55-30 of
16 the Alcoholism and Other Drug Abuse and Dependency Act, Section
17 5-104 of the Specialized Mental Health Rehabilitation Act of
18 2013, and Section 75 and subsection (b) of Section 74 of the
19 Mental Health and Developmental Disabilities Administrative
20 Act may be adopted in accordance with this subsection (bb) by
21 the respective Department. The adoption of emergency rules
22 authorized by this subsection (bb) is deemed to be necessary
23 for the public interest, safety, and welfare.

24 (cc) ~~(bb)~~ In order to provide for the expeditious and
25 timely implementation of the provisions of Public Act 100-587
26 ~~this amendatory Act of the 100th General Assembly~~, emergency

1 rules may be adopted in accordance with this subsection (cc)
2 ~~(bb)~~ to implement the changes made by Public Act 100-587 ~~this~~
3 ~~amendatory Act of the 100th General Assembly~~ to: Sections
4 14-147.5 and 14-147.6 of the Illinois Pension Code by the Board
5 created under Article 14 of the Code; Sections 15-185.5 and
6 15-185.6 of the Illinois Pension Code by the Board created
7 under Article 15 of the Code; and Sections 16-190.5 and
8 16-190.6 of the Illinois Pension Code by the Board created
9 under Article 16 of the Code. The adoption of emergency rules
10 authorized by this subsection (cc) ~~(bb)~~ is deemed to be
11 necessary for the public interest, safety, and welfare.

12 (dd) ~~(aa)~~ In order to provide for the expeditious and
13 timely implementation of the provisions of Public Act 100-864
14 ~~this amendatory Act of the 100th General Assembly~~, emergency
15 rules to implement the changes made by Public Act 100-864 ~~this~~
16 ~~amendatory Act of the 100th General Assembly~~ to Section 3.35 of
17 the Newborn Metabolic Screening Act may be adopted in
18 accordance with this subsection (dd) ~~(aa)~~ by the Secretary of
19 State. The adoption of emergency rules authorized by this
20 subsection (dd) ~~(aa)~~ is deemed to be necessary for the public
21 interest, safety, and welfare.

22 (Source: P.A. 99-2, eff. 3-26-15; 99-6, eff. 1-1-16; 99-143,
23 eff. 7-27-15; 99-455, eff. 1-1-16; 99-516, eff. 6-30-16;
24 99-642, eff. 7-28-16; 99-796, eff. 1-1-17; 99-906, eff. 6-1-17;
25 100-23, eff. 7-6-17; 100-554, eff. 11-16-17; 100-581, eff.
26 3-12-18; 100-587, Article 95, Section 95-5, eff. 6-4-18;

1 100-587, Article 110, Section 110-5, eff. 6-4-18; 100-864, eff.
2 8-14-18; revised 10-18-18.)

3 (5 ILCS 100/5-100) (from Ch. 127, par. 1005-100)

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

6 (a) The function of the Joint Committee shall be the
7 promotion of adequate and proper rules by agencies and an
8 understanding on the part of the public respecting those rules.
9 This function shall be advisory only, except as provided in
10 Sections 5-115 and 5-125.

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

13 (c) The Joint Committee shall monitor and investigate
14 agencies' compliance with the provisions of this Act, make
15 periodic investigations of the rulemaking activities of all
16 agencies, and evaluate and report on all rules in terms of
17 their propriety, legal adequacy, relation to statutory
18 authorization, economic and budgetary effects, and public
19 policy.

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

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

25 (1) The effect of a new rule, amendment, or repealer,

1 including any direct economic effect on the persons
2 regulated by the rule; any anticipated effect on the
3 proposing agency's budget and the budgets of other State
4 agencies; and any anticipated effects on State revenues.

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

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

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

12 (f) Failure of the Joint Committee to object to any
13 proposed rule, amendment, or repealer or any existing rule
14 shall not be construed as implying direct or indirect approval
15 of the rule or proposed rule, amendment, or repealer by the
16 Joint Committee or the General Assembly.

17 (g) In addition to other estimates which may be provided,
18 the Joint Committee may request the Auditor General to perform
19 an independent estimate before or during the second notice
20 period to assess the cost of a proposed rule or amendment, or
21 to assess the cost of an emergency rule after its adoption. The
22 Joint Committee shall use such estimates in determining whether
23 to prohibit a proposed rule or amendment to a rule under
24 subsection (c-5) of Section 5-40 or to suspend an emergency
25 rule under subsection (c-3) of Section 5-45.

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

1 (5 ILCS 100/5-115) (from Ch. 127, par. 1005-115)

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

3 (a) If the Joint Committee determines that the adoption and
4 effectiveness of a proposed rule, amendment, or repealer or
5 portion of a proposed rule, amendment, or repealer by an agency
6 would be objectionable under any of the standards for the Joint
7 Committee's review specified in Section 5-100, 5-105, 5-110,
8 5-120, or 5-130 and would constitute a serious threat to the
9 public interest, safety, or welfare, the Joint Committee may
10 issue a statement to that effect at any time before the
11 proposed rule, amendment, or repealer takes effect. The
12 statement may be issued by the Joint Committee only upon the
13 affirmative vote of three-fifths of the members appointed to
14 the Joint Committee. The Joint Committee, however, may withdraw
15 a statement within 180 days after it is issued upon the
16 affirmative vote of a majority of the members appointed to the
17 Joint Committee. A certified copy of each statement and
18 withdrawal shall be transmitted to the proposing agency and to
19 the Secretary of State for publication in the next available
20 issue of the Illinois Register.

21 (a-5) Notwithstanding the provisions of subsection (a), if
22 a proposed rule or amendment to a rule is deemed objectionable
23 under subsection (c-5) of Section 5-40, the Joint Committee
24 shall issue a statement to that effect any time before the
25 proposed rule or amendment takes effect. The proposed rule or

1 amendment deemed objectionable under this subsection (a-5)
2 shall remain prohibited until otherwise authorized by
3 legislation passed by both houses of the General Assembly and
4 signed by the Governor as provided under subsection (c-5). A
5 certified copy of each statement shall be transmitted to the
6 proposing agency and to the Secretary of State for publication
7 in the next available issue of the Illinois Register.

8 (b) The proposed rule, amendment, or repealer or the
9 portion of the proposed rule, amendment, or repealer to which
10 the Joint Committee has issued a statement under subsection (a)
11 or (a-5) shall not be accepted for filing by the Secretary of
12 State and shall not take effect unless the statement is
13 withdrawn, ~~or~~ a joint resolution is passed as provided in
14 subsection (c), or legislation is passed as provided under
15 subsection (c-5). The agency may not enforce or invoke for any
16 reason a proposed rule, amendment, or repealer or any portion
17 thereof that is prohibited from being filed by this subsection.

18 (c) After the issuance of a statement under subsection (a),
19 any member of the General Assembly may introduce in the General
20 Assembly a joint resolution stating that the General Assembly
21 desires to discontinue the prohibition against the proposed
22 rule, amendment, or repealer or the portion thereof to which
23 the statement was issued being filed and taking effect. If the
24 joint resolution is not passed by both houses of the General
25 Assembly within 180 days after receipt of the statement by the
26 Secretary of State or the statement is not withdrawn as

1 provided in subsection (a), the agency shall be prohibited from
2 filing the proposed rule, amendment, or repealer or the portion
3 thereof and the proposed rule, amendment, or repealer or the
4 portion thereof shall not take effect. The Secretary of State
5 shall not accept for filing the proposed rule, amendment, or
6 repealer or the portion thereof with respect to which the Joint
7 Committee has issued a statement under subsection (a) unless
8 that statement is withdrawn or a joint resolution is passed as
9 provided in this subsection. If the 180-day period expires
10 before passage of the joint resolution, the agency may not file
11 the proposed rule, amendment, or repealer or the portion
12 thereof as adopted and it shall not take effect.

13 (c-5) After the issuance of a statement under subsection
14 (a-5), any member of the General Assembly may introduce a bill
15 stating that the General Assembly desires to discontinue the
16 prohibition against the proposed rule or amendment, and
17 authorize the terms of the proposed rule or amendment despite
18 its objectionable nature. If the bill is not passed by both
19 houses of the General Assembly within 180 days after receipt of
20 the statement by the Secretary of State, and then signed by the
21 Governor thereafter, the agency shall be prohibited from filing
22 the proposed rule or amendment, and the proposed rule or
23 amendment shall not take effect. The Secretary of State shall
24 not accept for filing the proposed rule or amendment with
25 respect to which the Joint Committee has issued a statement
26 under subsection (a-5) unless authorizing legislation is

1 passed as provided in this subsection (c-5). If the 180-day
2 period expires before passage of the bill through both houses,
3 the agency may not file the proposed rule or amendment, and it
4 shall not take effect. Upon the signing of authorizing
5 legislation under this subsection (c-5), the Governor shall
6 provide the Secretary of State Index Department with a copy of
7 the legislation, and the agency shall then be authorized to
8 file the proposed rule or amendment, and it shall be allowed to
9 take effect.

10 (d) If a statement is issued under this Section, then, in
11 response to an objection or suggestion of the Joint Committee,
12 the agency may propose changes to the proposed rule, amendment,
13 or repealer or portion of a proposed rule, amendment, or
14 repealer. If the agency proposes changes, it must provide
15 additional notice to the Joint Committee under the same terms
16 and conditions and shall be subject to the same requirements
17 and limitations as those set forth for a second notice period
18 under subsection (c) of Section 5-40.

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

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5 ILCS 100/5-30

from Ch. 127, par. 1005-30

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5 ILCS 100/5-40

from Ch. 127, par. 1005-40

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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