

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, also titled The Flinn Report in memory of founding JCAR member Rep. Monroe Flinn, is designed to inform and involve the public in changes taking place in agency administration.

Emergency Rules

SPORTS WAGERING

The ILLINOIS GAMING BOARD adopted a new Part by emergency rulemaking titled Sports Wagering (11 IAC 1900; 44 Ill Reg 314), effective 12/19/19 for a maximum of 150 days. An identical proposed rule appears in this week's *Illinois Register* at 44 Ill Reg 84. The emergency and proposed rules implement provisions of Public Act 101-31 (the Sports Wagering Act) and PA 101-597, which authorize betting on major league professional sports events and out of State collegiate sports events at IGB-licensed racetracks, riverboats and land-based casinos. (The Act authorizes both Tier 1 wagering – bets placed before an event and based solely on the final score or outcome of the event – and Tier 2 wagering, which includes all other types of bets, including those placed during an event or contingent on an individual's or

team's performance in one or more events. Wagering on events that involve minor league teams, K-12 teams, or collegiate teams from Illinois is prohibited.) The new Part establishes master sports wagering licenses for racetracks, casinos and other locations where wagering takes place; management services provider licenses; supplier licenses (for entities that supply sports wagering kiosks/terminals or other equipment); occupational licenses (for individual functions such as chief financial officer or IT manager); and Tier 2 official league data provider licenses (for sports governing bodies or authorized vendors who provide the data necessary to place Tier 2 bets). License terms are 1 year for occupational licenses, 3 years for Tier 2 official league data providers, and 4 years for master sports wagering, supplier, and

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Proposed Rulemakings

INCOME TAX

The DEPARTMENT OF REVENUE proposed amendments to Income Tax (86 IAC 100; 44 Ill Reg 97) implementing two Public Acts. The rulemaking clarifies how the amount of employment income subject to Illinois income tax is determined for persons who perform employment services in other states, or whose base of operations is outside of Illinois. Effective with the 2020 tax year, a formula for determining how many working days the taxpayer performed services outside of Illinois and how much of the taxpayer's income should be allocated to other states will be used to calculate this tax for persons who perform services in Illinois at least 30 working days per tax year. Specific provisions that apply to railroad, motor carrier,

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ADOPTED RULES: Rules adopted by agencies this week. **EMERGENCY RULES:** Adopted for a temporary period not to exceed 150 days.
PROPOSED RULES: Rules proposed by agencies this week, commencing a 45-day First Notice period during which public comments must be accepted.
PEREMPTORY RULES: Rules adopted without prior public notice or JCAR review as authorized by 5 ILCS 100/5-50.
■ Designates 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: Submit mail, email or phone calls to the agency personnel listed below each summary.
RULE TEXT: Available on the Secretary of State (www.cyberdriveillinois.com) and General Assembly (www.ilga.gov) websites under Illinois Register. Second Notice text (original version with changes made by the agency during First Notice included) is available on the JCAR website.

Emergency Rules

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management services licenses. Initial licensing fees for master sports wagering licenses will equal at least 5% of gross receipts from the 2018 calendar year or the first year of operations (if not licensed prior to 6/28/19), up to a maximum of \$10 million. An applicant that has submitted a complete license application and paid the required fee may receive a temporary operating permit. All licensees are required to comply with federal, State and local laws; disclose all ownership interests to IGB; cooperate with Board investigations; and conduct themselves in a manner that does not endanger public health, safety, morals, and order, or discredit or tend to discredit the gaming industry or the State. Licensees and key persons with significant control or influence over the licensee must promptly report to IGB any changes in the identity of key persons and any information, action or occurrence that may affect the conduct of wagering or the business/financial interests involved, including arrests or criminal charges that would have required disclosure at the time of license application. Other actions (e.g., changes in contact information for the licensee or legal counsel, being named as a defendant in a lawsuit) must be reported within 30 days. The new Part outlines the qualifications and duties of each type of licensee; for master sports wagering licensees, these duties include reporting to IGB any abnormal wagering activity or conduct that calls into

question the integrity of a sports event. Grounds for disciplinary action against a licensee include employing, associating with, or participating in any enterprise with identifiable organized crime groups or figures, persons who have extensive police records, or persons of “notorious or unsavory reputation”. Based on investigative findings, IGB may order licensees to economically disassociate from key persons or persons holding ownership interests; an affected licensee may contest such an order and request a hearing before a final order is made. Other provisions of these rules address license renewal, withdrawal of applications and surrender of licenses, record retention, ownership transfers, the conduct of hearings, and disciplinary proceedings. Those affected by this emergency rule include current gaming licensees that intend to offer sports wagering and suppliers of official league data for Tier 2 wagering.

Questions/requests for copies/comments on the proposed rulemaking through 2/18/20: Agostino Lorenzini, IGB, 160 N. La Salle St., Chicago Il 60601, fax 312/814-7253.

■ CANNABIS BUSINESSES

The DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY adopted a new Part by emergency rulemaking titled Cannabis Social Equity Program (14 IAC 650; 44 Ill Reg 292) effective 12/20/19 for a maximum of 150 days. An

identical proposed rule appears in this week’s *Register* at 44 Ill Reg 10. The new Part implements provisions of Public Act 101-27 (Cannabis Regulation and Tax Act) that create a Social Equity Applicant loan/line of credit program for adult use cannabis business establishments located in areas that have been disproportionately impacted by past enforcement of cannabis-related laws. To qualify as a Social Equity Applicant, a business must be majority owned by one or more individuals who meet at least one of the following criteria: have lived in a disproportionately impacted area for at least 5 of the previous 10 years; have been arrested for or convicted of a cannabis-related offense that is now eligible for expungement; or are a member of an impacted family (spouse, parent, child or dependent of a person who was arrested for or convicted of an expungable cannabis related offense). Criteria for determining disproportionately impacted areas are included in the rule. Loan applications will be accepted until allocated program funds are exhausted. Information that must be included on loan applications includes documentation of social equity eligibility and a narrative of how the applicant was directly and adversely impacted by enforcement of cannabis related laws (e.g., evidence that business or employment opportunities were denied due to criminal history). Criteria for evaluating loan applications include evidence of

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Emergency Rules

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need for funding, project readiness, employment impact, and financial commitment from other investors. Subject to funding availability, loans and lines of credit will be provided on a low- or no-interest basis. DCEO may charge borrowers closing fees of up to \$5,000 and may also charge loan closeout fees of up to \$10,000 if the borrower ceases to meet the criteria for a Social Equity Applicant, or transfers its license to a person/entity that does not qualify as a Social Equity Applicant within 5 years after the license is granted. Those affected by this emergency rule include cannabis cultivation centers, infusers or dispensaries that may qualify for the program.

Questions/requests for copies/comments on the proposed rulemaking through 2/18/20: Jolene Clarke, DCEO, 500 E. Monroe St., Springfield IL 62701, 217/557-1820 or 217/524-3701, jolene.clarke@illinois.gov

■ INTERNET SALES TAX

The DEPARTMENT OF REVENUE adopted an emergency amendment to Use Tax (86 IAC 150; 44 Ill Reg 383) effective 12/23/19 for a maximum of 150 days. The emergency rule implements provisions of two

Public Acts (PA 101-9 and PA 101-604) concerning collection of the 6.25% Illinois use tax on sales to Illinois customers made through marketplace facilitators (entities such as Amazon or eBay that list or advertise tangible personal property for sale, collect payments from buyers and transmit payments to sellers). Effective 1/1/20, marketplace facilitators that, within any 12-month period, conduct at least 200 transactions with Illinois customers or collect \$100,000 in gross receipts from Illinois customers are required to collect and remit use tax on sales to Illinois customers. The emergency rule defines key terms and includes examples of when use tax does and does not apply. Use tax does not apply to entities that merely handle financial transactions (e.g., PayPal), provide only advertising and leave financial arrangements to the buyer and seller (e.g., Craigslist), or offer only discount coupons or other non-tangible items (e.g., Groupon), nor does it apply to transactions subject to State and local sales taxes. Those affected by this emergency rule include small businesses and other customers of marketplace facilitators.

Questions/requests for copies: Debra Boggess, DOR, 101 W. Jefferson St., Springfield IL 62794, 217/782-2844.

Proposed Rulemakings

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merchant mariner and air carrier employees are included with examples. Other provisions explain how working days in Illinois will be determined for non-Illinois residents and how income subject to Illinois tax will be determined for non-resident professional athletes (including players on a disabled list, coaches, managers, and trainers). Those affected by this rulemaking include Illinois residents who perform employment related services (e.g., sales) out of State on a scheduled or occasional basis.

Questions/requests for copies/comments through 2/18/20: Brian Fiflet, DOR, 101 W. Jefferson St., MC5-500, Springfield IL 62794, 217/782-2844.

ABUSE INVESTIGATION

The DEPARTMENT ON AGING proposed amendments to Adult Protection and Advocacy Services (89 IAC 270; 44 Ill Reg 1) implementing Public Act 101-496, which requires Adult Protective Services (APS) agencies to obtain the consent of an eligible adult (any person age 60+, or age 18-59 with a disability) to conduct an assessment of an allegation of abuse, neglect or financial exploitation of that person, except when the eligible adult is unable to seek assistance for himself/herself and the allegations are against a

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Adopted Rules

■ GENDER TREATMENT

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES adopted amendments to Medical Payment (89 IAC 140; 43 Ill Reg 5143), effective 12/23/19, authorizing medical assistance coverage and establishing prior approval requirements for “gender-affirming surgeries, services and procedures”. The criteria listed in this rulemaking (which has undergone significant changes since 1st Notice) apply to patients age 21 and older; however, HFS will cover gender-affirming surgery/treatment for patients under 21 in specific cases if medical necessity is demonstrated and prior approval is received. Covered services include all services deemed medically necessary to treat a particular individual’s gender dysphoria that are listed in the Department’s fee schedule and Practitioner Handbook, including, but not limited to, genital surgery, breast/chest surgery and related therapies. To receive prior approval for genital surgery, an individual must submit letters from 2 qualified medical practitioners who have each independently assessed the person’s suitability for treatment. One practitioner must be the person’s primary care physician or the physician managing the person’s gender-related health care; the other must be a Licensed Practitioner of the Healing Arts (psychiatrist or other physician, psychiatric advanced practice registered nurse, licensed clinical psychologist, licensed clinical professional counselor, licensed marriage and family

therapist, or licensed clinical social worker). For non-genital surgery, only one letter from the primary care or gender-related care physician is required. The letters must establish that the individual has a gender dysphoria diagnosis; has lived continuously for at least 12 months in the gender role consistent with their gender identity, if seeking genital surgery; has received hormone therapy (unless medically contraindicated) for at least 12 months, if seeking approval for genital surgery; has the capacity to make a fully informed decision and consent to treatment; has been assessed by an LPHA, counseled regarding treatment options, and received psychotherapy if indicated; and if a significant medical or mental health condition that would contraindicate treatment is present, it must be reasonably well controlled. The letters must also verify that the signing medical provider has communicated with the individual’s other medical providers regarding the proposed surgery, service or procedure; establish medical necessity; and (if surgery is intended) include recommendations for post-operative care. Surgery must be performed by a board-certified urologist, gynecologist, plastic surgeon or general surgeon who has demonstrated specialized competence in gender-based genital reconstruction. Surgeries that result in sterilization will be treated as therapeutic sterilizations (originally, these were to be treated as elective sterilizations, for which HFS requires a minimum 30-day wait after written consent is given). The

rulemaking also adds hormone therapy, either by itself or in preparation for surgery, to the list of covered pharmacy services, subject to the same prior approval requirements as other medications. Changes since 1st Notice clarify when coverage is provided for patients under age 21; remove references to non-covered, “purely cosmetic” services; and clarify or modify requirements for recommendation letters, consent for surgeries that will result in sterilization, and mental health criteria. Those affected by this rulemaking include physicians, counselors, pharmacists and others involved in the treatment of gender dysphoria.

Questions/requests for copies: Steffanie Garrett, HFS, 201 S. Grand Ave. East, 3rd Fl., Springfield IL 62763-0002, HFS.Rules@illinois.gov

■ ACCOUNTANTS

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION adopted amendments to the Part titled Illinois Public Accounting Act (68 IAC 1420: 43 Ill Reg 10233), effective 1/3/20, implementing Public Act 100-419. The amendments eliminate fees for duplicate and replacement licenses, wall certificates, changes of name or address, and rosters of licensed/registered Certified Public Accountants. If a CPA firm or sole practitioner receives 2 successive peer reviews with a

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paid caregiver. APS agencies also must interview immediate family members of the alleged victim as part of an assessment. The rulemaking also allows individuals or their authorized representatives to designate up to 3 e-mail addresses at which electronic service of documents will be accepted. These e-mail addresses must be verified annually and DonA must be notified immediately of any change. If transmission of a document to all of an individual's designated e-mail addresses fails, DonA will serve the document via First Class U.S. Mail to the individual's last known mailing address, or by another means.

Questions/requests for copies/comments through 2/18/20: Tracey Trigillo, DonA, One Natural Resources Way #100, Springfield IL 62702-1271, 217/785-3346, Tracey.Trigillo@illinois.gov

■ UNCLAIMED PROPERTY

The OFFICE OF THE STATE TREASURER proposed amendments to the Part titled Revised Uniform Unclaimed Property Act (74 IAC 760; 44 Ill Reg 160) implementing four recent Public Acts. The rulemakings address reporting of unclaimed property related to pre-need funeral/burial contracts, very small claims of \$100 or less made by heirs of a deceased person, and unclaimed funds from public retirement systems, private

pensions, or investment boards. Unclaimed funeral/burial funds will be presumed abandoned if not claimed within the earlier of 2 years after the beneficiary's death or 40 years after the prepayment contract is executed; if the owner shows interest in these funds more than 40 years after the contract date, presumption of abandonment begins 3 years after the last indication of interest. If the holder of the funds does not know whether the beneficiary is deceased, the funds will be presumed abandoned one year after the beneficiary's 105th birthday. However, these provisions do not apply to pre-need cemetery plot/mausoleum sales, which are regulated by the Office of the Comptroller. Those affected by this rulemaking include funeral homes, cemeteries and crematories that offer pre-need contracts.

Questions/requests for copies/comments through 2/18/20: Sara Meek, Office of the Treasurer, 219 State House, Springfield IL 62706, 217/524-0530, fax 217/785-2777, SMeek@illinoistreasurer.gov

■ SPEECH THERAPY

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION proposed amendments to the Part titled The Illinois Speech-Language Pathology and Audiology Practice Act (68 IAC 1465; 44 Ill Reg 55) implementing the sunset reauthorization of the Act for the next 10 years. The

amendments authorize speech-language pathologists and audiologists to perform basic health screenings if they have been trained to do so through an approved curriculum, continuing education (CE) or worksite training; expand the types of licensing examinations that will be recognized and the scope of practice for licensees; specify subject areas of speech and language disorders that must be covered by an approved curriculum; expand approval for audiology doctoral degree programs; add ethics training CE requirements; limit how much CE time can be earned through programs sponsored by hearing instrument or auditory prosthetic manufacturers; and clarify how foreign applicants may meet educational and licensure requirements. Speech-language pathologists who supervise assistants must complete 6 hours of initial training and 2 hours of CE in each licensing cycle thereafter (currently, 10 hours of initial training is required). Speech-language pathologists, audiologists and their employers and education providers may be affected by this rulemaking.

BANKING

DFPR also proposed amendments to Corporate Fiduciary Applications and Notices (38 IAC 396; 44 Ill Reg 50) implementing Public Act 100-48. The rulemaking removes a requirement (repealed by the PA)

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Adopted Rules

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rating of “fail” or “pass with deficiencies”, it must complete remedial actions and another peer review within 3 ½ years after the due date of the prior review. A third “fail” or “pass with deficiencies” review requires the DFPR Peer Review Committee to refer the CPA or firm to the American Institute of Certified Public Accountants (AICPA) for possible termination from the Peer Review Program. Licensees whose licenses expire while they are in military service do not have to pay their lapsed renewal fees if they reapply within 2 years after honorable discharge (formerly, termination) from military service. Continuing professional education (CPE) hours in excess of the 120 hours required during a 3-year renewal period cannot be credited to a subsequent renewal cycle. The rulemaking also updates the required subjects to be covered in CPE; require CPE sponsors to keep attendance records for 6 (formerly 5) years; updates and adopts AICPA standards for peer review; and requires CPA firms/practitioners to post peer review documents to the AICPA Facilitated State Board Access website where DFPR can access them. Changes since 1st Notice include corporations as entities that may provide CPE and remove a statement that DFPR is not bound by AICPA standards for peer review. Certified public accountants and accounting firms are affected by this rulemaking.

■ REAL ESTATE APPRAISERS

DFPR also adopted amendments to Real Estate Appraiser Licensing (68 IAC 1455; 43 Ill Reg 10260), effective 12/23/19, that set Sept. 30 of each odd-numbered year as the deadline for completing continuing education and renewing appraiser licenses. (Formerly, the CE completion deadline was June 30 and the renewal deadline was Sept. 30.) Real estate appraisers are affected.

Questions/requests for copies of the 2 DFPR rulemakings: Craig Cellini, DFPR, 320 W. Washington St. 3rd Fl., Springfield IL 62786, 217/785-0813, fax 217/557-4451.

■ POLICE & FIRE PENSIONS

The DEPARTMENT OF INSURANCE adopted a new Part titled Mistake in Benefit under Article 3 and Article 4 Pensions (50 IAC 4450; 43 Ill Reg 6242), effective 12/23/19, implementing Public Act 98-1117. The new Part establishes a 1% (changed since 1st Notice from 2%) annual interest rate to be paid by downstate police and fire pension funds on lump sum back payments when a member’s benefit is mistakenly set too low. Affected pension funds must notify DOI within 45 days of making a lump sum payment or adjustment of benefits. Municipalities with police or fire pension funds may be affected by this rulemaking.

Questions/requests for copies: Mark Thielen, DOI, 320 W.

Washington St. 4th Fl., Springfield IL 62767-0001, 217/558-4542.

LIQUOR CONTROL

The DEPARTMENT OF REVENUE adopted an amendment to the Part titled Liquor Control Act (86 IAC 420; 43 Ill Reg 9334), effective 12/23/19, implementing PA 100-1050, which reestablishes the Liquor Control Commission independent of DOR. The rulemaking clarifies that representatives of either DOR or the Commission may witness or approve destruction of alcoholic liquors in order for a licensee to claim tax exemption on those liquors.

Questions/requests for copies: Richard S. Wolters, DOR, 101 W. Jefferson, Springfield IL 62794, 217/782-2844.

CAMPAIGN FINANCING

The STATE BOARD OF ELECTIONS adopted an amendment to Campaign Financing (26 IAC 100; 43 Ill Reg 10434), effective 12/23/19, clarifying that any loan from a political committee that has not been repaid or forgiven must be reported as an asset held by the campaign to which the loan was made.

Questions/requests for copies: Bernadette M. Matthews, SBEL, 2329 S. MacArthur Blvd., Springfield IL 62704, 217/782-4141, fax 217/782-4141, bmatthews@elections.il.gov

Proposed Rulemakings

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that banks, savings banks and savings and loan associations file notices of intent to establish a branch office at least 30 days prior to purchasing/leasing land, buildings or equipment for the new branch office. The rulemaking also clarifies that existing references in rule to the Commissioner of the Office of Banks and Real Estate now apply to the Secretary of DFPR.

Questions/requests for copies/ comments on the 2 DFPR rulemakings through 2/18/20: Craig Cellini, DFPR, 320 W. Washington St., 2nd Floor, Springfield IL 62786, 217/785-0813, fax 217/557-4451.

■ UNEMPLOYMENT BENEFITS

The DEPARTMENT OF EMPLOYMENT SECURITY proposed amendments to the Part titled Payment of Unemployment Contributions, Interest and Penalties (56 IAC 2765; 44 Ill Reg 38) implementing a provision of the Unemployment Insurance Act. The rulemaking provides that if an employer fails to timely respond to a request from DES regarding a disputed unemployment benefits claim and that employer has a history of untimely or inadequate responses to such requests, the employer will be charged for those benefits even if the recipient is determined to have been ineligible for them. Small businesses and non-profit entities enrolled in the unemployment insurance program may be affected by this rulemaking.

Questions/requests for copies/ comments through 2/18/20: Thomas D. Chan, DES, 33 S. State St., Room 933, Chicago IL 60603, 312/793-2338, fax 312/793-5645, Thomas.D.Chan@illinois.gov

NUCLEAR SAFETY

The ILLINOIS EMERGENCY MANAGEMENT AGENCY proposed amendments to the Part titled Safe Operation of Nuclear Facility Boilers and Pressure Vessels (32 IAC 505; 44 Ill Reg 12) updating its standards to align with industry standards. (Although the Office of the State Fire Marshal ordinarily has jurisdiction over boilers and pressure vessels, IEMA assumes those responsibilities with regard to boilers/pressure vessels at nuclear power plants and other nuclear facilities.) The rulemaking adopts all standards of the American Society of Mechanical Engineers (ASME), the National Fire Protection Association (NFPA) and the National Board Inspection Code for boiler and pressure vessels through the 2019 editions.

Questions/requests for copies/ comments through 2/18/20: Traci Burton, IEMA, 1035 Outer Park Dr., Springfield IL 62704, 217/785-9860.

INSURANCE

The DEPARTMENT OF INSURANCE proposed a new Part titled Corporate Governance Annual Disclosure (50 IAC 630; 44

Ill Reg 88) implementing new accreditation standards adopted by the National Association of Insurance Commissioners (NAIC). The rulemaking requires all Illinois insurers or insurance groups to which they belong to file a Corporate Governance Annual Disclosure (CGAD) with DOI by June 1 annually. After an initial CGAD is filed, an amended version may be filed each year indicating where changes have been made, or stating that no changes have been made. The CGAD must describe the governing structure of the company, including the individuals, committees or boards responsible for oversight at various levels; the duties of its board, committees and officers; how board members or committees are chosen; its code of business conduct and ethics; how it identifies and mitigates risks; and its processes for performance evaluation.

Questions/requests for copies/ comments through 2/18/20: Kathryn Williams, DOI, 320 W. Washington St., 4th Fl., Springfield IL 62767, 217/557-1416.

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 the January 14, 2020 JCAR meeting. Other items not published in the *Illinois Register* or The Flinn Report may also be considered. Further comments concerning these rulemakings should be addressed to JCAR using the contact information on page 1.

DEPT OF HEALTHCARE & FAMILY SERVICES

Hospital Services (89 IAC 148; 43 Ill Reg 9318) proposed 9/6/19

DEPT OF HUMAN SERVICES

Centers for Independent Living (89 IAC 886; 43 Ill Reg 2196) proposed 2/15/19

IL EMERGENCY MANAGEMENT AGENCY

Accrediting Persons in the Practice of Medical Radiation (32 IAC 401; 43 Ill Reg 12939) proposed 11/1/19

IL GAMING BOARD

Video Gaming (General) (11 IAC 1800; 43 Ill Reg 12767) proposed 11/1/19

STATE POLICE MERIT BOARD

Procedures for the Department of State Police Merit Board (80 IAC 150; 43 Ill Reg 12971) proposed 11/8/19

Joint Committee on Administrative Rules

Senator Don Harmon, *co-chair*

Representative Tom Demmer

Senator Kimberly Lightford

Representative Michael Halpin

Senator Tony Muñoz

Representative Frances Ann Hurley

Senator Sue Rezin

Representative Steven Reick

Senator Paul Schimpf

Representative André Thapedi

Senator Chuck Weaver

Representative Keith Wheeler, *co-chair*

**Vicki Thomas
Executive Director**