



Sen. Don Harmon

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1 AMENDMENT TO SENATE BILL 323

2 AMENDMENT NO. _____. Amend Senate Bill 323 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Administrative Procedure Act is
5 amended by changing Sections 5-10, 5-40, 5-45, 5-50, and 5-60
6 as follows:

7 (5 ILCS 100/5-10) (from Ch. 127, par. 1005-10)

8 Sec. 5-10. Adoption and availability of rules.

9 (a) In addition to other rulemaking requirements imposed by
10 law, each agency shall (i) adopt rules of practice setting
11 forth the nature and requirements of all formal hearings and
12 (ii) make available for public inspection all rules adopted by
13 the agency in the discharge of its functions.

14 (b) Each agency shall make available for public inspection,
15 in a prominent place on the home page of its Internet website,
16 all rulemaking procedures, including first notice of intended

1 action including dates and times of any public hearings during
2 the first notice period, second notice of intended action,
3 including the second notice document submitted to the Joint
4 Committee on Administrative Rules, as described in Section
5 220.600 of Part 220 of Title 1 of the Illinois Administrative
6 Code, emergency rulemaking, peremptory rulemaking, regulatory
7 agenda, dates of Joint Committee on Administrative Rules
8 meetings related to rulemaking, and all final orders,
9 decisions, ~~and~~ opinions, and documents related to federal
10 regulatory procedures, except those deemed confidential by
11 State or federal statute and any trade secrets.

12 (c) No agency rule is valid or effective against any person
13 or party, nor may it be invoked by the agency for any purpose,
14 until it has been made available for public inspection and
15 filed with the Secretary of State as required by this Act. No
16 agency, however, shall assert the invalidity of a rule that it
17 has adopted under this Act when an opposing party has relied
18 upon the rule.

19 (d) Rulemaking that creates or expands a State mandate on
20 units of local government, school districts, or community
21 college districts is subject to the State Mandates Act. The
22 required Statement of Statewide Policy Objectives shall be
23 published in the Illinois Register at the same time that the
24 first notice under Section 5-40 is published or when the rule
25 is published under Section 5-45 or 5-50.

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

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 notice shall simultaneously be posted on
9 the agency's Internet website and include a link to the
10 Illinois Register notice. The first notice shall include all
11 the following:

12 (1) The text of the proposed rule, the old and new
13 materials of a proposed amendment, or the text of the
14 provision to be repealed, together with the justification
15 and rationale for the proposed rulemaking.

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. These may, ~~in the discretion of the agency,~~ be
21 submitted either orally, ~~or~~ in writing submitted by U.S. mail,
22 or other delivery means, including facsimile or electronic form
23 ~~or both~~. The notice published in the Illinois Register shall
24 indicate the manner ~~selected by the agency~~ for the submissions.
25 The agency shall consider all submissions received and post
26 those submissions on its Internet website, along with a list of

1 all individuals or organizations making submissions, unless
2 those individuals or organizations request anonymity.

3 The agency shall hold a public hearing on the proposed
4 rulemaking during the first notice period if (i) during the
5 first notice period, the agency finds that a public hearing
6 would facilitate the submission of views and comments that
7 might not otherwise be submitted or (ii) the agency receives a
8 request, in any manner allowed for the submission of data,
9 views, arguments, or comments under this subsection (b), for a
10 public hearing, within the first 14 days after publication of
11 the notice of proposed rulemaking in the Illinois Register,
12 from 25 interested persons, an association representing at
13 least 100 interested persons, the Governor, the Joint Committee
14 on Administrative Rules, or a unit of local government that may
15 be affected. The agency shall post and update on its Internet
16 website information about the public hearing, including the
17 date and time of the hearing. If a public hearing has not been
18 scheduled, instructions on how to request a public hearing
19 shall be posted on the agency's Internet website. At the public
20 hearing, the agency shall allow interested persons to present
21 views and comments on the proposed rulemaking. A public hearing
22 in response to a request for a hearing may not be held less
23 than 20 days after the publication of the notice of proposed
24 rulemaking in the Illinois Register unless notice of the public
25 hearing is included in the notice of proposed rulemaking. A
26 public hearing on proposed rulemaking may not be held less than

1 5 days before submission of the notice required under
2 subsection (c) of this Section to the Joint Committee on
3 Administrative Rules. Each agency may prescribe reasonable
4 rules for the conduct of public hearings on proposed rulemaking
5 to prevent undue repetition at the hearings. The hearings must
6 be open to the public and recorded by stenographic or
7 mechanical means. At least one agency representative shall be
8 present during the hearing who is qualified to respond to
9 general questions from the public regarding the agency's
10 proposal and the rulemaking process.

11 (c) Each agency shall provide additional notice of the
12 proposed rulemaking to the Joint Committee on Administrative
13 Rules. The period commencing on the day written notice is
14 received by the Joint Committee shall be known as the second
15 notice period and shall expire 45 days thereafter unless before
16 that time the agency and the Joint Committee have agreed to
17 extend the second notice period beyond 45 days for a period not
18 to exceed an additional 45 days or unless the agency has
19 received a statement of objection from the Joint Committee or
20 notification from the Joint Committee that no objection will be
21 issued. The written notice to the Joint Committee shall include
22 (i) the text and location of any changes made to the proposed
23 rulemaking during the first notice period in a form prescribed
24 by the Joint Committee; (ii) for all proposed rules and
25 proposed amendments to rules, a final regulatory flexibility
26 analysis containing a summary of issues raised by small

1 businesses during the first notice period and a description of
2 actions taken on any alternatives to the proposed rule
3 suggested by small businesses during the first notice period,
4 including reasons for rejecting any alternatives not utilized;
5 and (iii) if a written request has been made by the Joint
6 Committee within 30 days after initial notice appears in the
7 Illinois Register under subsection (b) of this Section, an
8 analysis of the economic and budgetary effects of the proposed
9 rulemaking. The written notice submitted by an agency to the
10 Joint Committee shall be published in its entirety on the
11 Internet website of the agency and shall include the date when
12 the written notice was received by the Joint Committee. The
13 Joint Committee shall specify the time period and manner in
14 which it will accept data, views, arguments, or comments,
15 including accepting submissions via electronic format during
16 the second notice period. After commencement of the second
17 notice period, no substantive change may be made to a proposed
18 rulemaking unless it is made in response to an objection or
19 suggestion of the Joint Committee. The agency shall post on its
20 Internet website changes to the proposed rule, if any, that
21 have been made during the second notice period in a way that
22 clearly tracks changes to identify any language differences
23 between the first and second notice period. The agency shall
24 also send a copy of the final regulatory flexibility analysis
25 to each small business that has presented views or comments on
26 the proposed rulemaking during the first notice period and to

1 any other interested person who requests a copy. The agency may
2 charge a reasonable fee for providing the copies to cover
3 postage and handling costs. Each agency shall post on its
4 Internet website the dates and times of all Joint Committee
5 meetings that pertain to that agency's rulemaking.

6 (d) After the expiration of the second notice period, after
7 notification from the Joint Committee that no objection will be
8 issued, or after a response by the agency to a statement of
9 objections issued by the Joint Committee, whichever is
10 applicable, the agency shall file, under Section 5-65, a
11 certified copy of each rule, modification, or repeal of any
12 rule adopted by it. The copy shall be published in the Illinois
13 Register and a link to the copy on the Illinois Register
14 Internet website shall be simultaneously posted on the agency's
15 Internet website. In the event that the Joint Committee issues
16 a statement of objection to the agency, the agency shall post
17 on its Internet website the statement of objection and the
18 agency's responses to the objection. Each rule hereafter
19 adopted under this Section is effective upon filing unless a
20 later effective date is required by statute or is specified in
21 the rulemaking. Each agency shall maintain for a period of 5
22 years, in an accessible place on its Internet website, all
23 information posted during first and second notice periods,
24 including the final rule.

25 (e) No rule or modification or repeal of any rule may be
26 adopted, or filed with the Secretary of State, more than one

1 year after the date the first notice period for the rulemaking
2 under subsection (b) commenced. Any period during which the
3 rulemaking is prohibited from being filed under Section 5-115
4 shall not be considered in calculating this one-year time
5 period.

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

7 (5 ILCS 100/5-45) (from Ch. 127, par. 1005-45)

8 Sec. 5-45. Emergency rulemaking.

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

12 (b) If any agency finds that an emergency exists that
13 requires adoption of a rule upon fewer days than is required by
14 Section 5-40 and states in writing its reasons for that
15 finding, the agency may adopt an emergency rule without prior
16 notice or hearing upon filing a notice of emergency rulemaking
17 with the Secretary of State under Section 5-70. The notice
18 shall include the text of the emergency rule and shall be
19 published in the Illinois Register. The notice shall
20 simultaneously be posted on the agency's Internet website and
21 include a link to the notice posted on the Illinois Register
22 Internet website. Consent orders or other court orders adopting
23 settlements negotiated by an agency may be adopted under this
24 Section. Subject to applicable constitutional or statutory
25 provisions, an emergency rule becomes effective immediately

1 upon filing under Section 5-65 or at a stated date less than 10
2 days thereafter. The agency's finding and a statement of the
3 specific reasons for the finding shall be filed with the rule.
4 The agency shall take reasonable and appropriate measures to
5 make emergency rules known to the persons who may be affected
6 by them.

7 (c) An emergency rule may be effective for a period of not
8 longer than 150 days, but the agency's authority to adopt an
9 identical rule under Section 5-40 is not precluded. No
10 emergency rule may be adopted more than once in any 24 month
11 period, except that this limitation on the number of emergency
12 rules that may be adopted in a 24 month period does not apply
13 to (i) emergency rules that make additions to and deletions
14 from the Drug Manual under Section 5-5.16 of the Illinois
15 Public Aid Code or the generic drug formulary under Section
16 3.14 of the Illinois Food, Drug and Cosmetic Act, (ii)
17 emergency rules adopted by the Pollution Control Board before
18 July 1, 1997 to implement portions of the Livestock Management
19 Facilities Act, (iii) emergency rules adopted by the Illinois
20 Department of Public Health under subsections (a) through (i)
21 of Section 2 of the Department of Public Health Act when
22 necessary to protect the public's health, (iv) emergency rules
23 adopted pursuant to subsection (n) of this Section, (v)
24 emergency rules adopted pursuant to subsection (o) of this
25 Section, or (vi) emergency rules adopted pursuant to subsection
26 (c-5) of this Section. Two or more emergency rules having

1 substantially the same purpose and effect shall be deemed to be
2 a single rule for purposes of this Section.

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

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

24 (e) In order to provide for the expeditious and timely
25 implementation of the State's fiscal year 2000 budget,
26 emergency rules to implement any provision of Public Act 91-24

1 ~~this amendatory Act of the 91st General Assembly~~ or any other
2 budget initiative for fiscal year 2000 may be adopted in
3 accordance with this Section by the agency charged with
4 administering that provision or initiative, except that the
5 24-month limitation on the adoption of emergency rules and the
6 provisions of Sections 5-115 and 5-125 do not apply to rules
7 adopted under this subsection (e). The adoption of emergency
8 rules authorized by this subsection (e) shall be deemed to be
9 necessary for the public interest, safety, and welfare.

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

22 (g) In order to provide for the expeditious and timely
23 implementation of the State's fiscal year 2002 budget,
24 emergency rules to implement any provision of Public Act 92-10
25 ~~this amendatory Act of the 92nd General Assembly~~ or any other
26 budget initiative for fiscal year 2002 may be adopted in

1 accordance with this Section by the agency charged with
2 administering that provision or initiative, except that the
3 24-month limitation on the adoption of emergency rules and the
4 provisions of Sections 5-115 and 5-125 do not apply to rules
5 adopted under this subsection (g). The adoption of emergency
6 rules authorized by this subsection (g) shall be deemed to be
7 necessary for the public interest, safety, and welfare.

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

20 (i) In order to provide for the expeditious and timely
21 implementation of the State's fiscal year 2004 budget,
22 emergency rules to implement any provision of Public Act 93-20
23 ~~this amendatory Act of the 93rd General Assembly~~ or any other
24 budget initiative for fiscal year 2004 may be adopted in
25 accordance with this Section by the agency charged with
26 administering that provision or initiative, except that the

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

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

22 (k) In order to provide for the expeditious and timely
23 implementation of the provisions of the State's fiscal year
24 2006 budget, emergency rules to implement any provision of
25 Public Act 94-48 ~~this amendatory Act of the 94th General~~
26 ~~Assembly~~ or any other budget initiative for fiscal year 2006

1 may be adopted in accordance with this Section by the agency
2 charged with administering that provision or initiative,
3 except that the 24-month limitation on the adoption of
4 emergency rules and the provisions of Sections 5-115 and 5-125
5 do not apply to rules adopted under this subsection (k). The
6 Department of Healthcare and Family Services may also adopt
7 rules under this subsection (k) necessary to administer the
8 Illinois Public Aid Code, the Senior Citizens and Persons with
9 Disabilities Property Tax Relief Act, the Senior Citizens and
10 Disabled Persons Prescription Drug Discount Program Act (now
11 the Illinois Prescription Drug Discount Program Act), and the
12 Children's Health Insurance Program Act. The adoption of
13 emergency rules authorized by this subsection (k) shall be
14 deemed to be necessary for the public interest, safety, and
15 welfare.

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

1 this subsection (l) shall be deemed to be necessary for the
2 public interest, safety, and welfare.

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

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

1 (n) shall apply only to rules promulgated during Fiscal Year
2 2010.

3 (o) In order to provide for the expeditious and timely
4 implementation of the provisions of the State's fiscal year
5 2011 budget, emergency rules to implement any provision of
6 Public Act 96-958 ~~this amendatory Act of the 96th General~~
7 ~~Assembly~~ or any other budget initiative authorized by the 96th
8 General Assembly for fiscal year 2011 may be adopted in
9 accordance with this Section by the agency charged with
10 administering that provision or initiative. The adoption of
11 emergency rules authorized by this subsection (o) is deemed to
12 be necessary for the public interest, safety, and welfare. The
13 rulemaking authority granted in this subsection (o) applies
14 only to rules promulgated on or after the effective date of
15 Public Act 96-958 ~~this amendatory Act of the 96th General~~
16 ~~Assembly~~ through June 30, 2011.

17 (p) In order to provide for the expeditious and timely
18 implementation of the provisions of Public Act 97-689,
19 emergency rules to implement any provision of Public Act 97-689
20 may be adopted in accordance with this subsection (p) by the
21 agency charged with administering that provision or
22 initiative. The 150-day limitation of the effective period of
23 emergency rules does not apply to rules adopted under this
24 subsection (p), and the effective period may continue through
25 June 30, 2013. The 24-month limitation on the adoption of
26 emergency rules does not apply to rules adopted under this

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

4 (q) In order to provide for the expeditious and timely
5 implementation of the provisions of Articles 7, 8, 9, 11, and
6 12 of Public Act 98-104 ~~this amendatory Act of the 98th General
7 Assembly~~, emergency rules to implement any provision of
8 Articles 7, 8, 9, 11, and 12 of Public Act 98-104 ~~this
9 amendatory Act of the 98th General Assembly~~ may be adopted in
10 accordance with this subsection (q) by the agency charged with
11 administering that provision or initiative. The 24-month
12 limitation on the adoption of emergency rules does not apply to
13 rules adopted under this subsection (q). The adoption of
14 emergency rules authorized by this subsection (q) is deemed to
15 be necessary for the public interest, safety, and welfare.

16 (r) In order to provide for the expeditious and timely
17 implementation of the provisions of Public Act 98-651 ~~this
18 amendatory Act of the 98th General Assembly~~, emergency rules to
19 implement Public Act 98-651 ~~this amendatory Act of the 98th
20 General Assembly~~ may be adopted in accordance with this
21 subsection (r) by the Department of Healthcare and Family
22 Services. The 24-month limitation on the adoption of emergency
23 rules does not apply to rules adopted under this subsection
24 (r). The adoption of emergency rules authorized by this
25 subsection (r) is deemed to be necessary for the public
26 interest, safety, and welfare.

1 (s) In order to provide for the expeditious and timely
2 implementation of the provisions of Sections 5-5b.1 and 5A-2 of
3 the Illinois Public Aid Code, emergency rules to implement any
4 provision of Section 5-5b.1 or Section 5A-2 of the Illinois
5 Public Aid Code may be adopted in accordance with this
6 subsection (s) by the Department of Healthcare and Family
7 Services. The rulemaking authority granted in this subsection
8 (s) shall apply only to those rules adopted prior to July 1,
9 2015. Notwithstanding any other provision of this Section, any
10 emergency rule adopted under this subsection (s) shall only
11 apply to payments made for State fiscal year 2015. The adoption
12 of emergency rules authorized by this subsection (s) is deemed
13 to be necessary for the public interest, safety, and welfare.

14 (t) In order to provide for the expeditious and timely
15 implementation of the provisions of Article II of Public Act
16 99-6 ~~this amendatory Act of the 99th General Assembly,~~
17 emergency rules to implement the changes made by Article II of
18 Public Act 99-6 ~~this amendatory Act of the 99th General~~
19 ~~Assembly~~ to the Emergency Telephone System Act may be adopted
20 in accordance with this subsection (t) by the Department of
21 State Police. The rulemaking authority granted in this
22 subsection (t) shall apply only to those rules adopted prior to
23 July 1, 2016. The 24-month limitation on the adoption of
24 emergency rules does not apply to rules adopted under this
25 subsection (t). The adoption of emergency rules authorized by
26 this subsection (t) is deemed to be necessary for the public

1 interest, safety, and welfare.

2 (u) ~~(t)~~ In order to provide for the expeditious and timely
3 implementation of the provisions of the Burn Victims Relief
4 Act, emergency rules to implement any provision of the Act may
5 be adopted in accordance with this subsection (u) ~~(t)~~ by the
6 Department of Insurance. The rulemaking authority granted in
7 this subsection (u) ~~(t)~~ shall apply only to those rules adopted
8 prior to December 31, 2015. The adoption of emergency rules
9 authorized by this subsection (u) ~~(t)~~ is deemed to be necessary
10 for the public interest, safety, and welfare.

11 (Source: P.A. 98-104, eff. 7-22-13; 98-463, eff. 8-16-13;
12 98-651, eff. 6-16-14; 99-2, eff. 3-26-15; 99-6, eff. 1-1-16;
13 99-143, eff. 7-27-15; 99-455, eff. 1-1-16; revised 10-15-15.)

14 (5 ILCS 100/5-50) (from Ch. 127, par. 1005-50)

15 Sec. 5-50. Peremptory rulemaking. "Peremptory rulemaking"
16 means any rulemaking that is required as a result of federal
17 law, federal rules and regulations, an order of a court, or a
18 collective bargaining agreement pursuant to subsection (d) of
19 Section 1-5, under conditions that preclude compliance with the
20 general rulemaking requirements imposed by Section 5-40 and
21 that preclude the exercise of discretion by the agency as to
22 the content of the rule it is required to adopt. Peremptory
23 rulemaking shall not be used to implement consent orders or
24 other court orders adopting settlements negotiated by the
25 agency. If any agency finds that peremptory rulemaking is

1 necessary and states in writing its reasons for that finding,
2 the agency may adopt peremptory rulemaking upon filing a notice
3 of rulemaking with the Secretary of State under Section 5-70.
4 The notice shall be published in the Illinois Register. A rule
5 adopted under the peremptory rulemaking provisions of this
6 Section becomes effective immediately upon filing with the
7 Secretary of State and in the agency's principal office, or at
8 a date required or authorized by the relevant federal law,
9 federal rules and regulations, or court order, as stated in the
10 notice of rulemaking. Notice of rulemaking under this Section
11 shall be published in the Illinois Register with a link to the
12 notice on the Illinois Register Internet website
13 simultaneously posted on the agency's Internet website, shall
14 specifically refer to the appropriate State or federal court
15 order or federal law, rules, and regulations, and shall be in a
16 form as the Secretary of State may reasonably prescribe by
17 rule. The agency shall file the notice of peremptory rulemaking
18 within 30 days after a change in rules is required.

19 The Department of Healthcare and Family Services may adopt
20 peremptory rulemaking under the terms and conditions of this
21 Section to implement final payments included in a State
22 Medicaid Plan Amendment approved by the Centers for Medicare
23 and Medicaid Services of the United States Department of Health
24 and Human Services and authorized under Section 5A-12.2 of the
25 Illinois Public Aid Code, and to adjust hospital provider
26 assessments as Medicaid Provider-Specific Taxes permitted by

1 Title XIX of the federal Social Security Act and authorized
2 under Section 5A-2 of the Illinois Public Aid Code.

3 (Source: P.A. 95-859, eff. 8-19-08.)

4 (5 ILCS 100/5-60) (from Ch. 127, par. 1005-60)

5 Sec. 5-60. Regulatory agenda. An agency shall submit for
6 publication in the Illinois Register by January 1 and July 1 of
7 each year and shall simultaneously post a link to the Illinois
8 Register posting on the agency's Internet website a regulatory
9 agenda to elicit public comments concerning any rule that the
10 agency is considering proposing but for which no notice of
11 proposed rulemaking activity has been submitted to the Illinois
12 Register. If an agency wishes to seek informal input from the
13 public before proposing a rule at other times during the year,
14 that agency shall have the authority to submit for publication
15 in the Illinois Register and shall simultaneously publish the
16 Illinois Register website link on its Internet website an
17 advance notice of the proposed rulemaking that follows all
18 regulatory agenda summary requirements. A regulatory agenda
19 shall consist of summaries of those rules. Each summary shall,
20 in less than 2,000 words, contain the following when
21 practicable:

22 (1) A description of the rule.

23 (2) The statutory authority the agency is exercising.

24 (3) A schedule of the dates for any hearings, meetings,
25 or other opportunities for public participation in the

1 development of the rule.

2 (4) The date the agency anticipates submitting a notice
3 of proposed rulemaking activity, if known.

4 (5) The name, address, ~~and~~ telephone number, and email
5 address of the agency representative who is knowledgeable
6 about the rule, from whom any information may be obtained,
7 and to whom written comments may be submitted concerning
8 the rule.

9 (6) A statement whether the rule will affect small
10 businesses, not for profit corporations, or small
11 municipalities as defined in this Act.

12 (7) Any other information that may serve the public
13 interest.

14 Nothing in this Section shall preclude an agency from
15 adopting a rule that has not been summarized in a regulatory
16 agenda or from adopting a rule different than one summarized in
17 a regulatory agenda if in the agency head's best judgment it is
18 necessary. If an agency finds that a situation exists that
19 requires adoption of a rule that was not summarized on either
20 of the 2 most recent regulatory agendas, it shall state its
21 reasons in writing together with the facts that form their
22 basis upon filing the notice of proposed rulemaking with the
23 Secretary of State under Section 5-40. Nothing in this Section
24 shall require an agency to adopt a rule summarized in a
25 regulatory agenda. The Secretary of State shall adopt rules
26 necessary for the publication of a regulatory agenda, including

1 but not limited to standard submission forms and deadlines, and
2 rules allowing for electronic submission of the regulatory
3 agenda by an agency. The Secretary of State shall maintain on
4 its Internet website a link to the Illinois Register setting
5 forth the full text of all filed regulatory agendas. If an
6 agency has no rules to summarize in a regulatory agenda, the
7 agency shall submit a notice to the Secretary stating that it
8 has no regulatory agenda to submit for the relevant time
9 period.

10 (Source: P.A. 87-823; 88-667, eff. 9-16-94.)

11 (5 ILCS 100/5-46.1 rep.)

12 (5 ILCS 100/5-46.2 rep.)

13 Section 10. The Illinois Administrative Procedure Act is
14 amended by repealing Sections 5-46.1 and 5-46.2.

15 Section 15. The Illinois Public Aid Code is amended by
16 changing Section 5A-2 as follows:

17 (305 ILCS 5/5A-2) (from Ch. 23, par. 5A-2)

18 (Section scheduled to be repealed on July 1, 2018)

19 Sec. 5A-2. Assessment.

20 (a) Subject to Sections 5A-3 and 5A-10, for State fiscal
21 years 2009 through 2018, an annual assessment on inpatient
22 services is imposed on each hospital provider in an amount
23 equal to \$218.38 multiplied by the difference of the hospital's

1 occupied bed days less the hospital's Medicare bed days,
2 provided, however, that the amount of \$218.38 shall be
3 increased by a uniform percentage to generate an amount equal
4 to 75% of the State share of the payments authorized under
5 Section 12-5, with such increase only taking effect upon the
6 date that a State share for such payments is required under
7 federal law. For the period of April through June 2015, the
8 amount of \$218.38 used to calculate the assessment under this
9 paragraph shall, by emergency rule under subsection (s) of
10 Section 5-45 of the Illinois Administrative Procedure Act, be
11 increased by a uniform percentage to generate \$20,250,000 in
12 the aggregate for that period from all hospitals subject to the
13 annual assessment under this paragraph.

14 For State fiscal years 2009 through 2014 and after, a
15 hospital's occupied bed days and Medicare bed days shall be
16 determined using the most recent data available from each
17 hospital's 2005 Medicare cost report as contained in the
18 Healthcare Cost Report Information System file, for the quarter
19 ending on December 31, 2006, without regard to any subsequent
20 adjustments or changes to such data. If a hospital's 2005
21 Medicare cost report is not contained in the Healthcare Cost
22 Report Information System, then the Illinois Department may
23 obtain the hospital provider's occupied bed days and Medicare
24 bed days from any source available, including, but not limited
25 to, records maintained by the hospital provider, which may be
26 inspected at all times during business hours of the day by the

1 Illinois Department or its duly authorized agents and
2 employees.

3 (b) (Blank).

4 (b-5) Subject to Sections 5A-3 and 5A-10, for the portion
5 of State fiscal year 2012, beginning June 10, 2012 through June
6 30, 2012, and for State fiscal years 2013 through 2018, an
7 annual assessment on outpatient services is imposed on each
8 hospital provider in an amount equal to .008766 multiplied by
9 the hospital's outpatient gross revenue, provided, however,
10 that the amount of .008766 shall be increased by a uniform
11 percentage to generate an amount equal to 25% of the State
12 share of the payments authorized under Section 12-5, with such
13 increase only taking effect upon the date that a State share
14 for such payments is required under federal law. For the period
15 beginning June 10, 2012 through June 30, 2012, the annual
16 assessment on outpatient services shall be prorated by
17 multiplying the assessment amount by a fraction, the numerator
18 of which is 21 days and the denominator of which is 365 days.
19 For the period of April through June 2015, the amount of
20 .008766 used to calculate the assessment under this paragraph
21 shall, by emergency rule under subsection (s) of Section 5-45
22 of the Illinois Administrative Procedure Act, be increased by a
23 uniform percentage to generate \$6,750,000 in the aggregate for
24 that period from all hospitals subject to the annual assessment
25 under this paragraph.

26 For the portion of State fiscal year 2012, beginning June

1 10, 2012 through June 30, 2012, and State fiscal years 2013
2 through 2018, a hospital's outpatient gross revenue shall be
3 determined using the most recent data available from each
4 hospital's 2009 Medicare cost report as contained in the
5 Healthcare Cost Report Information System file, for the quarter
6 ending on June 30, 2011, without regard to any subsequent
7 adjustments or changes to such data. If a hospital's 2009
8 Medicare cost report is not contained in the Healthcare Cost
9 Report Information System, then the Department may obtain the
10 hospital provider's outpatient gross revenue from any source
11 available, including, but not limited to, records maintained by
12 the hospital provider, which may be inspected at all times
13 during business hours of the day by the Department or its duly
14 authorized agents and employees.

15 (c) (Blank).

16 (d) (Blank). ~~Notwithstanding any of the other provisions of~~
17 ~~this Section, the Department is authorized to adopt rules to~~
18 ~~reduce the rate of any annual assessment imposed under this~~
19 ~~Section, as authorized by Section 5-46.2 of the Illinois~~
20 ~~Administrative Procedure Act.~~

21 (e) Notwithstanding any other provision of this Section,
22 any plan providing for an assessment on a hospital provider as
23 a permissible tax under Title XIX of the federal Social
24 Security Act and Medicaid-eligible payments to hospital
25 providers from the revenues derived from that assessment shall
26 be reviewed by the Illinois Department of Healthcare and Family

1 Services, as the Single State Medicaid Agency required by
2 federal law, to determine whether those assessments and
3 hospital provider payments meet federal Medicaid standards. If
4 the Department determines that the elements of the plan may
5 meet federal Medicaid standards and a related State Medicaid
6 Plan Amendment is prepared in a manner and form suitable for
7 submission, that State Plan Amendment shall be submitted in a
8 timely manner for review by the Centers for Medicare and
9 Medicaid Services of the United States Department of Health and
10 Human Services and subject to approval by the Centers for
11 Medicare and Medicaid Services of the United States Department
12 of Health and Human Services. No such plan shall become
13 effective without approval by the Illinois General Assembly by
14 the enactment into law of related legislation. Notwithstanding
15 any other provision of this Section, the Department is
16 authorized to adopt rules to reduce the rate of any annual
17 assessment imposed under this Section. Any such rules may be
18 adopted by the Department under Section 5-50 of the Illinois
19 Administrative Procedure Act.

20 (Source: P.A. 98-104, eff. 7-22-13; 98-651, eff. 6-16-14; 99-2,
21 eff. 3-26-15.)".