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Joint Committee on Administrative Rules

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Illinois Regulation is a summary of the weekly regulatory decisions of State agencies published in the Illinois Register and action taken by the Illinois General Assembly's Joint Committee on Administrative Rules. Illinois Regulation is designed to inform and involve the public in changes taking place in agency administration.

New Regulations

Proposed Regulations

RIVERBOAT GAMBLING

The ILLINOIS GAMING BOARD adopted an amendment for "Riverboat Gambling" (86 Ill Adm Code 3000; 31 Ill Reg 9719), effective 2/15/08, that authorizes the issuance of 25¢ blue value chips for use at gaming tables.

Questions/requests for copies: Michael Fries, IGB, 160 N. LaSalle St., Chicago IL 60601, 312/814-4700, Fax 312/814-4143, e-mail: mfries@revenue.state.il.us

STATE EMPLOYEES

The DEPARTMENT OF CENTRAL MANAGEMENT SERVICES adopted a peremptory amendment to "Pay Plan" (80 Ill. Adm. Code 310; 32 Ill. Reg. 3095), effective 2/13/08. The amendment implements a memorandum of understanding between DCMS and the American Association of State, County and Municipal Employees (AFSCME) that assigns certain public administrator title positions (Management Information Systems/Data Processing/Telecommunications, Physical Sciences/Environment, and Laboratory Specialist) that require persons in those positions to have passed specified types of examinations to a

collective bargaining unit. Previously, such employees' salaries were determined by the merit compensation method rather than collective bargaining. Salaries range from \$5104 to \$8254 monthly.

Questions/requests for copies: Jason Doggett, DCMS, 504 Stratton Bldg., Springfield IL 62706, 217/782-7964, Fax 217/524-4570, e-mail: CMS.PayPlan@Illinois.gov

BUSINESS DEVELOPMENT

The DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY adopted an emergency amendment to "Illinois Small Business Development Program" (14 Ill Adm Code 570; 32 Ill Reg 2979), effective 2/13/08, for a maximum of 150 days. An identical proposed rulemaking is published in this issue of the *Illinois Register* at 32 Ill Reg 2874. The amendment increases the maximum amount DCEO will finance from \$50,000 to \$100,000 for minority, women, and disability business loans per project. (Current regulations specify that DCEO will finance the specified dollar amount or 50% of the project, whichever is less, unless the DCEO director grants a

(cont'd next page)

PUBLIC UTILITIES

The ILLINOIS COMMERCE COMMISSION proposed a new Part titled "Notice Requirements for Subcontractor's Identification for Water and Sewer Utilities" (83 Ill Adm Code 602; 32 Ill Reg 2857) implementing Public Act 94-950, which directs the Commission to establish the manner in which such utilities will provide notice to customers of the proper kind of identification that a subcontractor must present to the customer, to prohibit the subcontractor from soliciting or receiving payment for any service provided by the utility or the subcontractor, and to establish sanctions for violations. Topics covered include the notice to customers; identification, notice of work authorization, and recordkeeping requirements; and sanctions. The proposed rulemaking also defines the term "subcontractor". Those affected by this rulemaking include contractors, subcontractors, agents, individuals, or other entities that provide services under contract or other payment arrangements to a public utility for services related to the physical infrastructure of the public water or sewer utility.

Questions/requests for copies/comments through 4/14/08: Elizabeth Rolando, ICC, 527 E. Capitol Ave., Springfield IL 62701, 217/782-7434. Please reference docket 06-0563.

(cont'd page 3)

NEW REGULATIONS: Rules adopted by agencies this week.

PROPOSED REGULATIONS: Rules proposed by agencies this week, commencing a 45-day First Notice period. Public comments must be accepted by the agency for the period of time indicated.

☞: Symbol designating rules of special interest to small businesses, small municipalities, and not-for-profit corporations. Agencies are required to consider comments from these groups and minimize the regulatory burden on them.

QUESTIONS/COMMENTS/RULE TEXT: Direct mail or phone calls to the agency personnel listed below each summary. Providing volume and issue number of *The Flinn Report* or the *Illinois Register* will expedite the process. Some agencies charge copying fees. However, copy requests do not have to be made under the Freedom of Information Act.

New Regulations

waiver.) Projects awaiting funding may be affected.

Questions/requests for copies/comments concerning the proposed rulemaking through 4/14/08: Jolene Clarke, DCEO, 620 E. Adams St., Springfield IL 62701, 217/557-1820, Fax 217/782-0038, e-mail: jolene.clarke@illinois.gov

HOSPITAL PAYMENTS

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES adopted an emergency amendment to "Hospital Services" (89 Ill Adm Code 148; 32 Ill Reg 2993), effective 2/16/08, for a maximum of 150 days. An identical proposed rulemaking is published in this issue of the *Illinois Register* at 32 Ill Reg 2885 in order to modify "safety net adjustment payments" for certain hospitals. A new payment will be made to hospitals with a Medicaid inpatient utilization rate (MIUR) of more than 90%. Additional payments will be made to children's hospitals with more than 25 graduate medical education programs; hospitals that provided a specified level of patient service in fiscal year 2000; and hospitals with a combined MIUR of more than 12% that are designated a perinatal Level II Center, have more than 400 licensed beds, and have an average patient length stay of less than 3.5 days. All of these criteria must be met to qualify for the increase. At this time, the hospitals affected by these emergency amendments are Children's Memorial, Mt. Sinai, St. Francis-Blue Island, and BHC Streamwood.

Questions/requests for copies/comments concerning the proposed rulemaking through 4/14/08: Tamara Tanzillo Hoffman, DHFS, 201 S. Grand Ave. E., 3rd Fl. Springfield IL 62763-0002, 217/557-7157.

rulemaking titled "Agency Sustainability Planning Tool" (71 Ill Adm Code 2500; 32 Ill Reg 2984), effective 2/29/08, for a maximum of 150 days. A similar proposed rulemaking, which has provisions for filing a sustainability plan in cases where one was not prepared under the emergency rule and for submission of a revised plan no later than 3 years after submission of the first plan, is published in this week's *Illinois Register* at 32 Ill Reg 2876. State agency heads are directed to appoint an agency-specific "sustainability committee" responsible for completing the agency sustainability plan required to be submitted to the Council via the "sustainability planning tool" on the Council's website no later than 4/1/08 under the Green Governments Illinois Act. Such plans must include an assessment of environmental impacts in applicable areas of agency operation, such as transportation, purchasing, office operations, facility management, and construction and renovation. Agencies must submit at least one sustainability goal and related sustainability objective, strategy, and progress assessment in the topic areas stated above. Agencies must also complete a sustainability progress report no later than 7/1/08. Any plans, reports, or other submissions to the Council must be sent to the Council c/o the Lieutenant Governor's Office. The Council will not grant any award authorized by the Act if an agency has not submitted sustainability plans and complied with reporting requirements. The Council will publish a list of all agencies with their plan submission and reporting status. The rules also include a printed agency sustainability plan template. Small municipalities may utilize the agency sustainability planning tool but are not required to do so.

Questions/requests for copies/comments concerning the proposed rulemaking through 4/14/08: Kate Tomford, Lt. Governor's Office, 100 W. Randolph, Ste. 15-200, Chicago IL 60601, 312/814-5220, Fax 312/814-4862.

SOS EMPLOYEES

The SECRETARY OF STATE adopted emergency amendments for "Department of Personnel" (80 Ill Adm Code 420; 32 Ill Reg 3013), effective 2/13/08, for a maximum of 150 days to update various hiring rules. A similar proposed rulemaking is published in this week's *Illinois Register* at 32 Ill Reg 2887. The rulemaking adds various definitions and permits the director of the SOS personnel department to determine time periods of hostility with a foreign country for purposes of awarding veterans' preference. Employees obtaining a new position or keeping a current position that is exempt from Jurisdiction B of the SOS merit employment code will retain their original certified status. A new job classification called "permanent intermittent" permits employment for any period less than full-time (presently, for up to 6 months), with probationary and certified employees being eligible for permanent intermittent status. An employee who has requested and received a job audit must wait a year to request another review. When positions are reclassified as a result of establishing a new class and the duties of such positions remain essentially unchanged, incumbents of the previous class will be considered qualified for the new class. An employee may be assigned to temporary duty (normally less than 6 months) from duties of another position in a different classification. Increased pay for temporary assignments must be in accordance with the SOS department of personnel pay plan and must be for "good cause". Statutorily prescribed preference points for veterans who suffered a service-related death or disability and their spouses or parents have been added to the rule. However, veterans' preference may be disregarded if an applicant fails to meet minimum standards for the position. Applicants may retake an examination within 14 days (currently, 30 days), and re-graded examinations expire one year later on the same date as the original examination. An applicant will be rejected for conviction of any crime

GREEN GOVERNMENT PLANS

The ILLINOIS GREEN GOVERNMENTS COORDINATING COUNCIL (chaired by the Lieutenant Governor) adopted a new Part by emergency

New Regulations

relevant to the performance of duties of the class of examination he or she is taking or the position to which he or she has been hired. All applicants (presently, only those applicants seeking positions that involve handling money, are sensitive in nature, or involve law enforcement duties) must authorize the director of personnel to investigate whether the applicant has been convicted of a crime. Applicants will be removed from an eligible list if they have been discharged or involuntarily separated from employment with the SOS. An applicant may be removed from an eligible list for conviction of a crime (formerly, felony) relevant to the position for which the applicant is testing or being hired, as well as conviction of a crime involving alcohol or drugs. Returning veterans may be placed back on an eligibility list for one year for the same class they applied for prior to their most recent period of active duty. Also,

procedures are added to accommodate trainees, including a 3-month probationary period (the same as currently exists for employees who are promoted) after the trainee is qualified and appointed for a given position, with or without competitive examination. Employees transferring to the SOS from other named merit systems may be placed within Jurisdiction B of the SOS merit code if the new position has comparable qualifications, duties, and salary range as determined by the director of personnel, and notice of a layoff must be given within a reasonable time after approval of the layoff plan by the director of personnel. Prohibitions on filling a permanent position by temporary appointment or by intra-agency or inter-agency transfer of members on a re-employment list are stricken. For certified employees, notice of charges concurrent with certain suspensions must be in the form and

manner specified in the SOS merit commission rules. Provisions are added regarding use of sick leave earned prior to 1/1/84 and earned at other times, as well as payment in lieu of sick leave for those time periods. Also, veterans must be granted 2 days a year with pay to visit a veteran's hospital for examination. Provisions for family leave and disaster service with pay are added, and 5 additional days of vacation are added for employees with more than 30 years' service. Other provisions concerning compensatory time, performance records, employees who return within 30 days after separation from employment, and documenting reasons for resignations are added.

Questions/requests for copies/comments through 4/14/08: Stephan Roth, Office of the SOS, 197 Howlett Bldg., Springfield IL 62756, 217/782-1750.

Proposed Regulations

ECONOMIC DEVELOPMENT

The DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY proposed amendments to "Economic Development for a Growing Economy Program (EDGE)" (14 Ill Adm Code 527; 32 Ill Reg 2865) to implement Public Act 95-375. The rulemaking expands the definition of a full-time employee to include an individual who

has been issued a federal income tax W-2 form by a professional employers organization (employee leasing company that handles hiring and other personnel services for the client on a permanent basis) and has worked at least 35 hours per week or renders any other standard of service "generally accepted by industry custom or practice" for a full-time employee. The amendments also indicate that noth-

ing will prohibit a tax credit award to an applicant who uses a professional employers organization if all other criteria are satisfied. Small businesses participating in the EDGE program will be affected by this rulemaking.

Questions/requests for copies/comments through 4/14/08: Jolene Clarke at the DCEO address and telephone number above.

Second Notices

The following rulemakings were moved to second notice this week by the agencies listed below, commencing the JCAR review period. These rulemakings will be considered at JCAR's March 11, 2008 meeting in Springfield.

SECRETARY OF STATE

"Issuance of Licenses" (92 Ill Adm Code 1030) proposed 1/4/08 (32 Ill Reg 134)

HIGHER EDUCATION TRAVEL CONTROL BOARD

"Higher Education Travel" (80 Ill Adm Code 2900) proposed 12/7/07 (31 Ill Reg 16065)

DEPARTMENT OF REVENUE

"Income Tax" (86 Ill Adm Code 100) proposed 12/14/07 (31 Ill Reg 16428)

"Income Tax" (86 Ill Adm Code 100) proposed 1/4/08 (32 Ill Reg 97)

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JCAR Meeting Action

At its meeting on February 26, 2008, which was the continuation of its 2/13/08 meeting, the Joint Committee on Administrative Rules voted the Objection and Filing Prohibition below. It also partially withdrew a Suspension on the emergency rule below.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

JCAR objects to amendments for "Medical Assistance Programs" (89 Ill Adm Code 120; 31 Ill Reg 15424) and prohibits the filing of this rulemaking for adoption to the extent the amendments expand medical assistance to persons other than those formerly receiving medical coverage under a federal State Children's Health Insurance Program (SCHIP) waiver for caretaker relatives of children covered by SCHIP. The budgetary impact on the State is likely to be significant. An expansion of this magnitude should not be initiated without a specific legislative determination that adequate financial resources are, and will continue to be, available. The General Assembly did not include expanded FamilyCare during its formation of the Fiscal Year 2008 budget. Further, the General Assembly did not pass specific statutory authority for such expansion. To enter into this expansion without the assurance of available funding and specific statutory authority is not in the public interest.

Concerning DHFS emergency rules for "Reimbursement for Nursing Costs for Geriatric Facilities" (89 Ill Adm Code 147; 32 Ill Reg 415), JCAR withdraws a portion of the Suspension that the Committee originally issued at its 2/13/08 meeting. The portion of text no longer suspended is reinstated for the remainder of the 150-day period for which the emergency rule can be in effect. All other provisions of the emergency rule remain under Suspension.