

JOINT COMMITTEE ON ADMINISTRATIVE RULES

ILLINOIS GENERAL ASSEMBLY

CO-CHAIR:
SEN. DON HARMON

CO-CHAIR:
REP. MIKE TRYON

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SEN. KAREN McCONNAUGHAY
SEN. TONY MUÑOZ
SEN. MATT MURPHY
SEN. IRA SILVERSTEIN
REP. TOM DEMMER
REP. GREG HARRIS
REP. LOU LANG
REP. ANDRÉ THAPEDI
REP. KEITH WHEELER

MINUTES

August 9, 2016

MEETING CALLED TO ORDER

The Joint Committee on Administrative Rules met on Tuesday, August 9 at 11:00 a.m. in Room 600C of the Michael A. Bilandic Building, Chicago IL. Co-Chair Harmon called the meeting to order and announced that the policy of the Committee is to allow only representatives of State agencies to testify orally on any rule under consideration at Committee meetings. Other persons are encouraged to submit their comments to the JCAR office in writing.

ATTENDANCE ROLL CALL

Senator Bill Brady	X	Representative Tom Demmer
X Senator Don Harmon	X	Representative Greg Harris
Senator Karen McConnaughay	X	Representative Lou Lang
Senator Tony Muñoz	X	Representative André Thapedi
X Senator Matt Murphy	X	Representative Mike Tryon
Senator Ira Silverstein	X	Representative Keith Wheeler

Co-Chair Harmon welcomed Representatives Demmer and Wheeler to the Committee and congratulated Representative Tryon on his appointment as Co-Chair.

APPROVAL OF THE MINUTES OF THE JULY 12, 2016 MEETING

Representative Lang moved, seconded by Representative Wheeler, that the minutes of the July 12, 2016 meeting be approved. The motion passed unanimously.

REVIEW OF AGENCY RULEMAKINGS

Central Management Services – Extensions of Jurisdiction (80 Ill. Adm. Code 305; 40 Ill. Reg. 5749)

Senator Murphy moved, seconded by Representative Harris, that JCAR recommend that the Department be more timely in adopting rules implementing Memoranda of Understanding. The underlying MOU was dated 12/9/13; CMS proposed this rulemaking on 4/8/16. The motion passed unanimously (8-0-0).

Comptroller – Joint Rules of the Comptroller and the Department of Central Management Services: Prompt Payment (74 Ill. Adm. Code 330; 40 Ill. Reg. 7519)

Central Management Services – Joint Rules of the Comptroller and the Department of Central Management Services: Prompt Payment (74 Ill. Adm. Code 900; 40 Ill. Reg. 6891)

Representative Demmer moved, seconded by Representative Thapedi, that JCAR, with the concurrence of the Comptroller and the Department of Central Management Services, extend the Second Notice period for the rulemakings titled Joint Rules of the Comptroller and the Department of Central Management Services: Prompt Payment (74 Ill. Adm. Code 330; 40 Ill. Reg. 7519 (Comptroller) and 74 Ill. Adm. Code 900; 40 Ill. Reg. 6891 (CMS)) for an additional 45 days. The Motion passed unanimously (8-0-0).

AGENCY RESPONSES

Community College Board – Administration of the Illinois Public Community College Act (23 Ill. Adm. Code 1501; 39 Ill. Reg. 5743)

No further action. Staff will monitor.

Department of Natural Resources – Raccoon, Opossum, Striped Skunk, Red Fox, Gray Fox, Coyote and Woodchuck (Groundhog) Hunting (17 Ill. Adm. Code 550; 40 Ill. Reg. 1413) and Muskrat, Mink, Raccoon, Opossum, Striped Skunk, Weasel, Red Fox, Gray Fox, Coyote, Badger, Beaver and Woodchuck (Groundhog) Trapping (17 Ill. Adm. Code 570; 40 Ill. Reg. 1430)

Representative Lang moved, seconded by Representative Harris, that JCAR issue a Notice of Failure to Remedy. The motion passed unanimously (8-0-0).

Illinois Power Agency – Monitoring of Contracts Administered by the Illinois Power Agency (83 Ill. Adm. Code 1210; 40 Ill. Reg. 8710)

No further action. Staff will monitor.

Department of Revenue – Tobacco Products Tax Act of 1995 (86 Ill. Adm. Code 660; 40 Ill. Reg. 2156)

Jane McEnaney, Director of Legislative Affairs, represented the Department. Representative Lang expressed concern about the creation of policy that was not in rule or in statute. In particular, he was concerned that the Department could ask applicants to provide whatever information it wished, asking some applicants some things and other applicants other things. Without having its information collecting policy adopted in written rule, the public will not be guaranteed of consistent Department action. Ms McEnaney maintained that this was within the Department's statutory authority to administer this Act, and that standardized forms such as the ones in question are specifically exempted from the IAPA.

Rep. Lang: All the rules and all the statutes need to be applied to all applicants in a consistent fashion, and the Department should not have the ability, based on an internal policy, to treat some applicants differently than other applicants.

Ms McEnaney: Our intention isn't to treat some applicants differently; we just need to have the flexibility to combat tax evasion.

Rep. Lang: Agrees that combating tax evasion requires some flexibility, but in JCAR's eyes creating a policy that isn't written in rule and can be enforced in an ad hoc manner is not only a violation of the

rulemaking process but also equality under the law. He noted that JCAR has seen policy being made outside of rule over and over and over again. JCAR will be putting a stop to it.

Rep. Thapedi: Why would it not work to update the rules to reflect new policies as they emerge?

Ms McEnaney: It's not DOR's intent to discriminate among applicants, but we need the flexibility to update forms in response to changes in federal requirements, for example.

Rep. Thapedi: The need to update forms is certainly understandable. But what prevents the Department from promulgating a rule or asking a legislator to carry a bill to that effect?

Ms McEnaney: I can't speak to that.

Representative Lang moved, seconded by Representative Thapedi, that JCAR issue a Notice of Failure to Remedy. The motion passed unimously (8-0-0).

Department of Revenue – Payment of Taxes by Electronic Funds Transfer (86 Ill. Adm. Code 750; 40 Ill. Reg. 1660)

Due to the appropriateness of the Agency's response, no further action will be taken.

CONSIDERATION OF OTHER RULEMAKINGS

Department of Agriculture – Industrial Hemp Pilot Program (8 Ill. Adm. Code 1100; 40 Ill. Reg. 5741)

Representative Lang moved, seconded by Representative Wheeler, that JCAR, with the concurrence of the Department, extend consideration of this rulemaking for an additional 45 days. The motion passed unimously (8-0-0).

CERTIFICATION OF NO OBJECTION

Senator Murphy moved, seconded by Representative Harris, that the Committee inform the agencies to whose rulemakings the Committee has not voted an Objection or Extension, or did not remove from the No Objection List, that the Committee considered their respective rulemakings at the monthly meeting and, based upon the agreements for modification of the rulemakings made by the agencies, no Objections will be issued.

The motion passed unimously, except that Representative Lang voted present on 2 rulemakings: ***Health Facilities and Services Review Board – Health Facilities and Services Review Operational Rules*** (77 Ill. Adm. Code 1130; 39 Ill. Reg. 16277) and ***Department of Human Services – Developmental Disabilities Services*** (89 Ill. Adm. Code 144; 40 Ill. Reg. 7600).

ANNOUNCEMENT OF SEPTEMBER MEETING DATE

Co-Chair Harmon announced that the next JCAR meeting would be at 11:00 a.m. on Tuesday, September 6, 2016, in Room 600C of the Michael A. Bilandic Building, Chicago IL.

ADJOURNMENT

Senator Murphy moved, seconded by Representative Demmer, that the meeting stand adjourned. The motion passed unanimously.

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