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Illinois General Assembly

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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

☞ PUBLIC ASSISTANCE

The DEPARTMENT OF HUMAN SERVICES adopted amendments to "Aid to the Aged, Blind or Disabled" (AABD) (89 Ill Adm Code 113; 33 Ill Reg 5699), effective 10/22/09, to increase the grant adjustment and sheltered care, personal care, and nursing care rate amounts by \$37 to match the federal January 2009 social security (SSA) benefit and supplemental security income (SSI) benefit increases. The grant adjustment and rate amounts are increased annually to reflect the federal increases in SSA and SSI benefits. These increased amounts are used as income deductibles when calculating eligibility for AABD benefits. (The rate amounts contained in this rulemaking have been added to rate increases adopted by emergency rulemaking in the 4/3/09 *Illinois Register* and a companion proposed rulemaking adopted in the 10/2/09 *Illinois Register* to arrive at a combined rate increase.) Those affected by this rulemaking include sheltered care homes.

Questions/requests for copies: Tracie Drew, DHS, 100 S. Grand Ave. E., 3rd Fl., Springfield IL 62762, 217/785-9772.

☞ INCOME TAXES

The DEPARTMENT OF REVENUE adopted an amendment to "Income Tax" (86 Ill Adm Code 100; 33 Ill Reg 11201), effective 10/26/09, apportioning business income of a financial institution for taxable years ending on or after 12/31/08 to Illinois based on gross receipts instead of gross profits. Further changes add new definitions and expand application sourcing rules because more variables are involved in the apportionment of receipts over profits. Those affected by this rulemaking include small financial organizations operating in interstate commerce.

Questions/requests for copies: Paul Caselton, DOR, Legal Services Office, 101 W. Jefferson, Springfield IL 62794, 217/782-7055.

DRIVER'S LICENSES

The SECRETARY OF STATE adopted amendments to "Cancellation, Revocation or Suspension of Licenses or Permits" (92 Ill Adm Code 1040; 33 Ill Reg 10959), effective 10/21/09, updating the Illinois Offense Table to

(cont'd next page)

☞ VETERANS' PROGRAMS

The DEPARTMENT OF VETERANS' AFFAIRS proposed a new Part titled "Veterans' Scratch-Off Lottery Program" (95 Ill Adm Code 125; 33 Ill Reg 14933) that disburses designated lottery proceeds to veterans' programs. The funds will be distributed via grants to support services or research related to veterans' post traumatic stress disorder, homelessness, health insurance, disability, or long-term care. Grant awards may be made for a maximum of \$100,000 for one year, and expenditure authorizations may be extended up to 12 months. No more than 20% of all available grant funds may be directed toward health insurance costs, construction grants may be used only to expand an existing facility, and grants to benefit Illinois veterans' homes may fund no more than 50% of the project for which the grant is sought. The rulemaking contains grant application and award procedures, a list of eligible project costs, project evaluation priorities and criteria, and grounds for disqualification of grant applications. The rulemaking also sets up a funding authorization committee under DVA

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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

reflect required revisions by the American Association of Motor Vehicle Administrators (AAMVA) in compliance with federal regulations. AAMVA maintains a listing of universally applicable codes that represent vehicular offenses including, but not limited to, moving violations and alcohol-related offenses. Each state maintains a corresponding table (e.g., Illinois Offense Table) that cross-references its own statutory offenses and the related AAMVA code. AAMVA codes ensure reciprocity among states in the event that an individual attempts to obtain a driver's license in another state after his or her license has been cancelled, revoked, or suspended in a different state. The individual's driving record reflects any offenses via AAMVA code that he or she may have in another state, thus preventing issuance of a new license in another jurisdiction. The rulemaking also adds new definitions and updates existing definitions to reflect corresponding AAMVA revisions.

Questions/requests for copies: Arlene J. Pulley, SOS, 2701 S. Dirksen Pkwy., Springfield IL 62723, 217/782-3385.

tions under which students with limited English language proficiency may be allowed extra time to take the State assessment test. School district review for the preliminary State assessment data is shortened from 30 to 10 days, and SBE staff and the testing contractor must have 21 days (previously, 15) to make corrections. Additional amendments reflect U.S. Department of Education approval for the manner in which districts are held accountable for funds expended on students with limited English proficiency. Applications for waivers or modifications of SBE administrative rules or School Code statutory mandates must assure that a quorum of the local governing board or the regional superintendent approved the waiver request. Incomplete waiver applications must contain the date by which additional information must be received to maintain eligibility. Regulations prohibiting certain types of discrimination against pupils are amended to include gender identity as a prohibited category. Basic standards for instructional programs are updated to include a plan for recording pupil progress and credit for correspondence or on-line courses, procedures that districts use for multiple sessions, a prohibition against counting students who attend school fewer than 2 hours per day when calculating general State aid, and a clarification of the staff requirements for library media programs. The rulemaking also repeals redundant special program provisions. If a school district offers transportation services, the services must be offered to all eligible pupils. SBE implements Public Act 95-496 concerning how SBE will reduce general State aid funds for districts that fail to report information about the required student health exams and immunizations. Further changes clarify statutory provisions that allow school districts to use noncertificated personnel in 2 specified instances. Beginning 2/1/12, coursework for middle grade endorsements on teaching certificates or for assignments in the

middle grades must have been passed with a grade of "C" or its equivalent to be counted toward any certification requirements. Safety and driver education teachers must hold a secondary level certificate with an endorsement in safety and driver education after 2/1/12. Also, SBE updates the appendix listing professional staff certification types to include only those currently accepted.

SBE adopted amendments to "New Teacher Induction and Mentoring" (23 Ill Adm Code 65; 33 Ill Reg 6250), effective 10/20/09, changing the program from a pilot program to a continuing grant program that can be expanded as funding permits. The amendments eliminate the minimum program enrollment of 10 new teachers and delete references to the 3-year funding cycle. New provisions require a minimum of 60 hours of face-to-face contact between the new teacher and mentor and pay mentors \$1,200 per year. New teachers entering the program must have less than 2 years' teaching experience and hold an initial or provisional early childhood, elementary, secondary, special K-12, or special preschool-age 21 certificate. (Previous rules stated that new teachers must be in their 1st year of teaching.) SBE will provide "continuation grants" for those already funded under the pilot program before funding new applicants. If funds are available after issuance of continuation grants, SBE will issue a request for proposals. A change since 1st Notice reduces the minimum required mentoring time from 75 to 60 hours. Charter schools that are not-for-profit corporations and choose to apply for grants will be affected by this rulemaking.

SBE adopted amendments to "Health/Life Safety Code for Public Schools" (23 Ill Adm Code 180; 33 Ill Reg 9279), effective 10/20/09, that incorporate by reference the 2009 edition of the *International Building Code* (previously, 2006 edition) and its sub-codes

SCHOOLS

The STATE BOARD OF EDUCATION adopted amendments to "Public Schools Evaluation, Recognition and Supervision" (23 Ill Adm Code 1; 33 Ill Reg 7587), effective 10/20/09, that clarify requirements, reflect federal and state statutory directives, and remove redundancies. Corrective plans for districts on probation must be signed by the secretary of the local board of education for district-level issues and by the district superintendent and each affected principal for school-level issues. If the plan is not implemented, the recognition status may be changed to nonrecognition. A student's individualized education plan must reflect the need for reasonable accommodations when the student takes the State assessment test. SBE is implementing Public Act 94-642 by listing the condi-

New Regulations

as the Illinois school construction requirements. This incorporation will affect projects designed on or after January 1, 2010. An additional amendment replaces an obsolete reference to the fall enrollment and housing reports with the September 30th count for the immediately preceding school year. This requirement may impact charter schools.

SBE adopted amendments to "Driver Education" (23 Ill Adm Code 252; 33 Ill Reg 9287), effective 10/20/09, implementing 3 changes. Previously, school districts could not contract for driver education services with a commercial driving school. This adopted rule-making allows school districts to contract with commercial driving facilities for behind-the-wheel instruction for students with physical limitations that require specially equipped cars or specialized instruction (e.g., instruction for the visually or hearing impaired). These facilities must be approved by the Secretary of State and must conduct an evaluation of each student's physical and cognitive abilities to determine an individualized course of instruction. Each instructor must be certified as a driver rehabilitation specialist by the Association for Driver Rehabilitation Specialists. SBE notes that school districts may contract with facilities that do not meet these requirements if a waiver is obtained. The second change concerns reimbursement for driver education provided under a contract or a waiver. In order to receive reimbursement, a school district must submit a claim setting out the names of the students successfully completing the course and the date for each student's completion. Finally, SBE updates its driver education personnel require-

ments to reflect the new driver education qualifications that will become effective January 31, 2012. After that date, public school and certain nonpublic school driver education teachers must hold a certificate valid for secondary grades and an endorsement in safety and driver education. Commercial driving schools may be affected by this rulemaking.

SBE also adopted an amendment to "Providers of Supplemental Educational Services" (SES) (23 Ill Adm Code 675; 33 Ill Reg 9305), effective 10/20/09, that eliminates a provision requiring, as an indication of effectiveness, that an SES provider have 3 years of prior experience serving youth in the same community where its services will be offered in the future. Additional amendments correct an inadvertent omission from amendments adopted on June 1, 2009. Specifically, Appendix B, titled Evaluation Rubric, changed SBE's parental satisfaction evaluation procedure from focusing on positive responses to focusing on negative parental responses so that providers are not penalized for a low response rate. The change was made in the column "Below Standards", but was not made in the other relevant columns titled "Meets Standards" and "Above Standards". This rulemaking makes the necessary corrections. SES providers that are small businesses will be affected by this rulemaking.

SBE adopted amendments to "Special Education Facilities Under Section 14-7.02 of the School Code" (23 Ill Adm Code 401; 33 Ill Reg 9299), effective 10/20/09, updating its cross-references that specify SBE's current special education rules for case study evaluations.

Questions/requests for copies/comments concerning the 6 SBE rulemakings above: Patrick Murphy (217/782-2948) for Parts 1 and 65, Debbie Vespa (217/785-8779) for Part 180, Tim Imler (217/782-5256) for Part 252, Marcia Johnson (217/524-4832) for Part 675, and David Andel (217/782-5589) for Part 401, SBE, 100 N. First St., Springfield IL 62777, e-mail: rules@isbe.net

STATE EMPLOYEES

The DEPARTMENT OF CENTRAL MANAGEMENT SERVICES adopted amendments to "Pay Plan" (80 Ill Adm Code 310; 33 Ill Reg 10098), effective 10/26/09, allowing eligible employees to take "equivalent earned time" (hours worked in excess of the hours per week indicated in the approved work schedule) in 15-minute increments after use of the initial minimum 1/2 hour. Additional changes move the designated pay rate for a senior public service administrator title at the Department of Revenue to the Illinois Gaming Board; abolish the corrections agricultural lead worker and supervisor titles and the public aid appeals advisor title; add mental health recovery support specialist I and II titles to merit compensation salary ranges; suspend merit increases and bonuses while retaining annual reviews; and eliminate obsolete tables and text.

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

Proposed Regulations

to award the grants. The project evaluation criteria give equal weight to the criteria of need, characteristics of service, development plans, and ability to maintain the project. Governmental entities and not-for-profit organizations wishing to apply for these grants will be affected by this rulemaking.

Questions/requests for copies/comments through 12/21/09: Jack Price, DVA, 833 Spring St., Springfield IL 62794-9432, 217/557-5682.

☞ INFERTILITY INSURANCE

The DEPARTMENT OF INSURANCE proposed an amendment for rules titled "Infertility Coverage" (50 Ill Adm Code 2015; 33 Ill Reg 14927) to expand the definition of "infertility" to include efforts to conceive as a result of one year of medically-based and supervised methods of conception, including artificial insemination, that have failed to lead to a successful pregnancy. The definition of "unprotected sexual intercourse" is also amended to specify that the definition "should include appropriate

measures to ensure the health and safety of sexual partners". Those affected by this rulemaking include medical providers who offer treatments for infertility and insurance companies that provide fully-insured group plans and HMO contracts providing coverage to 25 or more employees.

Questions/requests for copies/comments through 12/21/09: Andrew Stolfi (312/814-1835), DOI, 100 W. Randolph, 9th Fl., Chicago IL 60601 or Susan Anders (217/785-8220), DOI, 320 W. Washington, 4th Fl., Springfield IL 62767-0001, Fax 217/524-9033.

STATE EMPLOYEES

The DEPARTMENT OF CENTRAL MANAGEMENT SERVICES proposed amendments to "Pay Plan" (80 Ill Adm Code 310; 33 Ill Reg 14874). The amendments move from the merit compensation (MC) designation to the MS designation the following employees: data processing supervisors II and III, dietary managers I and II, mental health administrator I and II, and statistical supervisor. (MS designations re-

flect positions not represented by a bargaining unit because they are temporary, emergency, or provisional employees or employees excluded by the Illinois Labor Relations Board.) Data processing supervisor I, graphic arts designer advanced, human services casework manager, juvenile justice youth and family specialist option 1 and 2, and juvenile justice youth and family specialist supervisor are added to the MS category. The plumbing consultant MS designation is corrected from MS-28 to MS-27, also. Additionally, maximum salary ranges for out-of-State public service administrator option 1 and senior public service administrator titles are increased based on the increases for in-State administrators, and MS salary ranges are increased 2% to keep pace with collective bargaining unit salaries, according to DCMS.

Questions/requests for copies/comments through 12/21/09: Jason Doggett at the DCMS address and telephone number above.

JCAR 2008 ANNUAL REPORT

The Joint Committee on Administrative Rules' 2008 annual report is now available. The report summarizes agency rulemaking, JCAR actions, and public act reviews in addition to legislative and judicial actions that affected rulemaking.

Copies of this annual report are available to the public. The volume may be ordered for \$3.41 (\$5.79 with postage included) by sending a check to JCAR at the address listed on the front of this newsletter. It is also available online at our website at www.ilga.gov/commission/jcar.

Second Notices

The following rulemakings were moved to second notice this week by the agencies listed below, commencing the JCAR review period. The rulemakings will be considered at JCAR's November 17, 2009 meeting.

BOARD OF HIGHER EDUCATION

"Approval of Noninstructional Capital Projects" (23 Ill Adm Code 1040) proposed 9/4/09 (33 Ill Reg 12299)

"Tuition and Fee Waiver Guidelines" (23 Ill Adm Code 1075) proposed 9/4/09 (33 Ill Reg 12306)

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

"Medical Assistance Programs" (89 Ill Adm Code 120) proposed 6/26/09 (33 Ill Reg 8808)

"Veterans' Health Insurance Program" (89 Ill Adm Code 128) proposed 6/26/09 (33 Ill Reg 8820)

CAPITAL DEVELOPMENT BOARD

"Illinois Energy Conservation Code" (71 Ill Adm Code 600) proposed 9/4/09 (33 Ill Reg 12311)

DEPARTMENT OF HUMAN RIGHTS

"Access to Information" (2 Ill Adm Code 926) proposed 9/11/09 (33 Ill Reg 12421)

STATE BOARD OF EDUCATION

"Requirements for Accounting, Budgeting, Financial Reporting, and Auditing" (23 Ill Adm Code 100) proposed 9/11/09 (33 Ill Reg 12538)

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