

Annual Report
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**2018
ANNUAL REPORT**

of the

**JOINT COMMITTEE ON
ADMINISTRATIVE RULES**

*Submitted to the Members of the
Illinois General Assembly*

**Senator Don Harmon, Co-Chair
Representative Keith Wheeler, Co-Chair**

**Representative Tom Demmer
Representative Michael Halpin
Representative Frances Ann Hurley
Senator Kimberly Lightford
Senator Antonio Muñoz
Representative Steven Reick
Senator Sue Rezin
Senator Paul Schimpf
Representative André Thapedi
Senator Chuck Weaver**

**Vicki Thomas
Executive Director**

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JOINT COMMITTEE ON ADMINISTRATIVE RULES

ILLINOIS GENERAL ASSEMBLY

CO-CHAIR:
SEN. DON HARMON

CO-CHAIR:
REP. KEITH WHEELER

EXECUTIVE DIRECTOR:
VICKI THOMAS



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SEN. CHUCK WEAVER
REP. TOM DEMMER
REP. MIKE HALPIN
REP. FRANCES ANN HURLEY
REP. STEVEN REICK
REP. ANDRÉ THAPEDI

TO: Honorable Members of the 101st General Assembly

FROM: Don Harmon, Co-Chair
Keith Wheeler, Co-Chair

DATE: February 1, 2019

RE: JCAR Annual Report

As Co-Chairs of the Joint Committee on Administrative Rules, we hereby submit the 2018 Annual Report of that Committee. An overview of the Committee's rules review activities can be found in the following pages.

The Joint Committee on Administrative Rules gratefully acknowledges your continued support and assistance. We encourage all members of the General Assembly to take an active role in this vital oversight function guaranteeing that the public right to know is protected through an open rulemaking process. We welcome your suggestions and comments on agency rules and the role of the Committee. Only as each elected representative becomes concerned and involved in the oversight process can the Committee ensure that the intent of the legislation the General Assembly passes is maintained.

JCAR

Annual Report: 2018

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JCAR

Its Creation and Its Purpose

Creation

The Illinois General Assembly created the Joint Committee on Administrative Rules (JCAR) in 1977 and delegated to it the responsibility of the legislative branch to ensure that the laws it enacts are appropriately implemented through administrative law. The specific duties and authorities of JCAR are outlined in the Illinois Administrative Procedure Act (IAPA), as is the Illinois rulemaking process.

Responsibilities

The Committee's principal programs and activities include:

- *Review of General Rulemaking.* In the course of this review, JCAR seeks to facilitate involvement by the affected public and to make the review process a timely and efficient one that assists State agencies in their goal of enacting the best administrative law possible.
- *Review of Emergency and Peremptory Rulemakings* to ensure that they are justifiable within the IAPA's limitations on these types of rulemakings. Emergency and peremptory rulemakings are not subject to the IAPA's public comment requirements, and thus should be used conservatively.
- *Review of Existing Agency Rules and Policies* to determine if they have been properly promulgated, are unauthorized or unreasonable, or result in serious negative impact on the citizens of this State. These reviews can be undertaken upon JCAR's own initiative or in response to a complaint from the public.
- *Public Act Review* to determine the necessity for new or amendatory rulemaking in response to legislative changes. JCAR devises a list of laws it believes may generate rulemaking activity, shares that list with the agencies, and monitors agency activity to determine if appropriate action is taken.
- *Legislative Activities.* JCAR reviews any proposed legislation that amends the Illinois Administrative Procedure Act and brings to agencies' attention any resulting changes in rulemaking procedures. Legislation involving issues that have recently come before JCAR is also followed. Under its IAPA mandate to continually seek to improve the rulemaking process, JCAR occasionally initiates legislation revising the IAPA. It also may propose legislation when rules review brings attention to a statutory insufficiency or lack of clarity or to enforce its Objections or Recommendations when an agency has refused to adhere to those Objections or Recommendations.
- *Public Information.* JCAR provides information on rules and the rulemaking process to legislators and the public through several conduits. First, JCAR makes available (on-line at www.ilga.gov/commission/jcar/flinn/flinn.asp) The Flinn Report: Illinois Regulation, a weekly newsletter that summarizes State agency rulemaking activities. The newsletter is used by many as an alternative to monitoring the weekly *Illinois Register*. The newsletter highlights the major issues; the reader can then seek a copy of the specific rulemaking or further information

from the proposing agency. Second, JCAR has created and maintains the Illinois Administrative Code database. The database is used in the publishing of the *Illinois Register* by the Secretary of State's Index Department. State agencies can request materials from the database for use in drafting amendatory rulemakings. The database is accessible on the General Assembly website (www.ilga.gov/commission/jcar/admincode/titles.html). Although emergency rules are not embedded into the database, the database indicates that emergency rules have been adopted and contains automatic links to the *Illinois Register* database, where the emergency rules can be viewed. When an agency moves a rulemaking from the First Notice (public comment) period to the Second Notice (JCAR review) period, JCAR engrosses any First Notice changes into the text of the rulemaking. This is the version of the rulemaking that JCAR reviews. This Second Notice version of the rulemaking can be viewed by the public through the JCAR portion of the ILGA website under "Second Notices". Third, JCAR staff is always available to respond to inquiries from General Assembly members and the public. For more information, call 217/785-2254 or contact JCAR by e-mail at jcar@ilga.gov.

The Review Process ---

The JCAR membership meets at least once each month to consider an agenda that generally includes from 35 to 50 separate rulemakings by State agencies. In a year's time, JCAR will review approximately 20,000 pages of rule text. The IAPA dictates that the Committee's analysis of rulemakings be based on such concerns as statutory authority and legislative intent, necessity of the regulation, economic impact on State government and the affected public, completeness and appropriateness of standards to be relied upon in the exercise of agency discretion, effect on local government through the creation of a mandate, adherence to IAPA rulemaking requirements, and form.

JCAR's review of agency regulatory proposals is predominantly substantive. Its major concern is that statutory law is applied fairly and consistently, creating as little paperwork and economic burden for the affected public as possible. The Committee serves as the final avenue for input from the public before a rulemaking is formally adopted. Recommendations from the public are always welcome and are actively sought. The Committee recognizes that no one is as qualified to comment on the appropriateness and practicality of a proposed regulation as the individual whose activities or business practices will be affected by that regulation. Comment on any proposed or existing State regulation may be submitted to the Committee at 700 Stratton Building, Springfield IL 62706, or by calling 217/785-2254.

JCAR's perusal of agency rulemakings serves a technical purpose as well. The various rulemakings of the State agencies collectively comprise the Illinois Administrative Code. In giving a final technical review to each agency proposal, JCAR, along with the Secretary of State's Index Department, strives to achieve some degree of consistency among the individual agencies' portions of the Code and to make the Code as readable and understandable for the public as possible.

Annual Report ---

This Report includes narratives of JCAR activity during 2018, as well as statistical summaries of the rulemaking activities of State agencies. The summary of legislation affecting JCAR reflects activity of the 2nd year of the 101st GA. This Report also includes an historical overview of rulemaking and pertinent historical statistics.

JCAR MEMBERSHIP

The Joint Committee on Administrative Rules consists of 12 legislators who are appointed by the General Assembly leadership. Membership is equally apportioned between the 2 houses and between the 2 political parties. The 2 Co-Chairs are not members of the same house or the same party.

2018 MEMBERS

Senator Don Harmon, Co-Chair
Senator Pamela Althoff
Senator Karen McConaughay
Senator Antonio Muñoz
Senator Sue Rezin
Senator Paul Schimpf
Senator Ira Silverstein
Senator Chuck Weaver

Representative Keith Wheeler, Co-Chair
Representative Peter Breen
Representative Tom Demmer
Representative Greg Harris
Representative Lou Lang
Representative André Thapedi
Representative Barbara Flynn Currie

FORMER MEMBERS

Bill W. Balthis	Barbara Giolitto	John M. Matejek	Timothy Schmitz
Allen Bennett	James Gitz	Roger McAuliffe	John Sharp
Arthur L. Berman	Alan J. Greiman	Thomas J. McCracken, Jr.	Todd Stroger
Bill Black	Kenneth Hall	Sam McGrew	Art Tenhouse
Prescott E. Bloom	Charles Hartke	Larry McKeon	Donne E. Trotter
Glen L. Bower	Karen Hasara	A.T. "Tom" McMaster	Mike Tryon
Jack E. Bowers	Brent Hassert	Jim Meyer	Sam Vinson
Woods Bowman	Carl E. Hawkinson	David Miller	Richard A. Walsh
William "Bill" Brady	Larry Hicks	Don Moffitt	Larry Wennlund
J. Bradley Burzynski	Manny Hoffmann	Rosemary Mulligan	Robert C. Winchester
James F. Clayborne, Jr.	Tom Holbrook	Matt Murphy	Kathleen Wojcik
John W. Countryman	Randall Hultgren	Phil Novak	Harry Woodyard
Mary Lou Cowlshaw	Mattie Hunter	Barack Obama	Larry Woolard
Tom Cross	Emil Jones, Jr.	William O'Daniel	Harry "Bus" Yourell
Maggie Crotty	John O. Jones	Myron J. Olson	
John Cullerton	Jeremiah E. Joyce	Coy Pugh	
Michael Curran	Douglas N. Kane	Jim Rea	
Richard M. Daley	Doris Karpel	Steve Rauschenberger	
Steve Davis	Richard Kelly, Jr.	David J. Regner	
Vince Demuzio	Bob Kustra	Jim Reilly	
Laura Donahue	Thaddeus Lechowicz	Sue Rezin	
James H. Donnewald	David Leitch	Dale Righter	
Thomas Dunn	Larry Leonard	Philip J. Rock	
Jim Edgar	Ellis Levin	Dan Rutherford	
Tom Ewing	Richard Luft	Tom Ryder	
Beverly Fawell	Lisa Madigan	George Sangmeister	
Monroe Flinn	John W. Maitland, Jr.	Angelo "Skip" Saviano	
John Fritchey	Lynn Martin	Frank D. Savickas	

— Illinois Rulemaking Process —

Illinois law exists in 4 basic forms: constitutional law, statutory law, administrative law and case law. Constitutional law creates broad guidelines. Legislation creates specific restrictions, authorities and programs. Administrative law adds the detail often necessary to implement statutory law. If these 3 categories of law do not sufficiently address all the variables, case law evolves.

In 1975, the Illinois General Assembly enacted the Illinois Administrative Procedure Act (IAPA) [5 ILCS 100] to create a procedure through which administrative agencies would exercise the authority delegated to them by the legislature to create administrative law through the adoption of agency regulations. In 1977, the IAPA was amended to add a process by which the General Assembly could oversee the exercise of this delegated authority through the Joint Committee on Administrative Rules (JCAR), a service agency of the General Assembly.

Rules of an administrative agency are valid and enforceable only after they have been through the rulemaking process prescribed in the IAPA. Rules are for the purpose of interpreting or implementing provisions of a statute and should not actually expand or limit the scope of the statute.

Types of Rulemakings

Proposed Rulemaking. These can be new rules or amendatory rulemakings. Frequently this is referred to as "regular rulemaking" or "permanent rulemaking". A 2-step (First Notice and Second Notice) process is followed, requiring from 90-365 days. Aside from the 2 45-day periods, First Notice and Second Notice, the agency controls the timing. Both the general public and the General Assembly, through JCAR, can have input prior to adoption.

Emergency Rules. Rules are effective immediately upon the agency filing them with the SOS or within 9 days after filing. These rules can be developed unilaterally by the agency; JCAR reviews after the rules are adopted. An emergency rule lasts 150 days unless an earlier date is specified or the emergency rule is replaced by a permanent rulemaking. Emergency rulemaking can be used only if the agency finds a threat to the public interest, safety or welfare exists that the rulemaking will address.

Peremptory Rules. The IAPA provides for the immediate adoption of a rule required as a result of a federal law, federal rule, collective bargaining agreement, or court order under conditions that preclude discretion by the agency concerning the rule's content. Peremptory rules are effective upon filing with the SOS or on the date required by the federal law, federal rule or court order. JCAR reviews these rules after their adoption.

Exempt or Identical in Substance Rules. The IAPA, the Environmental Protection Act and the Illinois Emergency Management Act create a special process through which PCB and IEMA can adopt regulations that are identical in substance to federal regulations that the State is required to adopt and enforce. These rulemakings are reviewed by JCAR after adoption.

Required Rulemaking. These are rules that can be adopted unilaterally by the agency by filing with the SOS. Examples are organization charts, principal address, Freedom of Information Act

information, hearing officer qualifications, etc. JCAR reviews required rules after their adoption.

The Process ---

Drafting of Rules. Administrative rules are drafted by State agencies; there is no central drafting bureau as for statutes. The involvement of the public in the initial drafting is at the discretion of the agency; however, the IAPA encourages early public involvement and requires agencies to semiannually publish a Regulatory Agenda indicating, to the best of the agency's knowledge, the scope of the next 6 months' rulemaking activity.

First Notice. The First Notice period commences upon publication of an agency's Notice of Rulemaking in the Illinois Register. First Notice lasts a minimum of 45 days and terminates when the agency files with JCAR, commencing the Second Notice period. The only limitation is that a rulemaking expires, if not adopted, within one year after commencement of First Notice. The IAPA requires that, during First Notice, the Department of Commerce and Economic Opportunity review each proposed rulemaking to determine possible impact on small business. The general public can submit comment on the rulemaking proposal to the agency and a public hearing may or may not be held during this period. The agency can volunteer to hold a hearing or must conduct one at the request of the Governor, JCAR, an association representing over 100 persons, 25 individuals, or a local government. Requests for hearing must be filed within 14 days after publication of the First Notice. The agency can modify the rulemaking during First Notice by submitting a First Notice Changes document to JCAR when it gives Second Notice.

Second Notice. The Second Notice period commences upon the agency's filing of the Second Notice with JCAR and lasts for a maximum of 45 days, unless extended for an additional 45 days by mutual agreement of JCAR and the agency. During the Second Notice Period, legislative review of the rules is conducted first by the JCAR staff and then at a meeting of the legislative members. JCAR reviews the proposed rules for statutory authority, propriety, standards for the exercise of discretion, economic effects, clarity, procedural requirements, technical aspects, etc.

During the JCAR review, JCAR and the agency can agree to modifications in the rulemaking that are adopted through written JCAR Agreements. The Agreements are appended to the Certificate of No Objection issued by JCAR at its regular meeting, or are still applicable if no Certificate is issued but the agency proceeds to adopt. If the agency does not choose to modify a rulemaking or if policy differences cannot be resolved during the review process, JCAR can take one of several actions.

JCAR Actions ---

Certificate of No Objection. With the Certificate, the agency can proceed to adopt the rules by filing them with the SOS for publication in the Illinois Register.

Recommendation. (Issued along with a Certificate of No Objection) The agency should respond to the Recommendation in writing within 90 days and can modify the rule in response to a JCAR Recommendation. (After going to Second Notice, the agency cannot unilaterally modify/withdraw a rulemaking.) However, the agency can also adopt the rules with no changes at any time

after receipt of the Certificate of No Objection.

Objection. An agency has to respond to an Objection in writing within 90 days, but after responding can proceed to adopt. The agency can modify or withdraw in response to a JCAR Objection or adopt the rules without changes. JCAR Agreements still apply.

Filing Prohibition/Suspension. If JCAR determines that a rulemaking constitutes a threat to the public interest, safety or welfare, the members can, by a 3/5 vote of the members appointed to the Committee (normally 8 of the 12 members), prohibit filing of a proposed rulemaking (or suspend an emergency or preemptory rule). As a result, the proposed rulemaking may not be accepted for filing by the Secretary of State or enforced by the agency unless JCAR withdraws the Prohibition or the General Assembly acts to end the Prohibition within 180 days. An emergency or preemptory rule that has already been adopted becomes null and void for a period of 180 days, after which it is automatically repealed unless JCAR withdraws the Suspension or the General Assembly acts to end the Suspension within the 180 days.

Public Notification

Illinois Register is the official State publication through which the public is informed of rulemaking activity. The Illinois Register is prepared by JCAR and published by the Secretary of State every Friday and can be accessed through the General Assembly website (www.ilga.gov) or the Secretary of State's website. The Register contains First Notice publication of rulemaking proposals, JCAR actions, a list of Second Notices received by JCAR, notices of final adoption of rulemakings, regulatory agendas (in January and July), executive orders and proclamations, miscellaneous agency notices as allowed by law, and quarterly indexes to the current and previous issues. Over the course of a year, the Register contains on average 20,000 pages. Paper subscriptions are available from the Secretary of State for \$290/year; it can also be accessed for free on the Secretary of State website, and is available electronically through private publishers.

The Flinn Report: Illinois Regulation is a 4-6 page weekly online publication by JCAR that summarizes the rulemaking activity depicted in the matching issue of the Illinois Register. The Flinn Report is available weekly on the General Assembly's website at www.ilga.gov.

Illinois Administrative Code. The compilation of all agency rules is known as the Illinois Administrative Code. The Code, which is larger than the Illinois Compiled Statutes, is maintained electronically by JCAR and the Legislative Information System (LIS). That database is located on the General Assembly's website at ilga.gov. State agencies can request from JCAR downloads of specific Sections to use for drafting purposes.

Public Participation ---

One of the main reasons the IAPA was enacted was to give the public input into the rulemaking process. Any interested persons may contact an agency during the First Notice period to record a position on a rulemaking proposal. Additionally, many agencies consult with their identified interest groups during a pre-First Notice drafting process.

When the rulemaking goes to Second Notice, JCAR receives a copy or summary of all written comment submitted to the agency. In addition, the public may contact JCAR directly, and frequently does so if the agency refused to modify in response to public comment or if they discovered the existence of the proposal too late for the First Notice public comment period.

Public comment is vital to the JCAR review process. Frequently, it is only through this comment that the Committee fully recognizes the effect of a rule on individuals, businesses or local governments that have to adhere to it on a daily basis.

The public may also lodge complaints about existing rules. Agencies are required to allow the public to suggest rule revisions. Additionally, JCAR may open an investigation into an existing rule on its own volition or based on public complaint.

2018 Rulemaking

In 2018 JCAR reviewed 403 rulemakings, 337 of which were general rulemakings, 40 emergency rulemakings, 3 peremptory rulemakings, 14 exempt rulemakings, and 9 required rulemakings. On the general rulemakings, JCAR voted 4 Objections, 1 Objection and Filing Prohibition, and 7 Recommendations. JCAR also voted an Objection to an agency's enforcement of a rule that was inconsistent with statute.

(NOTE: Differences between the number of rules proposed and rules considered occur because rules that agencies propose near the end of one calendar year are considered by JCAR in the next.)

Some of the more notable rulemakings on which JCAR took action during 2018 follow.

GENERAL RULEMAKING

PROPERTY TAX APPEAL BOARD – Practice and Procedure for Appeals Before the Property Tax Appeal Board (86 Ill. Adm. Code 1910; 42 Ill. Reg. 3862)

PTAB proposed a rulemaking implementing an Executive Order that prohibited members of the General Assembly from representing clients in PTAB proceedings. JCAR objected to and prohibited filing of the rulemaking because the Board had no statutory authority to take the action embodied in this rulemaking and also found that this rulemaking represents a threat to the public interest. PTAB withdrew the rulemaking in response to the Objection and Filing Prohibition.

GAMING BOARD – Video Gaming (General) (11 Ill. Adm. Code 1800; 41 Ill. Reg. 12670)

IGB proposed rules establishing criteria for licensure under the Riverboat Gambling Act as criteria for video gaming licensure by IGB. It also added a definition of prima facie case. JCAR objected to the rulemaking to allow the Board more time to consider the issues addressed in the context of other policies and procedures and best practices. IGB indicated it would withdraw the rulemaking in response to the Objection. The rulemaking was not withdrawn but expired without having been adopted.

DEPARTMENT OF REVENUE – Property Tax Code (86 Ill. Adm. Code 110; 41 Ill. Reg. 15043)

DOR proposed rules requiring property tax assessments on pollution control facilities to be published on the agency's website, instead of in the State newspaper. JCAR objected to the rulemaking because it was contrary to Sec. 8-35 of the Property Tax Code [35 ILCS 200], which requires publication of property tax assessments in the State newspaper. DOR withdrew the rulemaking in response to the Objection.

DEPARTMENT OF HUMAN SERVICES – Alcoholism and Substance Abuse Treatment and Intervention Licenses (77 Ill. Adm. Code 2060; 41 Ill. Reg. 14878)

DHS proposed rules outlining the procedure by which it would establish reimbursement rates for substance use disorder treatment. JCAR objected to the Department's failure to fulfill the mandate of P.A. 100-23 that it adopt a methodology in rule increasing payment rates for licensed community-based substance abuse treatment providers within 30 days after the 7/6/17 effective date of the Public Act. DHS agreed that the rule had not been timely filed and revised the rulemaking to provide more detail regarding the methodology for rate increases.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION – Wholesale Drug Distribution Licensing Act (68 Ill. Adm. Code 1510)

JCAR recommended that, if DFPR believes the Wholesale Drug Distribution Licensing Act [225 ILCS 120] should apply to drugs for animal use as well as drugs for human use, it seek a change in statute extending the scope of that Act to include animal drugs. Sec. 5 of the Act currently states that the Act applies only to the distribution of human prescription drugs. In the alternative, DFPR should remove, from Sec. 10 of its rules titled Wholesale Drug Distribution Licensing Act (68 Ill. Adm. Code 1510), the inclusion of veterinarians in the definition of "practitioner".

POLLUTION CONTROL BOARD – Emissions Reduction Market System (35 Ill. Adm. Code 205; 42 Ill. Reg. 6572)

PCB proposed a rulemaking abolishing the ERMS program effective 4/30/18. JCAR objected to this rulemaking because it sets a retroactive sunset date for the system that predates any possible adoption date for this rulemaking. JCAR also objected to the EPA's implementation of the policy stated in this rulemaking prior to the rulemaking's adoption by PCB, and recommended that, if PCB and EPA believe this program is no longer warranted, it seek repeal of Sec. 9.8 of the Environmental Protection Act, which requires EPA to design and carry out an emissions reductions market program. PCB responded that it did not agree with either the Objection or the Recommendation. JCAR then issued a Notice of Failure to Remedy.

DEPARTMENT OF HUMAN SERVICES – Medicaid Community Mental Health Services Program (Repealer) (59 Ill. Adm. Code 132; 42 Ill. Reg. 7322); Medicaid Community Mental Health Services Program (59 Ill. Adm. Code 132; 42 Ill. Reg. 7408)

DHS proposed repeal and replacement of its Medicaid Community Mental Health Services program rules. The new Part omitted provisions from the former Part regarding covered services and reimbursement. DHS indicated these provisions would be moved to the Department of Healthcare and Family Services' Medical Payment rules (89 Ill. Adm. Code 140). JCAR recommended that DHS delay adopting these rulemakings until HFS was ready to adopt related amendments to 89 Ill. Adm. Code 140 addressing Medicaid coverage issues that are no longer included in this new Part 132, and further recommended that DHS and HFS, to the greatest extent possible, ensure consistency between

these rulemakings. DHS responded that it would seek consistency with HFS rules, but did not delay adoption of its rulemakings, which were effective 1/1/19. JCAR then issued a Notice of Failure to Remedy.

NATURAL RESOURCES – Public Use of State Parks and Other Properties of the Department of Natural Resources (17 Ill. Adm. Code 110; 42 Ill. Reg. 7905)

DNR proposed rules implementing the Adopt a Trail program and requiring program volunteers to undergo criminal background checks. JCAR recommended that, if DNR believes that volunteers on DNR property should be examined for criminal background, it seek statutory authority authorizing, and setting parameters for, criminal history background checks for volunteers. In response, DNR removed the background check provisions from the rulemaking.

**2018
GENERAL RULEMAKINGS
PROPOSED BY AGENCIES**

AGENCY	NUMBER OF RULEMAKINGS
Department on Aging	3
Department of Agriculture	11
Attorney General	2
Auditor General	1
Capital Development Board	4
Central Management Services	3
Chief Procurement Officer-Higher Education	1
Department of Children and Family Services	8
Civil Service Commission	1
Commerce Commission	11
Department of Commerce and Economic Opportunity	8
Community College Board	5
Comptroller	2
Department of Corrections	1
Division of Specialized Care for Children	2
State Board of Education	7
State Board of Elections	1
Emergency Management Agency	3
Department of Employment Security	23
Environmental Protection Agency	12
Executive Ethics Commission	1
Department of Financial and Professional Regulation	11
State Fire Marshal	7
Gaming Board	2
Health Facilities and Services Review Board	1
Department of Healthcare and Family Services	21
Board of Higher Education	3
Department of Human Rights	1
Department of Human Services	24
Department of Innovation and Technology	1
Department of Insurance	40
State Board of Investment	2
Department of Labor	2
Liquor Control Commission	1
Department of Natural Resources	28
Pollution Control Board	12

Property Tax Appeals Board	2
Department of Public Health	24
Racing Board	11
Department of Revenue	30
Secretary of State	17
State Employees Retirement System	2
Department of State Police	3
State Universities Retirement System	1
Illinois Student Assistance Commission	8
Teachers' Retirement System	2
Department of Transportation	6
Treasurer	9

TOTAL	381
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**2018
GENERAL RULEMAKINGS
CONSIDERED BY JCAR**

AGENCY	NUMBER OF RULEMAKINGS
Department on Aging	6
Department of Agriculture	1
Attorney General	2
Auditor General	1
Capital Development Board	3
Central Management Services	8
Department of Children and Family Services	7
Civil Service Commission	1
Department of Commerce and Economic Opportunity	9
Illinois Commerce Commission	3
Community College Board	5
Comptroller	2
Division of Specialized Care for Children	2
State Board of Education	14
State Board of Elections	4
Illinois Emergency Management Agency	3
Department of Employment Security	7
Environmental Protection Agency	18
Executive Ethics Commission	1
Department of Financial and Professional Regulation	17
Office of the State Fire Marshal	7
Illinois Gaming Board	1
Governor's Office of Management and Budget	2
Health Facilities and Services Review Board	5
Department of Healthcare and Family Services	19
Board of Higher Education	2
Illinois Housing Development Authority	1
Department of Human Rights	1
Department of Human Services	22
Department of Innovation and Technology	1

Department of Insurance	34
State Board of Investment	2
Department of Labor	1
Liquor Control Commission	2
Department of Natural Resources	25
Pollution Control Board	7
Property Tax Appeals Board	1
Department of Public Health	16
Illinois Racing Board	5
State Employees Retirement System	2
State Universities Retirement System	1
Teachers Retirement System	2
Department of Revenue	22
Secretary of State	13
Department of State Police	4
State Universities Civil Service System	1
Illinois Student Assistance Commission	7
Department of Transportation	12
Treasurer	5

TOTAL	337
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**2018
GENERAL RULEMAKINGS:
JCAR ACTION**

AGENCY	REC	OBJ	OBJ/ PROH	REMOVED FROM NO OBJECTION LIST	TOTAL
Department of Employment Security	3				3
Department of Financial and Professional Regulation				1	1
Illinois Gaming Board		1			1
Governor's Office of Management and Budget	1				1
Department of Human Services	2	1			3
Department of Natural Resources	1			1	2
Pollution Control Board		1			1
Property Tax Appeals Board			1		1
Department of Revenue		1			1
	7	4	1	2	14

**2018
GENERAL RULEMAKINGS:
BASIS FOR JCAR ACTION**

Basis for Prohibition	Number of Prohibitions	Percentage of Total
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Lack of statutory authority	1	100%
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Basis for Objection	Number of Objections	Percentage of Total
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Lack of timeliness/missed statutory deadline	1	25%
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Conflict with statute	2	50%
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Policy outside of rule	1	25%
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TOTAL	4	100%
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Basis for Recommendation	Number of Recommendations	Percentage of Total
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Lack of timeliness	4	57%
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Coordinate with other agency's corresponding rule	2	29%
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Seek statutory authority	1	14%
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TOTAL	7	100%
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EMERGENCY RULEMAKING

Section 5-45 of the Illinois Administrative Procedure Act specifies that agencies may use this short form rulemaking procedure, in which a rule is adopted without prior opportunity for public and JCAR comment, only if the agency finds that an emergency exists that requires the adoption of a rule within fewer days than normally required. The agency must state the emergency situation in writing and make an effort to notify the affected public. An emergency rule becomes effective immediately upon filing with the Secretary of State, or at a stated date less than 10 days after filing, and is effective for up to 150 days, after which a general rulemaking must be adopted if the policy is to continue. No emergency rule may be adopted more than once in any 24-month period unless statute specifies otherwise.

In 2018, JCAR reviewed 40 emergency rules and issued 5 Objections and 1 Suspension.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION – Rules for Administration of the Compassionate Use of Medical Cannabis Pilot Program (68 Ill. Reg. 1290; 42 Ill. Reg. 23202)

JCAR objected to and suspended any provision of this rulemaking that does not directly implement the Opioid Alternative Pilot Program established by P.A. 100-1114. The P.A. explicitly authorized the use of emergency rulemaking for the creation of the Pilot Program, but not the other changes to the Medical Cannabis Pilot Program that DFPR has included in the emergency rule. JCAR found that this inappropriate use of emergency rulemaking poses a threat to the public interest by changing basic tenets of the Medical Cannabis Program without public review and input, and without any justification being offered by the agency for this use of emergency rulemaking. DFPR agreed to modify the rule by removing the suspended provisions.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES – Licensing Standards for Day Care Homes (89 Ill. Adm. Code 406; 42 Ill. Reg. 8519), Licensing Standards for Day Care Centers (89 Ill. Adm. Code 407; 42 Ill. Reg. 8555), and Licensing Standards for Group Day Care Homes (89 Ill. Adm. Code 408; 42 Ill. Reg. 8593)

DCFS adopted emergency rules effective 5/9/18 requiring that drinking water supplies in day care homes and centers built prior to 1/1/2000 be tested for lead, and that mitigation plans be implemented if lead levels above 2.0 ppb are detected. JCAR objected to the Department's use of emergency rulemaking and to the Department's implementation of the lead testing policy before rules were adopted. P.A. 99-922, which required lead testing in day care facilities, became effective on 1/17/17 and required DCFS to adopt lead testing and mitigation rules by 1/1/18. Although DCFS notified day care licensing staff and providers on 12/6/17 that the lead testing policy was effective immediately, it did not start the rulemaking process for another 5 months and then used emergency rulemaking to implement the policy. Any emergency situation addressed by

this rule is agency created. DCFS responded that it would be more mindful of the proper use of emergency rulemaking in the future. The emergency rules expired on 10/5/18 and the lead testing policies were adopted by regular rulemaking effective 1/1/19.

LAW ENFORCEMENT TRAINING AND STANDARDS BOARD – Surcharge Fund Financial Assistance (20 Ill. Adm. Code 1700; 42 Ill. Reg. 7972)

LETSB adopted an emergency rule implementing P.A. 99-352, effective 1/1/16, which removed a prohibition on grants for in-car police cameras to municipalities that use red light enforcement cameras and removed other restrictions on police camera grants. JCAR objected to the Board's use of emergency rulemaking because the Board did not adopt the emergency rule until 4/25/18, almost 2½ years after the P.A. became effective, and any emergency situation that existed had been created by the Board's failure to act in a timely manner. LETSB agreed to be better prepared in the future for any needed changes to its rules.

HOUSING DEVELOPMENT AUTHORITY – Public Information, Rulemaking and Organization (2 Ill. Adm. Code 1975; 42 Ill. Reg. 12336)

IHDA adopted emergency rules that imposed restrictions on public participation and comment at its board meetings. JCAR objected to the Authority's use of emergency rulemaking because IHDA had not adequately demonstrated the existence of a threat to the public interest, safety or welfare sufficient to justify adopting restrictions on public participation in IHDA meetings when these restrictions had not been subject to a public comment period. IHDA repealed the emergency rule.

DEPARTMENT OF HUMAN SERVICES – Temporary Assistance for Needy Families (89 Ill. Adm. Code 112; 42 Ill. Reg. 18495)

DHS adopted an emergency rule implementing a P.A. that increased monthly TANF grants. JCAR objected to the Department's use of emergency rulemaking because Sec. 4-2(h) of the Public Aid Code [305 ILCS 5] prohibits the use of emergency rulemaking to increase TANF grants and P.A.100-587, which required the increase in TANF grants, did not specifically authorize DHS to use emergency rulemaking for this purpose. DHS agreed to adopt future TANF rules in accordance with Sec. 4-2(h) of the Code. The increase was adopted by regular rulemaking effective 12/20/18.

SECRETARY OF STATE – Grant Application and Award Procedures – Census Participation and Immigrant Community Assistance Grants (89 Ill. Adm. Code 1500; 42 Ill. Reg. 18511)

SOS adopted an emergency rule implementing 2 grant programs for which funds were appropriated to SOS by P.A. 100-586 (FY 2019 State Budget): \$1.5 million for grants to encourage federal census participation and \$2.5 million for grants to assist immigrant communities in navigating government services. JCAR recommended that this emergency rule and the concurrent permanent rulemaking be amended to contain more specific information about the administration of these grants, including, but not limited to, the application evaluation and approval

2018
EMERGENCY RULEMAKINGS
ADOPTED BY AGENCIES

AGENCY	NUMBER OF RULEMAKINGS
Capital Development Board	1
Department of Children and Family Services	3
State Board of Elections	1
Department of Financial and Professional Regulation	1
Department of Healthcare and Family Services	10
Board of Higher Education	1
Housing Development Authority	2
Department of Human Services	2
Law Enforcement Standards and Training Board	1
Department of Public Health	2
State Employees Retirement System	1
Department of Revenue	1
Secretary of State	2
Student Assistance Commission	7
Department of Transportation	1
TOTAL	36

**2018
EMERGENCY RULEMAKINGS
CONSIDERED BY JCAR**

AGENCY	NUMBER OF RULEMAKINGS
Capital Development Board	1
Department of Children and Family Services	3
State Board of Elections	1
Department of Financial and Professional Regulation	1
Department of Healthcare and Family Services	10
Board of Higher Education	1
Illinois Housing Development Authority	2
Department of Human Services	2
Law Enforcement Training and Standards Board	1
Department of Public Health	1
State Employees Retirement System	1
Department of Revenue	2
Secretary of State	5
Illinois Student Assistance Commission	7
Department of Transportation	2
TOTAL	40

2018
EMERGENCY RULEMAKINGS:
JCAR ACTION

AGENCY	REC	OBJ	OBJ/SUSPENSION
Department of Children and Family Services	-	3	-
Department of Financial and Professional Regulation	-	-	1
Illinois Housing Development Authority	-	1	-
Department of Human Services	2	1	-
Law Enforcement Standards and Training Board	-	1	-
TOTALS	2	6	1

2018
EMERGENCY RULEMAKINGS:
BASIS FOR JCAR ACTION

Basis for Recommendation	Number of Objections	Percentage of Total
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Coordinate adoption with other agency's corresponding rulemaking	2	100%
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TOTAL	2	100%
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Basis for Objection	Number of Objections	Percentage of Total
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Improper use of emergency rulemaking	1	17%
Insufficient emergency	1	17%
Lack of timeliness	4	67%

TOTAL	6	100%
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Basis for Objection/Suspension	Number of Obj/Suspensions	Percentage of Total
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Improper use of emergency rulemaking	1	100%
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TOTAL	1	100%
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PEREMPTORY & EXEMPT RULEMAKING

Section 5-50 of the Administrative Procedure Act specifies that agencies may use this form of rulemaking procedure, in which the rule is adopted without prior opportunity for public and JCAR comment, only if the rulemaking is required by federal law, federal regulations, court orders or collective bargaining agreements; if the agency cannot exercise any discretion with respect to the rule content; and under conditions that preclude compliance with general rulemaking requirements. Agencies must file the preemptory rule with the Secretary of State within 30 days after the change in rules is required.

Exempt rulemaking is a specialized form of rulemaking, similar to the preemptory rulemaking process, reserved for use by the Pollution Control Board (PCB) under the Environmental Protection Act [415 ILCS 5] and by the Illinois Emergency Management Agency (IEMA) under the Radiation Protection Act [420 ILCS 40]. PCB and IEMA can use this short form procedure only to adopt Illinois regulations that are "identical in substance" to mandated federal regulations.

JCAR considered 17 preemptory or exempt rulemakings in 2018 and voted no actions.

2018
PEREMPTORY/EXEMPT RULEMAKINGS
ADOPTED BY AGENCIES

AGENCY	NUMBER OF RULEMAKINGS
Central Management Services	1
Emergency Management Agency	2
Department of Human Services	1
Pollution Control Board	30
TOTAL	34

2018
PEREMPTORY/EXEMPT RULEMAKINGS
CONSIDERED BY JCAR

AGENCY	NUMBER OF RULEMAKINGS
Central Management Services (P)	2
Illinois Emergency Management Agency (X)	2
Department of Human Services (P)	1
Pollution Control Board (X)	12
TOTAL	17

2018
PEREMPTORY/EXEMPT RULEMAKINGS:
JCAR ACTION

AGENCY	REC	OBJ	SUSPENSION
TOTAL	0	0	0

REQUIRED RULEMAKING

Section 5-15 of the Illinois Administrative Procedure Act requires that each agency maintain as rules certain types of basic information about the agency and its rulemaking process. For example, the agency must include a description of its organizational structure; procedures by which the public can obtain information concerning the agency's programs, including Freedom of Information Act (FOIA) procedures; and a current description of the agency's rulemaking procedures and research tools for its body of rules. An agency may also adopt rules that incorporate material by reference and adopt rules that specify the qualifications of administrative law judges by using the required rulemaking process. Section 5-15 authorizes agencies to bypass the proposed rulemaking process and file a certified copy of a required rule with the Secretary of State for publication in the Illinois Register as an adopted rulemaking. JCAR reviews required rules after, rather than before, they are adopted.

JCAR considered 10 required rulemakings in 2018 and took no actions.

2018
REQUIRED RULEMAKINGS
ADOPTED BY AGENCIES

AGENCY	NUMBER OF RULEMAKINGS
Auditor General	1
Capital Development Board	2
Central Management Services	2
Division of Specialized Care for Children	1
Department of Military Affairs	2
TOTAL	8

**2018
REQUIRED RULEMAKINGS
CONSIDERED BY JCAR**

AGENCY	NUMBER OF RULEMAKINGS
Attorney General	1
Auditor General	1
Capital Development Board	2
Central Management Services	2
Division of Specialized Care for Children	1
Department of Military Affairs	1
TOTAL	8

2018
REQUIRED RULEMAKINGS:
JCAR ACTION

AGENCY	REC	OBJ	SUSPENSION
TOTAL	0	0	0

2018
JCAR ASSESSMENT OF
APPROPRIATENESS OF AGENCY RESPONSE
TO JCAR ACTION

AGENCY	ASSESSMENT				
	DUE TO APPROPRIATE AGENCY RESPONSE, NO FURTHER ACTION	FAILURE TO REMEDY	NO FURTHER JCAR ACTION	JCAR WILL MONITOR	WITHDREW SUSPENSION OR PROHIBITION
Department of Children and Family Services	4				
Governor's Office of Management and Budget	1				
Illinois Housing Development Authority	1				
Department of Human Services	1				
Law Enforcement Training and Standards Board	1				
Department of Revenue	2				
State Toll Highway Authority	1				
TOTAL	11	0	0	0	0

— Legislation Related to Rulemaking Issues —

Rulemakings considered by JCAR occasionally result in Objections or Recommendations based on lack of clear statutory authority, or written agreements with agencies to pursue legislation to clarify statute, resolve ambiguities, or seek specific statutory authority. The following are instances in which legislation considered during 2018 was prompted by a rulemaking issue, or in which suggestions to address statutory issues (if the agency is to pursue the proposed policy) were made by JCAR during 2018.

P.A. 100-414 (SB 768), effective 8/25/17, renews the Clinical Social Work and Social Work Practice Act until 1/1/28. Among its provisions is a requirement that the Department of Financial and Professional Regulation prescribe forms for license applications and other purposes that are "consistent with and reflecting the requirements of this Act and rules adopted pursuant to this Act". The provision appears to have been prompted by recent instances in which other State agencies attempted to incorporate policies outside of rule in standardized forms.

P.A. 100-1085 (SB 3290), effective 1/1/19, amends the Public Aid Code to require the Department of Healthcare and Family Services to provide every nursing home enrolled in one or more Medicaid managed care networks with the corresponding patient credit file at the same time HFS provides the file to the applicable Medicaid managed care organization (MCO). The measure is intended to reduce the incidence of claim denials resulting from coverage plan errors. In 2017, HFS adopted amendments to 89 IAC 140 specifying the actions to be taken by providers when claims were denied by an MCO due to inaccurate or updated enrollment information. This rulemaking drew comment from nursing homes, many of which had experienced significant financial hardship due to MCO claim denials and inconsistent criteria among MCOs for documenting claims. HFS agreed to revisit the claims process after the rulemaking was adopted, but did not do so.

House floor amendments to **SB 1531** would have amended portions of the Public Utilities Act that concern marketing, billing and other procedures of alternative retail electric suppliers (ARES). Among the proposed changes was replacing the term "electric service provider" with "alternative retail electric supplier" for consistency throughout the Act. In 2015, the Illinois Commerce Commission proposed rules (83 Ill. Adm. Code 465; 39 Ill. Reg. 6134) addressing the practice of net metering (billing customers who generate their own power for the difference between the power they generate and the power they purchase). JCAR objected to portions of this rulemaking that used and defined the term "electricity supplier" inconsistent with the Act. The bill would have resolved this discrepancy in statute. The House version of this bill did not receive a floor vote and died with the adjournment of the 100th GA.

— Legislation Related to the IAPA —

The following are issues related to the IAPA, or issues that directly affected rulemaking procedures, that engendered or were associated with legislation proposed or considered during the 2018 session.

P.A. 100-688 (HB 5253) amended IAPA Sec. 5-30 to require that agencies include economic impact analyses in their First Notice filings for any rulemaking that may adversely impact small businesses. The analysis must identify industries that will have to comply with the proposed rule by their NAICS 2-digit codes (e.g., 11 for agriculture/forestry, 21 for mining, 31-33 for manufacturing) and identify the categories of business activity that will be impacted (e.g., hiring, purchasing, insurance, licensing fees, equipment/material needs, training, recordkeeping, compensation/benefits). DCEO also shall place on its website notification of all proposed rules affecting small businesses (defined as businesses with fewer than 50 full-time employees or less than \$4M in gross annual sales), together with the Flinn Report summaries of those proposed rules.

P.A. 100-581 (SB 1773) added a new Sec. 5-46.3 to the IAPA prohibiting HFS from filing, SOS from accepting, and JCAR from considering any rules related to hospital transformation (changing, adding or eliminating services to better align with community needs) unless those rules have been approved with signatures by at least 9 of the 14 members of the Hospital Transformation Review Committee created by the P.A. The P.A. also authorized HFS to use emergency rulemaking for the initial enactment of provisions related to hospital transformation, payments to hospitals for graduate medical education programs, hospital assessments, and rates paid to hospitals for various services. It also authorized HFS to use preemptory rulemaking to amend hospital access payments retroactive to the effective date of the Act, but only to the extent necessary to conform to federally approved State Plan Amendments.

P.A. 100-1030 (HB 3040) amended Sec. 5-20 of the IAPA to exclude from the definition of an agency required to adopt policy in rule the Illinois State Guard, with respect to regulations adopted under the Illinois State Guard Act [20 ILCS 1815]. The State Guard is defined in the P.A. as an "unorganized" militia consisting of all residents ages 18 to 45 and other persons as determined by the Governor. It does not refer to the Illinois National Guard or the Department of Military Affairs, which have habitually adopted rules. Previously, Sec. 5-20 excluded the General Assembly, its committees, the Governor, Supreme and Appellate Court justices and judges, the Legislative Ethics Commission, and the Architect of the Capitol from the definition of agency.

HB 5982 would have amended Secs. 5-30, 5-40, 5-45, 5-100 and 5-115 of the IAPA to establish an automatic prohibition/suspension mechanism for rules whose compliance or implementation cost exceeded \$10M. Agencies would accept implementation cost estimates from private sector entities during 1st Notice and include these estimates in their 2nd Notice filings. Regulatory flexibility considerations that the IAPA currently applies to small businesses, small municipalities and nonprofits would be extended to all private sector entities (not defined in the legislation). Any proposed rule whose estimated total implementation or compliance cost to private sector entities exceeded \$10M over 2 years was to be "deemed objectionable and automatically prohibited" by JCAR; emergency rules with an implementation cost of \$10M or more over the life of the emergency rule would be

automatically suspended. The prohibition or suspension could be lifted via legislation passed by the General Assembly and signed by the Governor within 180 days after the action; otherwise, the prohibition or suspension becomes permanent. (The bill did not state whether JCAR had authority to lift a prohibition or suspension imposed for this reason.) The bill also increased the term of 2nd Notice extensions from 45 to 90 days (allowing for a maximum 2nd Notice period of 135 days), required COGFA to adjust the \$10M cost threshold for inflation on an annual basis, and authorized JCAR to request independent implementation/compliance cost estimates for rules from the Auditor General. This bill was not acted upon during the 2018 session, but has been reintroduced in the 101st GA.

SB 3525 would have added a new IAPA Sec. 5-170 providing that, no later than 10/1/18, the Executive Directors of JCAR and LIS jointly study and report to the GA on the feasibility and cost of developing an online searchable database system for storing public comment received by State agencies on proposed rules. The report was to include an estimate of the cost of the project and of how many additional staff may be needed to maintain the database; cybersecurity concerns; how this database can increase transparency and reduce confusion during the First and Second Notice periods; and any other issues the directors deem relevant. No action was taken on this bill.

Public Act Review

Section 5-105 of the Illinois Administrative Procedure Act [5 ILCS 100/5-105] requires JCAR to maintain a review program to monitor the implementation of new laws and changes in law through State agency rulemaking activities. JCAR fulfills this statutory obligation through its Public Act review program.

Under this program, JCAR staff reviews each new Public Act and makes a preliminary determination as to whether rulemaking might be necessary for proper implementation. After the list has been culled of those obviously not requiring rulemaking (appropriations, criminal and civil law, local government issues), the affected State agency is contacted for its opinion. If necessary, these written contacts are followed up with discussion between JCAR and the agency.

The final list of Public Acts for which JCAR and the agency agree that rulemaking is warranted is then monitored as long as necessary to insure that progress is made toward implementation. The primary goal of this program is to ensure that appropriate rules are put into effect in a timely manner, as required by Section 5-105 of the IAPA.

If suitable progress is not made, JCAR, by the vote of a majority of its members, can initiate an investigation into existing rules of the agency. If, after the agency's appearance before the Committee to explain its failure to adopt anticipated rules, the JCAR members are not satisfied with the agency response, the Committee can object to the agency's conduct and may initiate further legislation to clarify the issue.

Frequently an agency is prompted to complete necessary rulemaking by conversation with JCAR.

Special Review of ADA Procedures

In 2004, JCAR audited the rules of all agencies to determine whether the agency had adopted the Americans With Disabilities Act grievance procedures required by federal law. Federal regulations at 28 CFR 35.107 require all agencies of State government employing at least 50 persons to adopt rules governing the grievance procedure. Twenty-two agencies appeared to have no ADA rules and were contacted to determine whether the agency had a valid reason for considering itself exempt from the federal mandate. Of those, 19 responded by adopting ADA rules or explaining that they have fewer than the 50 employees that trigger the federal requirement. At least the following agencies have not yet filed ADA rules:

Healthcare and Family Services
Juvenile Justice

Freedom of Information Act Rules

P.A. 96-542, which took effect on 1/1/10, amended the Freedom of Information Act (FOIA) [5 ILCS 140] to require greater disclosure of public documents, faster response to requests for information and documents, and stronger civil penalties for public bodies that fail to comply with the law. The Act also established within the Office of the Attorney General the position of Public Access Counselor, whose duties include hearing appeals from requesters denied information or from public bodies claiming requested information should be exempt from disclosure.

The changes to FOIA required State agencies to revise or replace their existing FOI rules. New provisions shorten the timeline for responding to an initial request from 7 to 5 business days; require each agency to provide contact information for a designated FOI officer; require annual training for FOI officers; revise the schedule of fees that may be charged for copying documents; and direct appeals, when requests are denied, to the Public Access Counselor.

Many State agencies have implemented the 2010 FOIA revisions by either amending their current rules or replacing them with a model rule drafted by the Governor's office. Most agencies have adopted their FOIA rules using the required rulemaking provisions in Section 5-15 of the IAPA, which apply to procedures by which the public can obtain information on subjects, programs, and activities of an agency. At least the following major State agencies have not yet adopted rules reflecting the new FOIA revisions:

Aging	Lt. Governor
Agriculture	Lottery
Central Management Services	Procurement Policy Board
Children and Family Services	Retirement Systems
Civil Service Commission	Revenue
Commerce and Economic Opportunity	Secretary of State
Commerce Commission	State Board of Elections
Comptroller	State Fire Marshal
Finance Authority	State Police
Gaming Board	Toll Highway Authority
Healthcare and Family Services	Veterans' Affairs
Human Services	Violence Prevention Authority
Insurance	Workers' Compensation Commission
Labor	

Complaint Review Program

The Illinois Administrative Procedure Act authorizes JCAR to review and investigate the rulemaking activities of State agencies when it receives a written complaint.

JCAR operates its complaint review program under Part 260 of its operational rules. Complaints may address one or more of the following: an existing rules of an agency; failure of an agency to fully or properly enforce its rules; absence of rules required by statute or necessary for the proper conduct of an agency program or function; and an agency policy that is applied, but not embodied in the rules of the agency promulgated pursuant to the IAPA.

Upon receipt of a complaint, JCAR initiates and review to determine the need for a full investigation. Staff may raise questions and discuss problems with the agency and will attempt to inform the agency of the substance of the complaint and any proposals for JCAR action prior to the meeting. Staff will report the results of the review and a proposal for action at a JCAR monthly meeting. A complaint may be placed on the agenda for a JCAR meeting by any JCAR member or the Executive Director if evidence exists that there are possible problems with the rules. If the same issues have been previously considered by JCAR, a complaint will not be placed on the agenda, unless the complaint reveals information not available to JCAR at the time the issue was considered and, if the information were available, it would have altered the outcome. Based on the complaint, JCAR may issue an Objection or Recommendation to existing rule, or to agency failure to maintain adequate rule, and afford the agency an opportunity to respond.

Complaints should be forwarded to the Executive Director of the Joint Committee at:

Joint Committee on Administrative Rules
700 Stratton Building
Springfield IL 62706

2018 Complaint Review

In April 2018, JCAR received a complaint against Department of Natural Resources Herptiles-Herps Act [510 ILCS 68] rules. Generally, the complaint was concerned that, while the rules require submission of an application provided by DNR, DNR had not designed or published the application. the complainant also pointed various others instance of where the rules, and apparently this regulatory program, lacks sufficient specificity. After conversation with the complainant, JCAR transmitted the complainant's concerns to DNR and requested a response from the Agency. After numerous prompting from JCAR, on 2/25/19, DNR responded in writing that it had been tardy in making these application forms available. DNR now has the application available online and is reviewing its Herptile-Herps Act rules and its rules on General Scientific Permits based on the complainant's concerns. At this writing, JCAR is continuing to monitor DNR's progress.

Judicial Activity Relating To

JCAR and IAPA

Since JCAR's function is closely related to the interpretation of the Illinois Administrative Procedure Act (IAPA), it monitors court decisions and Attorney General opinions that affect the interpretation of the Act. One of the enumerated responsibilities of JCAR under the Act is "to study the impact of legislative changes, court rulings and administrative action on agency rules and rulemaking" [5 ILCS 100/5-105(c)]. This summary highlights significant judicial actions since enactment of the IAPA and discusses current activity.

KEY INTERPRETATIONS OF THE IAPA

- Two past decisions construing the IAPA in accordance with positions supported by JCAR are especially noteworthy. The cases involved an attempt by the Department of Public Aid (now, Healthcare and Family Services) to change the method by which it calculated Medicaid payments to nursing homes. In the first case, *Senn Park I* (*Senn Park Nursing Center v. Miller*, 118 Ill. App. 3d 504, 455 N.E.2d 153, 74 Ill. Dec. 123 (1983)), the First District Appellate Court held that DPA's failure to follow the IAPA rulemaking procedures invalidated a new method it utilized for calculating Medicaid payments. The court stated that the definition of a "rule" found in Sec. 1-70 of the IAPA should be broadly construed in order to safeguard the public's right to comment on proposed agency policies. DPA's change in calculating the Medicaid payments, the court ruled, fell within the Sec. 1-70 definition of rule since it was a statement of general agency policy. As that policy was not adopted in compliance with the IAPA, it was invalid.

DPA also argued that the amended procedure was exempt from the notice and publication requirements by Sec. 5-35(c) of the IAPA because the State Plan was a contractual arrangement with the federal government, and was exempt under the contracts exception of the IAPA. Sec. 5-35(c) states that: "The notice and publication requirements of this Section do not apply to a matter relating solely to agency management...or to public property, loans or contracts."

Senn Park II (*Senn Park Nursing Center v. Miller*, 118 Ill. App. 3d 733, 455 N.E.2d 162, 83 Ill. Reg. 609 (1983)) addressed use of emergency rulemaking. The Appellate Court ruled that an emergency rule in that instance in which the underlying "emergency" was created by the agency's failure to follow these (notice and comment) procedures (of the IAPA) in the first place, resulting from "an avoidable administrative failure to properly enact a rule in accordance with statutory requirements", was improper in that instance.

Both cases were consolidated for consideration by the Supreme Court. The Supreme Court agreed with the Appellate Court's interpretation of the contract's exception in which the lower court stated:

We are persuaded that under the IAPA, a matter comes under the contract exception only when contracts are clearly and directly involved. . . . We believe that with regard to nursing homes, contracts, whether State-Federal or agency-provider, are not clearly and directly involved. . . . Accordingly, we conclude that the amended inflation update procedure is not a matter relating to contracts within the meaning of the IAPA. (118 Ill. App. 3d at 511)

The Supreme Court also stated that it is clear that the rulemaking procedure is intended to give interested persons an opportunity to submit their views and comments on rulemaking changes and that an agency must consider all submissions received. The court acknowledged that there are certain statutory exceptions to the notice and comment procedures, but that exceptions are of a limited nature and should be appropriately applied.

The court also agreed with the Appellate Court ruling that the amended inflation update procedure fell within the purview of the IAPA because the Public Aid Code incorporates the IAPA and the Code specifically requires rulemaking pursuant to the IAPA "during the process of establishing the payment rate for skilled nursing and intermediate care services, or when a substantial change in rates is proposed," in order to provide "an opportunity for public review and comment on the proposed rates prior to their becoming effective" (118 Ill. App. 3d at 512). The court found that the amended procedure fell within the definition of "rule" found in the IAPA and thus the failure of DPA to follow the notice and comment procedures required by the IAPA rendered the amended procedure invalid.

Following the decision of the Appellate Court in *Senn Park I*, DPA promulgated Emergency Rule 4.14221 implementing the amended inflation update procedure pursuant to the IAPA. Plaintiffs (*Senn Park II*) sought a declaratory judgment, asking the court to declare Emergency Rule 4.14221 void because there was no "emergency" as that term is defined in the IAPA. On 12/30/80, DPA withdrew the emergency rule. On appeal, the Appellate Court held that, although the rule was withdrawn, the validity of the rule was at issue in order to determine the amount of reimbursement the plaintiffs were entitled to in *Senn Park I*. The Appellate Court further held that the circuit court had erred in finding the emergency rule valid because there was no emergency as that term is defined under the IAPA. The Supreme Court ruled that no emergency situation existed warranting use of emergency rulemaking.

- In *Sleeth v. Illinois Department of Public Aid* (125 Ill. App. 3d 847, 466 N.E.2d 703, 81 Ill. Dec. 117 (1984)), the Third District Appellate Court considered an appeal from a DPA decision to terminate disability benefits in 5 cases. The court found that the procedure utilized by the Department (Manual Release No. 83.5), which required applicants who were denied disability benefits to submit proof of disability within 14 days after the filing of appeal, was a "rule" under the IAPA. The IAPA states:

"Rule" means each agency statement of general applicability that implements, applies, interprets, or prescribes law or policy, but does not include (i) statements concerning only the internal management of an Agency and not affecting private rights or procedures available to persons or entities outside the Agency, (iii) intra-agency memoranda or (iv) the prescription of standardized forms...

DPA contended the Manual Release was merely an intra-office memorandum, not subject to the IAPA. The court reasoned that the memorandum affected private rights and procedures available to persons outside DPA and that this type of statement by an agency is specifically included within the definition of "rule" under the Act. Since the memorandum was not properly promulgated pursuant to the IAPA, the court held the rule invalid and determined that the procedures followed by DPA violated State law.

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In *Kaufman Grain Co., Inc. v. Director, Department of Agriculture* (179 Ill. App. 3d 1040, 534 N.E.2d 1259, 128 Ill. Dec. 654 (1989)), the Fourth District Appellate Court held that DOA had no statute or rule that allowed it to settle disputes between a grain producer and a grain dealer or a grain warehouse. DOA improperly relied on policy that was not properly promulgated as rules in accordance with the IAPA and, therefore, was without authority to adjudicate such grain disputes. The *Kaufman* case is significant for the ruling of the court concerning attorney's fees. Sec. 10-55 of the IAPA provides that, in any case in which a party has any administrative rule invalidated by a court for any reason, the court shall award the party bringing the action the reasonable expenses of the litigation, including reasonable attorney's fees. The appellate court ruled that Kaufman was entitled to the award of attorney's fees it reasonably incurred in this litigation, including the fees incurred in the proceedings before the Department. The court stated that Sec. 10-55 of the IAPA gives those subject to regulation an incentive to oppose doubtful rules where compliance would otherwise be less costly than litigation. Therefore, the court awarded fees for the proceedings before DOA, as well as fees incurred in administrative review proceedings, noting that proceedings before an administrative agency are quite often more costly and time consuming than administrative review proceedings. The *Kaufman* case illustrated trends of the courts to rule unfavorably against agencies that have not promulgated their policies properly under the IAPA. The *Kaufman* decision specifically cites *Senn Park* and further strengthens the precedent it established. Award of attorney's fees was further strengthened in *Citizens Org. Proj. v. Dept. of Nat. Res.* (89 Ill. 2nd 593, 725 N.E.2d 195, 244 Ill. Dec. 896 (2000)), in which the Supreme Court affirmed the award of attorney's fees and litigation expenses when a citizen group obtained invalidation of a DNR rule governing a DNR permit decision.

- In *Coronet Insurance Company v. John E. Washburn, Director of Insurance of the State of Illinois* (201 Ill. App. 3d 633, 558 N.E.2d 1307, 146 Ill. Dec. 973 (1990)), the First District Appellate Court of Illinois held that an administrative agency may enact rules and regulations as limited by the authorizing statutory language; that an administrative rule carries with it the same presumption of validity as the statute; and a rule that is consistent with the spirit of the statute and furthers its purpose will be sustained. The appellate court also ruled that DOI's failure to give an additional 45 days notice of a proposed rule that had been revised during the First Notice public comment period to the general public did not constitute violation of the IAPA, since the Act provides that changes in the text of a proposed rule may be made during the First Notice period. Such changes need not be published again prior to submission to JCAR.

- In *CIPS v. Illinois Commerce Commission* (268 Ill. App. 3d 471, 644 N.E.2d 817, 206 Ill. Dec. 49 (1994)), the Fourth District Appellate Court ruled that JCAR did not create an impermissible filing prohibition when it informed ICC it would lift its filing prohibition on a proposed rule formulating rental rates for cable TV attachments to utility poles if the ICC removed allocation of the portion of pole neutral space to cable television.
- In *Weyland v. Manning* (309 Ill. App. 3d 542, 723 N.E.2d 387, 243 Ill. Dec. 355 (2000)), plaintiffs filed an action contesting a rule adopted by the Department of Natural Resources establishing a restricted boating zone on Griswold Lake. One element at issue was the adequacy of the Second Notice filed by DNR with JCAR. The Second District Appellate Court held that DNR complied with JCAR rule requirements that it list and analyze all comments concerning the rule and that its failure to list in the Second Notice persons who had requested a public hearing did not invalidate the rule.
- Payday Lending Rules: The regulation of short term (payday or cash for car title) loans involved rules ultimately adopted by the then Department of Financial Institutions and/or Office of Banks and Real Estate. After JCAR Objection and after a Filing Prohibition expired, DFI adopted rules regulating the payday loan/cash for car title industries that were immediately challenged in *South 51 Development Corp, et al., v. Vega* (335 Ill.App. 3d 542, 269 N.E.2d 528, 261 Ill. Dec. 731 (2002)). The chief argument of plaintiffs was that there was an improper delegation of rulemaking authority to DFI. The court held that there was a valid delegation of legislative authority (the statute on which the rulemaking was based was somewhat sparse) and that the small business impact analysis performed at the time by DCCA (now, DCEO) was facially sufficient, albeit not submitted to JCAR by the end of the First Notice period.
- *Corey H. v. Board of Education of City of Chicago* (No. 92-C-3409, U.S. District Court for the Northern District of Illinois, Eastern Division). In 1992, disabled students brought an action against the Chicago and State Boards of Education alleging systemic failures to educate children with disabilities in the least restrictive environment (LRE), as required by the federal Individuals with Disabilities Education Act (IDEA). SBE and CBE entered into a settlement agreement with the plaintiffs. Under the settlement agreement, Judge Gettleman ordered SBE to change its policy on certification structure and standards for special education teachers through peremptory rulemaking. SBE filed 2 peremptory rulemakings to change special education teacher certification endorsement and create common core standards for all teachers. The first peremptory rule (titled Certification; 23 Ill. Adm. Code 25; 24 Ill. Reg. 16109) was objected to by JCAR on 11/14/00. SBE refused to withdraw the peremptory rule, stating it was not in a position to do so because it was under a federal judge's order. The rule was then suspended by JCAR on 2/21/01. The second peremptory rule (Standards for Certification in Special Education; 23 Ill. Adm. Code 28; 24 Ill. Reg. 16738) was objected to and suspended by JCAR on 1/9/01. SBE did not respond. On 2/27/01, Judge Gettleman ordered SBE to implement both rulemakings, regardless of the JCAR suspensions.

Pursuant to IAPA requirements, SJR 26 was introduced in the General Assembly to continue the 2 suspensions. (At the time, Sec. 5-125 of the IAPA stated that if a joint resolution passed

both houses of the General Assembly within the 180 days of the JCAR suspension, the rule would be considered repealed and the Secretary of State must immediately remove the rule from the collection of the effective rules.) SJR 26 passed the Senate on 5/21/01 with a vote of 56-0-0 and passed the House on 5/31/01 with a vote of 117-0-0. This was the first time a joint resolution of this nature passed both houses of the GA. As directed by Judge Gettleman, SBE implemented the settlement order as agency policy outside rule.

Ten years later, with the enactment of PA 97-461, SBE was authorized to use preemptory rulemaking procedures to adopt into its rules the court-ordered certification policies and standards. SBE adopted preemptory rules on 8/22/11, in accordance with the district judge's orders.

- *In Champaign-Urbana Public Health District v. ILRB* (354 Ill. App. 3d, 482, 821 N.E.2d, 691, 290 Ill. Dec. 379 (2004)), the Fourth District Appellate Court ruled that the Illinois Labor Relation Board's use of emergency rulemaking to implement its card recognition rules was not an emergency under the IAPA, despite the fact the agency was implementing a recently enacted Public Act with an immediate effective date. The court said no emergency existed because union recognition could still occur under the existing methods or the union could wait until the new permanent rules were promulgated:

"(N)o facts have been presented to show that without the emergency rules the public would be confronted with a threatening situation.... The reason for adopting an emergency rule should be truly emergent and persuasive to a reviewing court and considerations of administrative and fiscal convenience alone do not satisfy that standard. Agencies may not adopt emergency rules to eliminate an administrative need that does not threaten the public interest, safety, or welfare. Here, the Board's reasoning for implementing the emergency rules can best be characterized as one for administrative convenience and not because of any stated public threat. Thus, the rules adopted by the Board...were invalid...."

A similar finding was reached by the Second District Appellate Court concerning the Board's use of emergency rulemaking in *County of Du Page v. ILRB* (358 Ill. App. 3d 174, 830 N.E.2d 709, 294 Ill. Dec. 297 (2005)) concerning sheriff's deputies in DuPage County. In these 2 instances, courts took a narrower view of the appropriate use of emergency rulemaking than JCAR's historical position. JCAR has voted procedural Objections or Recommendations when agencies have employed emergency rulemaking to implement Public Acts when adequate time for regular rulemaking was present (the "agency created" emergency situation spoken of in *Senn Park*), but, up to that time, had seldom taken adverse action because an agency acted promptly to implement a recent Public Act through emergency rulemaking.

- *Caro v. Blagojevich* (Circuit Court, Cook County, 07-CH-45464) was filed 11/26/07 in Cook County challenging the Governor's expansion of medical assistance under Family Care. Plaintiffs sought to halt the HFS Director's continued enforcement and implementation of the HFS emergency rule expanding medical assistance eligibility under Family Care to families earning up to 400% FPL, a rule that had been suspended by JCAR on 11/13/07.

Plaintiffs argued the rule violated the Illinois Constitution and statutes, including the IAPA. They sought an injunction against HFS enforcing or implementing the rule. Among the defenses raised by HFS was an argument that the JCAR Suspension was unconstitutional, based on cases from other states supportive of that position.

On 4/15/08, Circuit Judge James Epstein issued a preliminary injunction ordering HFS to cease expending any public funds related to Family Care. Judge Epstein did not rule on the constitutional issues raised, instead citing HFS failure to include a work requirement as a condition of Family Care eligibility. (Federal and State statutes require medical assistance recipients to meet the same non-income criteria as TANF recipients, which include work requirements.) Defendants appealed this injunction to the First District Appellate Court, which upheld Judge Epstein's decision on 9/26/08.

HFS responded to the order by filing a peremptory rule imposing the work requirement upon Family Care recipients. JCAR suspended the peremptory rule on 5/20/08 because the injunction did not direct HFS to file a peremptory rule and the rule did not meet that or any of the other IAPA conditions for peremptory rulemaking.

In February 2008, HFS presented to JCAR a proposed permanent version of the rule expanding Family Care eligibility. JCAR issued a Filing Prohibition against the rule on 2/26/08. HFS then attempted on 3/10/08 to file the prohibited rule with the Secretary of State, and this attempt became the subject of a new lawsuit, *HFS v. White* (below).

On 10/15/08, Judge Epstein issued another preliminary injunction barring HFS from expending any public funds to implement Family Care under the permanent or peremptory rules. HFS then claimed that the order could be interpreted in a manner that would force the agency to stop payments on all its medical assistance programs (affecting more than 500,000 Illinois residents). Based on HFS' argument, the Illinois Supreme Court, on 11/12/08, issued a stay of enforcement of the preliminary injunction, allowing HFS to continue implementing the program until the merits of the case could be decided.

In December 2008, the Special Investigative Committee of the Illinois House considering articles of impeachment against Gov. Blagojevich included *Caro* among its exhibits. The articles of impeachment approved by the House on 1/9/09 and 1/14/09, and sustained by the Senate on 1/29/09, thereby removing Blagojevich from office, included the violation of the IAPA cited in *Caro* among various charges of abuse of power.

On 7/1/09, Judge Epstein approved a settlement agreement among Gov. Patrick Quinn (replacing Blagojevich as a defendant), all other defendants, and the plaintiffs. The agreement included approval of legislation (P.A. 96-20, signed 6/30/09) allowing persons who were enrolled in the expanded Family Care program as of the legislation's effective date to remain in the program, with no new enrollees accepted after that date. All pending appeals of the case were dismissed. HFS filed emergency rules to implement P.A. 96-20 on 7/1/09 and identical permanent rules took effect on 11/2/09 and 11/16/09.

- In *Department of Healthcare and Family Services v. White* (Circuit Court, Cook County, 08-CH-11822), HFS filed suit against Secretary of State White on 3/28/08. HFS, on 3/10/08, attempted to file the proposed Family Care expansion rule that JCAR had prohibited on 2/26/08. SOS refused to accept it, citing the Suspension that was still in effect on the earlier emergency rule, which, under the IAPA, prevents any other rule with the same effect from being filed. HFS argued that JCAR's Suspension of the emergency rule was invalid and that SOS had a duty to accept and publish the permanent rule in the Illinois Register. The case was dismissed at the defendants' request on 7/1/09 as part of the settlement agreement in *Caro*.

- Several cases were filed in Cook County Circuit Court in 2015 and 2016 regarding the Department of Public Health's denial of various petitions, submitted under Section 45 of the Compassionate Use of Medical Cannabis Pilot Program Act [410 ILCS 130], to add additional conditions to the list of "debilitating medical conditions" qualifying for medical cannabis (see 77 Ill. Adm. Code 946.10). As of January 2018, at least 3 cases had been decided in favor of the plaintiffs at the circuit or appellate court level: *Mednick v. IDPH*, 16 CH 2777, to add intractable pain; *Doe v. IDPH*, Ill. App. Ct., 1st District, No. 1-16-2548, to add chronic post-operative pain; and *Doe v. IDPH*, 15 CH 16764, to add migraine headaches. IDPH had appealed these decisions to higher courts.

FILING PROHIBITIONS AND SUSPENSIONS ISSUED BY JCAR

2/11/19

IR = Illinois Register; IAC = Illinois Administrative Code

DATE	AGENCY	ACTION	BASIS	ISSUE
6/16/81	Health Fin Auth 4 IR 1915	Prohibition	Economic Impact/ Statutory Authority	Implements IHFA Act. Improper definition of "hospital services"; flawed reporting requirements; payor differentials; tries to establish a "contingent liability" agreement with the federal government. HFA modified; prohibition withdrawn.
4/13/82	EPA/DPH 4 IR 4669	Prohibition	Economic Impact	Public water supply samples; land & water samples; new regs on milk & milk products. Inadequate economic impact analysis; burdensome requirements for wastewater testing laboratories. EPA/DPH withdrew.
1/8/86	DNS 32 IAC 505 9 IR 1573	Prohibition	Economic Impact/ Federal Preemption	Extensive and burdensome regulation of nuclear steam-generating facilities. DNS withdrew.
9/23/87	DPR 68 IAC 250 11 IR 3836	Prohibition	Legislative Intent/ Freedom of Speech/ Economic Impact	Limitation on pre-need solicitation and sale of funeral arrangements. DPR withdrew.
3/7/90	DPR 68 IAC 1400 13 IR 2913	Prohibition	Economic Impact/ Statutory Authority	Requirements for clinical psychologist licensure conflicted with statute or lacked statutory authority. DPR modified; prohibition withdrawn.
9/17/91	DCFS 89 IAC 300 15 IR 8735	Prohibition	Statutory Authority/ Legislative Intent	Disallowed a statutorily required Christian Science exemption in the definition of "neglected child". DCFS modified; prohibition withdrawn.
1/8/92	DOI 50 IAC 2008 15 IR 14859	Prohibition	Economic Impact	Unlawful discrimination against the elderly by severely limiting the commission earned on the sale of Medicare supplement insurance policies, potentially restricting availability. DOI modified; prohibition withdrawn.
1/8/92	DonA 89 IAC 240 15 IR 17398	Suspension	Economic Impact	Program cutbacks without adequate notification and protection of elderly clients. DonA modified; prohibition withdrawn.
5/11/93	OSFM 41 IAC 100 16 IR 15681	Prohibition	Conflicting Regulations/Statutory Authority	Conflict between OSFM and DCFS on standards. OSFM modified; prohibition withdrawn.
9/14/93	DOC 17 IAC 590, 17 IR 4554	Prohibition	Legislative Intent	Limits number of persons who can hunt geese from a single blind or hut to 3, without sufficient justification. DOC modified; prohibition withdrawn.
10/12/93	DPA 89 IAC 144, 140 17 IR 15162	2 Suspensions	Statutory Authority/ Legislative Intent	Reduction in payments to facilities caring for DD clients, in contradiction of PA 88-88. DPA repealed.

11/16/93	DFI 38 IAC 130 17 IR 6929	Prohibition	Economic Impact/ Legislative Intent	Unfair rate structure for cashing public aid checks. DFI withdrew.
12/14/93	ICC 83 IAC 315 93 IR 202	Prohibition	Economic Impact/ Overburdensome Regulation	Unfair rates paid by cable TV companies to utilities for use of pole space. ICC withdrew.
9/13/94	DPH 77 IAC 790 18 IR 3205, 3202	2 Prohibitions (New Rule & Repeal)	Statutory Authority/ Legislative Intent	Inclusion of drug products in the Ill. Drug Formulary that were not deemed equivalent by FDA or were exempt from FDA consideration. DPH withdrew.
11/15/94	DPA 89 IAC 140 18 IR 10922	Suspension	Statutory Authority	Medicaid coverage of abortions in rape/incest cases conflicted with statute limiting coverage to endangerment of mother's life. DPA repealed emergency rule.
2/7/95	SBE 23 IAC 401 18 IR 9756	Prohibition	Statutory Authority	Regulation of nonpublic special education facilities without statutory authority. SBE modified; prohibition withdrawn.
4/18/95	DASA 77 IAC 2090 19 IR 1156	Prohibition	Statutory Authority/ Legislative Intent/ Due Process	Alcoholism/substance abuse centers applying for certification as Medicaid providers with deficiencies in treatment programs will have applications denied with no chance for remediation and no chance to appeal the denial. DASA modified; prohibition withdrawn.
10/15/96	ICC 83 IAC 761, 762, 763, 764 20 IR 8416, 8407, 8393, 8395, 8527, 8541	2 (761, 763) Suspensions 4 Prohibitions (83 IAC 761, 762, 763, 764)	Overburdensome Regulation	Complex discovery procedures hinder ICC's ability to make an arbitration decision involving local telephone carriers and long distance carriers initiating local service within federal timeframes. ICC refused to modify or withdraw; prohibitions/suspensions withdrawn.
3/18/97	DNR 17 IAC 850 21 IR 322	Prohibition	Economic Impact	Eliminated commercial perch fishing on Lake Michigan will have an undue economic impact on the regulated business. DNR will do further rulemaking; prohibition withdrawn.
11/12/97	DPH 77 IAC 290 21 IR 13908	Suspension	Legislative Intent/ Adverse Impact on Availability of Adequate Health Care Facilities	Health facility plan review is statutorily required only for construction projects costing over \$5,000, not all projects. DPH withdrew.
2/17/99	SBEL 26 IAC 201, 202 22 IR 7858, 7862	2 Prohibitions	Statutory Authority/ Legislative Intent	Creates a system for SBEL staff review of nominating petitions for apparent conformity that is not consistent with statutory petition review procedures. SBEL withdrew.
4/11/00	ICC 83 IAC 726 24 IR 1	Prohibition	Statutory Authority/ Economic Impact/ Undue Reg. Burden	Extends application of Enhanced 9-1-1 requirements to schools, governments and not-for-profits in addition to the statutorily intended private businesses, corporations and industries. ICC modified; prohibition withdrawn.

6/13/00	ICC 83 IAC 727 24 IR 8635E	Suspension	Statutory Authority/ Economic Impact	Extends application of Enhanced 9-1-1 requirements to schools, governments and not-for-profits in addition to the statutorily intended private businesses, corporations and industries. ICC refused to modify or withdraw; suspension expired.
11/29/00	DFI 38 IAC 110 24 IR 11717	Prohibition	Economic Impact	This attempt to regulate short-term (payday) loans and cash for title loans creates an unreasonable economic burden for small lenders, which could result in diminished availability of loans for consumers with limited options. DFI refused to modify or withdraw; prohibition expired.
1/9/01	ICC 83 IAC 727 24 IR 8454	Prohibition	Statutory Authority	Extends application of Enhanced 9-1-1 requirements to schools, governments and not-for-profits in addition to the statutorily intended private businesses, corporations and industries. ICC refused to modify or withdraw; prohibition expired.
1/9/01	SBE 23 IAC 28 24 IR 16738	Suspension	Economic Impact	Under these peremptory rules, teachers will not be as qualified to teach children with special needs as current rule provides. Also, teachers will need additional training, which could result in fewer qualified teachers available to serve special education students. SBE implemented the settlement order as agency policy outside rule. PA 97-461 authorized SBE to use peremptory rulemaking to implement the federal court orders SBE adopted rules 8/22/11. SBE refused to modify or withdraw; suspension made permanent by SJR 26.
2/21/01	SBE 23 IAC 25 24 IR 16109	Suspension	Economic Impact	Continued enforcement would constitute a serious threat to the welfare of special education students. Implementation may result in unqualified teachers being assigned to students for whom the teacher has no training or preparation. (See above description.) SBE refused to modify or withdraw; suspension made permanent by SJR 26.
11/19/02	DPA 89 IAC 120 26 IR 5047	Prohibition	Statutory Authority under Federal Law	Exceeds federal statutory authority by adding restrictions on determining whether an annuity was transferred at fair market value. DPA failed to respond to objection within statutory time limit; rulemaking deemed withdrawn.
11/18/03	OBRE 38 IAC 375, 1000, 1075 27 IR 16024, 16029, 16043	3 Suspensions	No Legitimate Emergency	Increases fees assessed on financial institutions without proving the existence of a situation meriting the use of emergency rulemaking. OBRE repealed emergency rules.
2/18/04	DPR 68 IAC 1370 28 IR 1760	Suspension	Lack of standards	Lacks sufficient standards to be applied in determining whether a purported kickboxing event is actually an ultimate fighting event. (Amateur and professional kickboxing events are exempt from DPR's authority to ban ultimate fighting.) DPR repealed emergency rule.
2/18/04	ICC 92 IAC 1710 27 IR 8600	Prohibition	Economic Impact	Increasing the amount a commercial relocater of trespassing vehicles is charged for filing relocation tow record forms and numbers, regardless of whether the relocater is reimbursed for the tow, may create an undue economic burden on these businesses, which may result in a decrease in relocater availability. ICC refused to modify or withdraw; prohibition expired.
7/13/04	BHE 23 IAC 1020 28 IR 284	Prohibition	Statutory Authority/ Policy Outside Rule	Statute specifies programs eligible for Health Service Education Grants and does not give BHE authority to further limit that eligibility. BHE withdrew.

1/11/05	DPH 77 IAC 860, 870, 880, 885 28 IR 1652, 1674, 2613, 1684, 1717	4 Prohibitions	Threat to the Public Interest	DPH failed to give all affected parties the opportunity to discuss the proposed manufactured housing rulemakings and potential amendments, creating a threat to the public interest. DPH modified; prohibitions withdrawn; DPH failed to adopt before 1 year expiration.
6/14/05	ESRB 41 IAC 220 29 IR 1101	Prohibition	Statutory Authority	Creates elevator safety rules - Numerous provisions conflicted with statute or lacked statutory authority. ESRB withdrew.
4/11/06	SBE 23 IAC 305 30 IR 86	Prohibition	Threat to the Public Interest	Sets school nutrition standards that do not provide a total approach to child nutrition through diet, nutrition education and exercise; preempts the purview of the State Task Force on Wellness that is to consider the issue of school nutrition and report to the Governor and the General Assembly by January 2007; and largely excludes local school district input and expertise in development of the proposal. SBE modified; prohibition withdrawn.
7/11/06	DCFS 89 IAC 406, 408 29 IR 18180, 18207	2 Prohibitions	Economic Impact	The rulemakings lack clarity, which threatens the public interest in that applicants/licensees and the families they serve could be adversely economically impacted. DCFS modified; prohibition withdrawn.
7/11/06	DFPR 38 IAC 110 30 IR 2449	Prohibition	Statutory Authority	No statutory authority to apply Payday Loan Reform Act restrictions to Consumer Installment Loan Act licensees. DFPR refused to modify or withdraw; prohibition withdrawn on provisions affecting military; remainder is permanently prohibited.
11/14/06	DOL 56 IAC 220 29 IR 19106	Prohibition	Statutory Authority	The provisions regarding when employee breaks may be taken are not statutorily required and appear to be unduly restrictive without significant benefit. DOL withdrew.
1/9/07	SBE 23 IAC 226 30 IR 4421	Prohibition	Threat to the Public Interest	Incorporates Special Education federal rules – Adoption of policies is not mandated by the USDoE and poses a serious threat to the interests of children with disabilities and special education teachers. SBE modified; prohibition withdrawn.
2/6/07	DOA 8 IAC 25 30 IR 14664	Prohibition	Statutory Authority	Regulation and licensing of dog daycare – DOA inadequately justified the need for this new regulatory activity, which was not specifically authorized by statute. DOA modified; prohibition withdrawn.
3/13/07	ESRB 41 IAC 1000 30 IR 16522	Prohibition	Threat to the Public Interest	Creates elevator safety rules – Adoption of 1 st Notice modification requiring mechanics to work under the direct supervision of a licensed contractor without an opportunity for public comment is a serious threat to the public interest. ESRB modified; prohibition withdrawn.
6/19/07	CMS 44 IAC 1 30 IR 19577	Prohibition	Statutory Authority	Allows piggybacking and multi-government procurement. CMS lacks statutory authority to permit numerous purchasing procedures and requirements of the Procurement Code to be bypassed. CMS withdrew.
9/18/07	DFPR 50 IAC 937	Suspension	No Emergency	Sets supplemental quarterly reporting requirements for health insurance firms. No emergency situation warranted adoption of an emergency rule. Use of emergency rulemaking imposes

	31 IR 10699E				new costs without the opportunity for prior review and comment by the affected public. DFPR repealed emergency rule.
10/10/07	DFPR 50 IAC 937 31 IR 10546	Prohibition	Statutory Authority		Sets supplemental quarterly reporting requirements for health insurance firms. No statutory authority. DFPR refused to modify or withdraw; prohibition permanent.
11/13/07	HFS 89 IAC 120 31 IR 15854E	Suspension	No Emergency		Expands FamilyCare to relatives of children receiving medical assistance with incomes of up to 400% FPL; picks up coverage for persons formerly receiving medical care under a federal State Children's Health Insurance Program waiver that expired 9/30/07. HFS repealed emergency rule.
1/11/08	HFS 89 IAC 140 31 IR 13570	Prohibition	Economic Impact		Authorizes medical assistance payment for routine examinations and preventive services for persons over 18 (currently children only). HFS refused to modify or withdraw; prohibition permanent.
1/11/08	DPH 77 IAC 975 31 IR 13672	Prohibition	Due Process		Implements Smoke Free Illinois Act. DPH refused to modify or withdraw; prohibition permanent.
2/13/08	HFS 89 IAC 147 32 IR 415	Suspension	No Emergency		Retools the Minimum Data System of determining reimbursement rates for medical assistance. HFS refused to modify or withdraw; suspension withdrawn.
2/26/08	HFS 89 IAC 120 31 IR 15424	Prohibition	Economic Impact		Expands FamilyCare to relatives of children receiving medical assistance with incomes of up to 400% FPL; picks up coverage for persons who have been receiving funds under the federal waiver that expired 9/30/07. HFS refused to modify or withdraw; prohibition permanent.
5/20/08	HFS 89 IAC 120 32 IR 7212	Suspension	Improper Use of Peremptory Rulemaking		Requires medical assistance recipients to meet TANF work requirements (FamilyCare). IAPA allows use of peremptory rulemaking to implement a court order. There was no court order. HFS refused to modify or withdraw; suspension permanent.
5/20/08	HFS 89 IAC 140 32 IR 6743	Suspension	Improper Use of Peremptory Rulemaking		Requires use of tamper-resistant prescription pads in order for a prescription to be eligible for Medicaid reimbursement. The IAPA deadline for implementing a federal requirement by peremptory rulemaking was exceeded. HFS failed to respond to objection; suspension permanent.
6/17/08	SBE 23 IAC 401 32 IR 4843	Suspension	No Emergency		Nonpublic and out-of-state providers of special ed services to students with disabilities must maintain a written policy that use of behavioral intervention strategies relying on pain will not be applied to any student. SBE repealed emergency rule.
9/16/08	SBE 23 IAC 401 32 IR 4705	Prohibition	Contravenes Statute		Nonpublic and out-of-state providers of special ed services to students with disabilities must maintain a written policy that use of behavioral intervention strategies relying on pain will not be applied to any student. SBE failed to respond to objection; deemed withdrawn.
11/19/08	HFS 89 IAC 120 32 IR 18889	Suspension	Improper Use of Peremptory Rulemaking		Requires medical assistance recipients to meet TANF work requirements (FamilyCare). IAPA allows use of peremptory rulemaking to implement a court order. There was no court order. HFS repealed peremptory rule.

11/19/08	DHS 89 IAC 121 32 IR 16905	Suspension	Improper Use of Peremptory Rulemaking	Implements provisions at the federal Food, Conservation and Energy Act of 2008 that made FS coupons obsolete after 6/18/08. DHS repealed peremptory rule.
3/17/09	HFS 89 IAC 140 32 IR 14003	Prohibition	Statutory Authority	HFS may deny participation in the medical assistance program to providers that owe a debt to HFS or if HFS receives credible evidence of fraud or willful misrepresentation under the medical assistance program. HFS modified; prohibition withdrawn.
6/16/09	HFS 89 IAC 140 32 IR 13761	Prohibition	Threat to the Public Interest	Describes group psychotherapy sessions eligible for medical assistance reimbursement. HFS modified; prohibition withdrawn.
6/16/09	DHS 89 IAC 686 33 IR 7017	Suspension	No Emergency	Implements enhanced rates to assist qualifying homemaker agencies providing healthcare coverage to their direct service employees. DHS repealed emergency rule.
7/14/09	DNR 17 IAC 3703 32 IR 14445	Prohibition	Economic Impact	Designates exclusion zones for run-of-river dams and sets specifications for signs and devices warning persons using public waters of the presence of dams. DNR refused to modify or withdraw; prohibition permanent.
9/15/09	DHS 89 IAC 112, 114 33 IR 5201, 5228	2 Prohibitions	Statutory Authority	Removes assets from consideration when determining an individual's eligibility for TANF and General Assistance. DHS withdrew.
9/15/09	DHS 59 IAC 270 33 IR 7054	Prohibition	Contravenes IAPA	Autism Research Fund grants. The rulemaking did not include sufficient grantmaking procedures and standards. DHS modified; prohibition withdrawn.
8/10/10	IEMA 32 IAC 330 33 IR 12061	Prohibition	Economic Impact	Exempts specified water and sewage treatment residuals or sludges containing naturally occurring radium from statutory registration, licensure, fee and reporting requirements and instead requires registration with IEMA. IEMA modified; prohibition withdrawn.
10/19/10	DFPR 68 IAC 1249 34 IR 5047	Prohibition	Economic Impact	Implements the Cemetery Oversight Act. DFPR withdrew.
4/12/11	SBE 23 IAC 30 34 IR 5047	2 Prohibitions	Statutory Authority	Establishes the Principal Preparation Program. SBE modified; prohibition withdrawn.
5/10/11	HFS 89 IAC 120 34 IR 11664	Prohibition	Statutory Authority/ Legislative Intent	Implements federal requirements for Medicaid eligibility for long term care assistance. HFS modified; prohibition withdrawn.
5/10/11	DFPR 50 IAC 8100 34 IAC 15926	Prohibition	Statutory Authority	Clarifies what activities will not be considered inducement for the referral of title insurance business. DFPR modified; prohibition withdrawn.

7/12/11	Treasurer 74 IAC 740 35 IR 8893	Suspension	No Legitimate Emergency	Revises administrative fee for participants in the Public Treasurers Investment Pool. Suspension withdrawn effective with adoption of modified permanent rule.
1/10/12	SOS 92 IAC 1001 35 IR 14916	Prohibition	Statutory Authority	BAIID exemption does not apply to a holder of a monitoring device driving permit using an employer's vehicle for personal use. SOS modified; prohibition withdrawn.
3/6/12	DPH 77 IAC 300 35 IR 9927	Prohibition	Lack of Clarity	Defines personnel delivering "direct care" for long term care facilities. DPH modified; prohibition withdrawn.
6/12/12	ICC 83 IAC 412	Prohibition	Statutory Authority	Sets requirements for retail electric suppliers' consumer education and protection programs providing for electric customer choice for residential or small retail commercial customers. ICC modified; prohibition withdrawn.
8/14/12	HFS 89 IAC 140.442(e)(4) 36 IR 11329	Suspension	Inappropriate Use of Emergency Rulemaking	In a SMART Act emergency rule, added antibiotics to medication types that do not require prior approval when a medical assistance recipient exceeds statutory limit of 4 prescriptions/mo. SMART Act did not address antibiotics. HFS modified; prohibition withdrawn.
8/14/12	HFS 89 IAC 140.491 36 IR 11329	Suspension	Unauthorized Use of Emergency Rulemaking	Removed exemption from prior approval for transportation of medical assistance patients from one hospital to another to obtain services not available at the discharging hospital. While the extraordinary SMART Act emergency rulemaking authority was used, this change was not required by the SMART Act. HFS modified; prohibition withdrawn.
8/14/12	HFS 89 IAC 148.70(g) 36 IR 10326	Suspension	Contravenes Federal Statute	Denies payment for entire hospital admission for medical assistance patients when a Medicare-defined hospital acquired condition occurs. HFS modified; prohibition withdrawn.
8/14/12	HFS 89 IAC 148.140(b)(1)(F) 36 IR 10326	Suspension	Inappropriate Use of Emergency Rulemaking	Eliminates enhanced medical assistance payment rates for hospital-based physical therapy. This change was not required or authorized by the SMART Act, but HFS used SMART Act's emergency rulemaking authority. HFS modified; prohibition withdrawn.
8/9/13	DOI 50 IAC 5421 36 IR 12957	Prohibition	Threat to the Public Interest	HMO deductibles/copayments must be waived when they exceed the annual maximum out-of-pocket expenses of a high deductible health plan set by the Affordable Care Act. Retaining the 50% cap on deductibles/copayments does not achieve the aim of permitting some HMO customers to obtain high deductible plans, as expressed by statute. DOI modified; prohibition withdrawn.
10/22/13	DNR 17 IAC 3000 37 IR 2843	Prohibition	Threat to the Public Interest/Economic Impact	Establishes a capital grant review system and sets a non-refundable application fee. The fees would create an untenable burden for the principal applicants – local governments and not-for-profits. DNR modified; prohibition withdrawn.

11/19/13	HFSRB 77 IAC 1110 37 IR 3982	Prohibition	Economic Impact	Requires an ASTC to submit to another HRSRB review to deliver services under a service approval already issued by HRSRB but under which the ASTC had not yet begun to implement services.
1/14/14	IGB 11 IAC 1800 37 IR 19882	Suspension	Statutory Authority	Created the Video Gaming Exclusion List and clarified that terminal operators must be licensed at the time they enter into use agreements. IGB repealed the emergency rule; suspension withdrawn.
1/14/14	HFS 89 IAC 147 38 IR 1205	Suspension	Threat to the Public Interest/Safety/Welfare; Economic Impact	Effective 1/1/14, implemented PAs establishing enhanced rates for ventilator services and traumatic brain injury (TBI) care. Also implemented Resource Utilization Group (RUG) methodology for determining nursing care LTC reimbursement. HFS modified; suspension withdrawn.
6/17/14	DHS 89 IAC 501 37 IR 19437, 19457	Prohibition	Threat to the Public Interest	Updates the Part to clarify Partner Abuse Intervention Program (PAIP) requirements, application and approval procedures, DHS monitoring processes and evaluation procedures. DHS modified; prohibition withdrawn.
10/14/14	ICC 83 IAC 470 37 IR 20544	Prohibition	Threat to the Public Interest	Outlines procedures for local government electrical aggregation programs operated by retail electric suppliers. ICC modified; prohibition withdrawn.
8/11/15	DPH 77 IAC 775 38 IR 18346	Prohibition	Threat to the Public Interest	Expands the Part to include procedures for DPH inspection and permitting of dairy farms that sell or distribute raw milk directly to consumers on their dairy farms. DPH modified; prohibition withdrawn.
11/13/18	PTAB 86 IAC 1910 42 IR 3862	Prohibition	Threat to the Public Interest	Prohibits any Illinois legislator from participating in Board proceedings by representing a taxpayer through any business entity, directly or indirectly, in any capacity other than a legislative capacity. PTAB withdrew the rulemaking.
12/11/18	DFPR 68 IAC 1290 42 IR 23202	Suspension	Threat to the Public Interest	Implements a PA allowing Opioid Alternative Pilot Program participants to enter dispensaries and purchase medical cannabis with written certification from a physician. Although the PA gave DFPR emergency rulemaking authority, DFPR's emergency rule included amendments not addressed in the PA. DFPR agreed, and removed the objectionable parts of the emergency rule.

**HISTORY OF GENERAL RULEMAKING BY AGENCY
1978 THROUGH 2018**

AGENCY	78-99	00	01	02	03	04	05	06	07	08	09	10	11	12	13	14	15	16	17	18	Total
Administrative Rules, Joint Committee on	29	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	29
Aging, Department on	83	2	1	5	-	1	1	2	3	2	1	2	2	1	1	2	1	-	7	3	120
Agriculture, Department of [16]	380	7	13	13	11	13	5	11	2	3	2	15	4	8	1	8	6	5	1	11	519
Architect of the Capitol, Office of the [38]	2	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	2
Attorney General	32	3	-	2	1	1	3	1	1	-	2	3	1	2	2	1	2	1	1	2	61
Attorney General's Ethics Commission	0	-	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1
Auditor General	33	-	-	-	-	-	2	-	1	2	-	1	-	2	-	1	-	-	1	1	44
Banking Board of Illinois, State	3	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	3
Capital Development Board [29]	67	7	8	1	3	2	2	2	3	-	1	4	1	2	1	-	1	-	-	4	109
Carnival-Amusement Safety Board-Dept. of Labor	15	-	1	-	2	-	1	-	-	-	1	-	-	-	-	1	-	-	-	-	21
Central Management Services, Dept. of [2]	293	19	18	29	11	11	20	22	10	10	12	7	12	17	8	9	4	3	9	3	527
Chief Procurement Officer-Capital Dev. Board	0	-	-	-	-	-	-	-	-	-	-	-	-	-	2	-	-	1	-	-	3
Chief Procurement Officer-General Services	0	-	-	-	-	-	-	-	-	-	-	-	-	2	1	1	-	1	-	-	5
Chief Procurement Officer-Higher Ed	2	-	-	-	-	-	-	-	-	1	-	-	-	1	-	-	1	1	-	1	7
Chief Procurement Officer-Dept. of Transportation	0	-	-	-	-	-	-	-	-	-	-	-	-	-	3	-	1	-	-	-	4
Children & Family Services, Department of	317	22	13	20	11	8	8	8	9	7	11	15	24	6	6	7	29	3	16	8	548
Civil Service Commission	5	-	-	-	-	-	-	-	-	-	1	1	-	1	-	-	-	-	-	1	9
Civil Service System, State Universities	18	-	-	-	-	-	-	-	1	1	2	1	1	2	-	-	1	3	1	-	31
Commerce & Econ. Opport., Dept. of [15][23][25]	234	8	7	7	1	10	4	5	1	4	-	2	5	3	5	1	-	2	3	8	310
Commerce Commission	448	15	16	25	40	10	22	3	7	8	6	11	18	7	16	14	2	13	7	11	699
Community College Board	47	1	1	2	-	2	1	-	-	1	-	-	-	-	-	-	1	1	6	5	68
Comptroller	49	3	3	3	1	-	-	1	-	-	-	-	5	1	2	-	-	1	2	2	73
Comptroller's Merit Commission	2	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	2
Cook County Local Records Commission	2	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	2
Corrections, Department of	321	-	2	4	-	4	3	3	1	-	1	3	-	3	-	2	-	1	-	1	349
Court of Claims	1	1	-	-	-	-	-	-	-	1	-	-	-	-	-	-	1	-	-	-	4
CPA Board of Examiners	2	-	-	-	1	1	-	-	1	-	-	1	2	-	-	-	-	1	1	-	10
Criminal Justice Information Authority	17	1	4	-	-	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	23
Deaf and Hard of Hearing Commission	0	-	-	1	-	-	-	-	-	1	-	1	-	1	-	-	-	-	-	-	4
Debt Collection Board	1	-	-	2	-	-	-	1	-	-	1	-	-	-	-	-	-	-	-	-	5
Council on Developmental Disabilities	2	-	-	-	-	-	-	0	1	2	-	-	-	-	-	-	-	-	-	-	5
Diversifying Hi Ed Faculty in IL Program Board	4	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	4

**HISTORY OF GENERAL RULEMAKING BY AGENCY
1978 THROUGH 2018**

AGENCY	78-99	00	01	02	03	04	05	06	07	08	09	10	11	12	13	14	15	16	17	18	Total
Drycleaner Environmental Response Trust Fund	0	2	-	-	-	1	1	3	1	1	-	1	-	1	-	-	-	-	-	-	12
Eastern Illinois University	0	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	0
Education, State Board of	211	4	22	14	8	16	50	23	23	24	23	25	17	21	27	17	38	11	22	7	603
Educational Labor Relations Board	16	-	1	-	-	10	-	-	-	-	-	6	-	-	4	-	-	-	2	-	39
Elections, State Board of	70	1	-	2	4	5	7	5	4	1	3	5	2	1	-	2	6	2	4	1	125
Electronic Recording Commission	0	-	-	-	-	-	-	-	-	-	-	1	-	-	-	-	-	-	-	-	1
Elevator Safety Review Board	0	-	-	-	-	-	1	1	1	2	-	-	1	-	-	-	-	-	-	-	7
Emergency Management Agency [31][24]	174	5	10	8	5	3	9	-	7	12	8	4	-	6	13	7	8	1	2	3	285
Employment Security, Department of	132	4	2	1	2	5	4	-	2	14	6	8	1	5	-	-	2	-	-	23	211
Environmental Protection Agency	224	7	8	3	3	1	3	4	3	5	7	10	6	4	3	3	1	4	16	12	327
Executive Ethics Commission [33]	0	1	-	-	-	-	2	-	1	-	-	-	-	1	1	-	-	-	-	1	7
Experimental Organ Transplantation Proced. Bd.	4	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	4
Financial and Professional Regulation [28] [35]	860	55	29	51	59	32	43	33	30	25	-	32	25	18	16	12	17	7	38	11	1,393
Finance Authority [30]	61	2	2	-	1	-	-	-	-	-	2	1	-	-	-	1	-	-	-	-	70
Fire Marshal	77	3	3	6	3	2	3	2	11	8	7	15	3	-	6	4	1	5	1	7	167
Gaming Board	8	1	2	2	2	3	3	1	3	6	5	5	2	11	7	5	3	7	8	2	86
Governor	2	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	2
Governor's Office of Management and Budget	0	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1	-	2	-	3
Green Government Coordinating Council [34]	0	-	-	-	-	-	-	-	-	2	-	-	-	-	-	-	-	-	-	-	2
Guardianship & Advocacy Commission	13	6	-	1	-	-	-	-	-	-	-	-	-	1	-	-	-	-	1	-	22
Health Facilities and Services Review Board [36]	60	14	3	4	-	-	4	1	6	4	4	3	5	1	3	3	4	3	5	1	128
Health Information Exchange Authority	0	-	-	-	-	-	-	-	-	-	-	-	-	1	1	-	-	-	-	-	2
Healthcare and Family Services, Department of [31]	1,425	23	30	43	32	30	37	32	17	27	23	25	24	22	39	29	6	14	12	21	1,911
Hearing Instrument Consumer Protection Board	2	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	2
Higher Education, Board of	53	-	-	-	-	1	2	5	1	2	3	1	5	2	-	-	2	-	5	3	85
Historic Preservation Agency	7	1	-	1	-	-	-	-	-	-	-	-	-	-	-	2	-	2	-	-	13
Housing Development Authority	45	1	3	1	1	-	1	3	1	1	1	2	1	2	3	1	2	-	1	-	70
Human Rights Commission [17]	14	-	-	-	-	-	-	-	-	2	1	1	-	-	-	-	1	-	-	-	19
Human Rights, Department of	26	1	1	2	-	2	2	3	2	5	2	2	-	3	-	2	2	-	2	1	58
Human Services, Department of [11] [1][18]	767	46	39	34	36	32	15	19	25	19	38	32	24	23	15	21	20	11	12	24	1,252
Illinois State University	0	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	0
Independent Tax Tribunal [39]	0	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1	-	-	-	-	1

**HISTORY OF GENERAL RULEMAKING BY AGENCY
1978 THROUGH 2018**

AGENCY	78-99	00	01	02	03	04	05	06	07	08	09	10	11	12	13	14	15	16	17	18	Total	
Innovation and Technology, Department of [41]	0																				1	1
Insurance, Department of [35]	291	18	15	14	10	x	x	x	x	x	x	17	6	11	13	33	16	10	19	40	513	
Investment, Illinois State Board of	8	-	-	-	-	-	-	1	1	1	1	1	2	2	2	2	-	-	-	2	23	
Labor Relations Board [22]	51	-	-	4	2	2	-	-	-	-	-	-	1	-	3	-	1	1	-	-	65	
Labor, Department of	78	12	3	-	-	4	9	-	-	2	4	7	3	1	-	6	4	-	-	2	135	
Law Enforcement Training and Standards Bd. [20]	16	-	-	-	-	1	1	-	1	1	-	2	2	1	-	1	-	-	-	-	26	
Legislative Information System	7	2	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	9	
Legislative Reference Bureau	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1	
Lieutenant Governor	4	-	-	1	-	-	-	-	-	1	-	-	1	-	-	-	-	-	-	-	7	
Liquor Control Commission	11	-	2	2	-	-	-	-	-	1	-	-	-	-	-	2	1	-	2	1	22	
Local Records Commission	2	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	2	
Lottery [26]	15	1	1	1	-	-	-	-	-	-	-	-	-	1	-	-	-	-	-	-	19	
Low-Level Radioactive Waste Task Group	0	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	0	
Medical District Commission	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1	
Military Affairs, Department of [5]	3	-	-	-	1	1	-	1	2	-	1	1	-	-	-	1	-	-	1	-	12	
Motor Vehicle Theft Prevention Council	4	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	4	
Natural Resources, Department of [10] [40]	1,152	25	52	45	32	47	35	23	29	26	29	33	27	18	39	20	35	24	27	28	1,746	
Nature Preserves Commission	3	-	-	-	-	-	-	-	-	-	-	-	-	-	1	-	-	-	-	-	4	
Northeastern Illinois Planning Commission	2	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	3	
Obsolete Boards & Commissions	78	5	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	83	
Obsolete Higher Ed Boards (BOR, BOG) [13]	10	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	10	
Pollution Control Board	649	30	12	17	9	20	18	11	19	8	9	27	20	18	18	20	19	11	12	12	959	
Illinois Power Agency	0	-	-	-	-	-	-	-	-	-	-	-	-	-	2	-	5	-	-	-	7	
Prisoner Review Board	6	-	-	-	-	-	1	-	-	-	-	-	-	-	-	-	-	-	-	-	7	
Procurement Policy Board	3	-	2	-	-	-	-	-	-	-	-	-	1	-	-	-	3	-	-	-	9	
Property Tax Appeal Board	8	-	-	-	-	-	5	6	1	1	1	-	-	-	-	1	-	-	1	2	26	
Public Health, Department of [21]	927	41	30	35	44	18	30	21	21	20	12	46	30	27	24	43	18	30	12	24	1,453	
Purchased Care Review Board [27]	14	-	-	-	1	-	-	-	-	-	-	-	1	-	-	-	-	-	-	-	16	
Racing Board	316	17	20	16	6	15	22	11	17	20	14	11	15	12	4	5	6	3	15	11	556	
Records Commission, State	1	-	-	-	-	-	-	1	1	1	-	-	-	-	-	-	-	-	-	-	4	
Retirement System, General Assembly	0	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	0	
Retirement System, Judges	0	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	0	

**HISTORY OF GENERAL RULEMAKING BY AGENCY
1978 THROUGH 2018**

AGENCY	78-99	00	01	02	03	04	05	06	07	08	09	10	11	12	13	14	15	16	17	18	Total
Retirement System, State Employees'	32	2	1	1	-	2	1	2	-	1	1	1	-	-	1	-	1	-	-	2	48
Retirement System, State Universities	9	-	1	-	2	2	8	4	-	1	2	1	2	2	3	2	2	1	2	1	45
Retirement System, Teachers'	20	2	1	3	1	2	3	2	2	4	2	5	2	2	-	2	1	2	1	2	59
Revenue, Department of [26]	411	78	52	41	18	23	11	6	21	33	11	17	11	4	4	43	14	14	14	30	856
Savings Institutions, Board of [12]	3	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	3
Secretary of State	394	14	13	26	7	17	24	25	23	-	23	27	19	21	20	25	17	14	14	17	740
Secretary of State's Merit Commission	0	-	-	-	-	-	-	-	-	20	-	-	3	-	-	-	-	-	-	-	23
Sex Offender Management Board	0	-	-	2	-	2	1	-	-	2	-	-	-	-	-	-	-	2	-	-	9
Southern Illinois University, Board of Trustees	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1
Specialized Care for Children, Division of	2	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	2	5
Sports Facilities Authority	2	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	2
State Historical Library	0	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	0
State Mandates Board of Review	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1
State Police Merit Board [8]	33	1	1	3	1	1	1	3	1	-	2	-	2	-	-	-	-	1	-	-	49
State Police, Department of [14]	33	4	5	3	6	3	1	2	4	-	2	3	2	2	4	2	3	6	6	3	94
State Appellate Defender	0	-	-	-	-	-	-	-	-	-	-	-	1	-	-	-	-	-	-	-	1
State's Attorneys Appellate Prosecutor [4]	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1
Student Assistance Commission [9]	205	15	10	8	15	9	10	18	8	9	5	7	4	10	13	5	10	2	4	8	375
Toll Highway Authority, Illinois State	5	2	-	1	1	1	3	-	-	-	-	1	1	-	2	1	2	1	1	-	22
Torture Inquiry Relief Commission	0	-	-	-	-	-	-	-	-	-	-	-	2	-	-	2	-	2	-	-	6
Transportation, Department of [10]	360	19	16	22	14	22	15	26	4	49	12	14	10	6	18	1	18	4	14	6	650
Travel Control Board, Governor's	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1
Travel Control Board, Higher Education	6	-	-	-	-	-	-	-	1	-	-	-	-	-	-	1	-	-	-	-	8
Travel Control Board, Legislative	4	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	4
Travel Regulation Council	1	-	-	-	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	2
Treasurer	26	3	2	2	-	-	4	3	-	-	-	-	1	3	2	1	-	2	4	9	62
University of Illinois, Board of Trustees	17	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	18
Veterans' Affairs, Department of	27	12	1	1	-	-	-	-	-	-	2	1	1	2	9	-	-	-	-	-	56

HISTORY OF GENERAL RULEMAKING BY AGENCY 1978 THROUGH 2018

AGENCY	78-99	00	01	02	03	04	05	06	07	08	09	10	11	12	13	14	15	16	17	18	Total
Violence Prevention Authority	0	-	-	-	-	-	-	-	-	-	1	-	-	-	-	-	-	-	-	-	1
Workers' Compensation Commission [32]	32	-	-	-	-	-	-	1	-	1	-	2	-	5	-	-	-	12	-	-	53
(Workers' Comp) Commission Review Bd [32]	0	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	0
TOTALS	11,947	572	483	535	409	399	461	361	335	405	307	471	361	330	368	378	340	246	337	381	19,426

This table illustrates the number of rulemakings commenced by each agency during the calendar year.

[1] DASA, once a division of Dangerous Drugs Commission, became a separate agency in 1984. [2] The Depts. of Personnel and Administrative Services were combined in 1982 and the name was changed to Dept. of Central Management Services. [3] Includes Emergency Services & Disaster Agency, which was renamed IEMA in 1992. [4] Includes State's Attorneys Appellate Service Commission. [5] The Military & Naval Department became the Dept. of Military Affairs in 1988. [6] The Dept. of Registration & Education became DPR in 1988. [7] Commissioner of Savings & Loan Associations became the Commissioner of Savings & Residential Finance in 1990 and combined with the Commissioner of Banks and Trusts to become the Commissioner of Banks and Real Estate in 1996. The new office also absorbed the real estate licensing functions of DPR. [8] Until 1986, the Dept. of Law Enforcement Merit Board. [9] The State Scholarship Commission became ISAC in 1989. [10] In 1995, DOC, ENR (previously, Institute of Natural Resources), M&M, AMLRC, and DOT Waterways Division were merged into the Dept. of Natural Resources. [11] July 1997, DHS was formed from DASA, DORS, DMHDD, and specific programs from DPA and DPH. [12] In 1996, the Savings and Loan Advisory Board became the Board of Savings Institutions. [13] In 1996, the Board of Regents/Governors were disbanded in favor of individual boards of trustees. Also includes obsolete Trustees of State CC of E. St. L. [14] Prior to 1985, Dept. of Law Enforcement. [15] Prior to 1979, Dept. of Local Government Affairs. [16] Includes State Fair Agency (prior to 1979). [17] Absorbed Fair Employment Practices Commission in 1980. [18] In 1984, the Dangerous Drugs Commission was absorbed by DASA, which was then absorbed by DHS in 1997. [19] IEFA absorbed the Higher Education Loan Authority in c. 1988. [20] In 1993, the Local Gov. Law Enforcement Officers Training Board was renamed the Law Enforcement Training & Standards Board. [21] HCCC absorbed Health Finance Authority (1979-82) duties in 1984. HCCC was abolished in 2002 and its duties taken by DPH. [22] In 2000, the Local Labor Relations and State Labor Relations Boards were combined into the Illinois Labor Relations Board. [23] In 2003, DCCA became DCEO. [24] In 2003, DNS was absorbed by IEMA. [25] In 2003, Prairie State 2000 Auth. was transferred to DCEO. [26] In 2003, Dept. of the Lottery was transferred to Revenue. In 2011, PA 97-464 changed the Lottery back to an independent agency. [27] The Governor's Purchased Care Review Board became the Purchased Care Review Board when it moved into SBE in 1996. [28] In 2004, the Depts. of Insurance, Professional Regulation and Financial Institutions and the Office of Banks and Real Estate were combined into the Dept. of Financial and Professional Regulation. [29] Illinois Building Commission was absorbed by the Capital Development Board 7/1/04. [30] The Illinois Finance Authority absorbed Illinois Development Finance Authority, Illinois Farm Development Authority, Illinois Health Facilities Authority, Independent Higher Education Loan Authority, Illinois Research Park Authority, Illinois Rural Bond Bank, Illinois Educational Facilities Authority and the Community Development Finance Corporation 1/1/04. [31] 7/1/05, the name of the Dept. of Public Aid was changed to the Dept. of Healthcare and Family Services. [32] On 1/1/05, the name of the Illinois Industrial Commission was changed to the Illinois Workers' Compensation Commission. [33] On 1/1/99, PA 90-737 repealed the Governor's Ethics Commission and replaced it with the Executive Ethics Commission. [34] PA 95-657 created the Green Government Coordinating Council in 2007. [35] On 4/1/09 DFPR's Division of Insurance was re-established as the Dept. of Insurance (part of DFPR from 2003-2009). [36] On 6/30/09 the name of the Health Facilities Planning Board was changed to the Health Facilities and Services Review Board. [37] Replaced Consortium for Educational Opportunity under PA 93-862 in 2004. [38] Formerly, Legislative Space Needs Commission. [39] PA 97-1129 created the Illinois Independent Tax Tribunal in 2012. [40] On 7/1/17, the Dept. of Historic Preservation and the ALPLM were absorbed into DNR. [41] On 3/25/16, EO 2016-1 consolidated executive branch information technology functions into the

**HISTORY OF EMERGENCY RULEMAKING BY AGENCY
1978 THROUGH 2018**

AGENCY	78-99	00	01	02	03	04	05	06	07	08	09	10	11	12	13	14	15	16	17	18	Total
Administrative Rules, Joint Committee on	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1
Aging, Department on	22	-	-	1	-	1	-	2	-	1	-	2	1	-	1	-	-	-	-	-	31
Agriculture, Department of [16]	22	3	1	2	5	1	-	1	-	1	-	3	1	1	-	2	-	1	-	-	44
Attorney General	2	-	-	-	-	1	1	-	-	-	-	-	-	-	-	-	-	-	-	-	4
Auditor General	0	-	-	-	-	-	-	-	1	-	-	-	-	-	-	-	-	-	-	-	1
Banking Board of Illinois, State	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1
Carnival-Amusement Safety Board	4	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	4
Central Management Services, Dept. of [2]	110	4	3	7	3	5	6	5	4	2	6	4	7	1	4	5	-	-	-	-	176
Chief Procurement Officer--General Services	0	-	-	-	-	-	-	-	-	-	-	-	-	-	1	-	-	-	-	-	1
Commerce & Economic Opportunity [15][23][26]	38	4	2	1	2	1	6	3	-	2	1	1	1	-	3	-	-	-	1	-	66
Commerce Commission	48	8	5	1	2	1	1	-	-	2	-	3	-	-	2	1	-	5	3	-	82
Community College Board	4	-	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	5
Comptroller	6	1	-	1	-	-	-	-	-	-	-	1	2	-	-	-	-	-	-	-	11
Corrections, Department of	63	-	-	-	-	1	1	-	1	-	-	-	-	-	-	-	-	-	-	-	66
CPA Board of Examiners	0	-	-	-	-	1	-	-	1	-	-	-	-	-	-	-	-	-	-	-	2
Criminal Justice Information Authority	8	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	9
Dangerous Drugs Advisory Council	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1
Diversifying Hi Ed Faculty in IL Program Board	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1
Dry Cleaners Emergency Response Trust Fund	0	2	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	2
Education, State Board of	42	2	2	-	1	3	3	4	1	4	4	3	-	2	-	1	3	-	4	-	79
Educational Labor Relations Board	8	-	-	-	-	2	-	-	-	-	-	-	-	-	-	-	-	-	-	-	10
Elevator Safety Review Board	0	-	-	-	-	-	-	1	-	-	-	-	-	-	-	-	-	-	-	-	1
Emergency Management Agency [3][25]	21	-	2	2	-	-	-	-	-	-	-	-	1	-	-	-	-	-	-	-	26
Employment Security, Department of	20	1	1	-	-	-	2	-	1	-	-	2	1	5	1	2	-	-	-	-	36
Environmental Protection Agency	24	-	-	-	-	-	-	-	-	-	5	3	-	-	-	-	-	-	-	-	32
Executive Ethics Commission [33]	0	-	-	-	-	-	2	-	-	-	-	2	-	-	-	-	-	-	-	-	4
Experimental Organ Transplantation Proced. Bd.	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1
Finance Authority	18	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	18
Fire Marshal	16	-	-	-	2	-	-	2	-	1	1	-	-	-	1	-	-	-	-	-	23
Gaming Board	4	-	-	1	1	1	1	-	-	-	1	1	1	3	1	1	-	-	1	-	17
Governor	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1
Green Government Coordinating Council	0	-	-	-	-	-	-	-	-	2	2	-	-	-	-	-	-	-	-	-	4
Guardianship and Advocacy Commission	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1
Health Coordinating Council, Statewide	6	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	6
Health Facilities and Services Review Board [35]	9	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	9
Higher Education CPO	2	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	2
Higher Education Loan Authority, Independent	1	-	-	-	-	-	-	-	-	-	1	-	-	-	-	-	-	-	-	-	2
Human Rights Commission [17]	2	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	2

**HISTORY OF EMERGENCY RULEMAKING BY AGENCY
1978 THROUGH 2018**

AGENCY	78-99	00	01	02	03	04	05	06	07	08	09	10	11	12	13	14	15	16	17	18	Total
Human Rights, Department of	3	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	3
Independent Tax Tribunal [37]	0	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1	-	-	-	-	1
Insurance, Department of [28][34]	29	3	-	2	-	-	-	-	-	-	-	1	-	-	-	-	-	-	-	-	35
Investment, Illinois State Board of	2	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	2
Labor Relations Board	8	-	-	-	2	2	-	-	-	-	-	-	-	2	-	1	-	-	-	-	15
Labor, Department of	16	1	-	-	-	3	1	-	-	1	2	1	1	1	-	-	-	-	-	-	27
Legislative Information System	4	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	4
Lieutenant Governor	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1
Liquor Control Commission	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1	-	-	-	-	2
Lottery [27]	0	-	-	-	-	-	-	-	-	-	-	-	1	-	-	-	-	-	-	-	1
Medical District Commission [36]	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1
Military Affairs, Department of [24]	0	-	-	-	1	1	-	-	-	-	1	1	-	-	-	-	-	-	2	-	6
Motor Vehicle Theft Prevention Council	2	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	2
Natural Resources, Department of [10]	144	1	5	4	1	2	4	1	4	1	-	2	1	1	3	2	1	1	-	-	178
Obsolete Boards & Commissions	9	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	9
Pollution Control Board	26	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	26
Prisoner Review Board	2	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	2
Procurement Policy Board	0	-	-	-	-	-	-	-	-	-	-	2	-	-	-	-	-	-	-	-	2
Purchased Care Review Board [28]	6	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	6
Racing Board	39	-	-	3	1	2	3	1	3	2	1	4	6	3	1	1	6	1	-	-	77
Retirement System, State Universities	1	-	-	-	-	-	-	-	-	-	1	-	-	-	-	1	-	1	-	-	4
Retirement System, Teachers'	7	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	7
Sex Offender Management Board	0	-	-	-	-	2	-	-	-	-	-	-	-	-	-	-	-	-	-	-	2
Specialized Care for Children, Division of	0	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1
State Mandates Board of Review	2	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	2
State Police Merit Board [8]	9	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	10
State Police, Department of [14]	7	-	3	2	-	-	-	1	1	-	-	1	-	1	1	2	-	6	-	-	25
Toll Highway Authority, Illinois State	0	2	-	1	1	2	-	-	-	-	-	-	-	-	-	1	-	-	-	-	7
Travel Control Board, Legislative	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1
Travel Regulation Council	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1
Treasurer	2	3	1	-	-	1	2	-	-	-	-	1	-	-	-	-	-	-	-	-	10

HISTORY OF EMERGENCY RULEMAKING BY AGENCY 1978 THROUGH 2018

AGENCY	78-99	00	01	02	03	04	05	06	07	08	09	10	11	12	13	14	15	16	17	18	Total
University of Illinois, Board of Trustees	9	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	10
Veterans' Affairs, Department of	2	-	-	-	-	-	-	-	-	-	1	-	-	-	-	-	-	-	-	-	3
Workers' Compensation Commission [32]	15	-	-	-	-	-	-	1	-	-	-	-	-	-	-	-	-	-	-	-	17

This table illustrates the number of rulemakings commenced by each agency during the calendar year.

[1] DASA, once a division of Dangerous Drugs Commission, became a separate agency in 1984. [2] The Depts. of Personnel and Administrative Services were combined in 1982 and the name was changed to Dept. of Central Management Services. [3] Includes Emergency Services & Disaster Agency, which was renamed IEMA in 1992. [4] Includes State's Attorneys Appellate Service Commission. [5] The Military & Naval Department became the Department of Military Affairs in 1988. [6] The Department of Registration & Education became DPR in 1988. [7] Commissioner of Savings & Loan Associations became the Commissioner of Savings & Residential Finance in 1990 and combined with the Commissioner of Banks and Trusts to become the Commissioner of Banks and Real Estate in 1996. The new office also absorbed the real estate licensing functions of DPR. [8] Until 1986, the Dept. of Law Enforcement Merit Board. [9] The State Scholarship Commission became ISAC in 1989. [10] In 1995, DOC, ENR (previously, Institute of Natural Resources), M&M, AMLRC, and DOT Waterways Division were merged into the Department of Natural Resources. [11] July 1997, DHS was formed from DASA, DORS, DMHDD, and specific programs from DPA and DPH. [12] In 1996, the Savings and Loan

Advisory Board became the Board of Savings Institutions. [13] In 1996, the Boards of Regents/Governors were disbanded in favor of individual boards of trustees. [14] Prior to 1985, Department of Law Enforcement. [15] Prior to 1979, Department of Local Government Affairs. [16] Includes State Fair Agency (prior to 1979). [17] Absorbed Fair Employment Practices Commission in 1980. [18] HCCC absorbed Health Finance Authority (1979-82) duties in 1984. HCCC was abolished in 2002 and its duties taken by DPH. [22] In 2000, the Local Labor Relations and State Labor Relations Boards were combined into the Illinois Labor Relations Board. [23] In 2003, DCCA became DCEO. [24] The Military & Naval Department became the Department of Military Affairs in 1988. [25] In 2003, DNS was absorbed by IEMA. [26] In 2003, Prairie State 2000 Auth. was transferred to DCEO. [27] In 2003, Department of the Lottery was transferred to Revenue. In 2011, PA 97-464 changed the Lottery back to an independent agency. [28] The Governor's Purchased Care Review Board became the Purchased Care Review Board when it moved into SBE in 1996. [28] In 2004, the Departments of Insurance, Professional Regulation and Financial Institutions and the Office of Banks and Real Estate were combined into the Department of Financial and Professional Regulation. [29] Illinois Building Commission was absorbed by the Capital Development Board 7/1/04. [30] The Illinois Finance Authority absorbed Illinois Development Finance Authority, Export Development Authority, Illinois Farm Development Authority, Illinois Health Facilities Authority, Illinois Research Park Authority, Illinois Rural Bond Bank, Illinois Educational Facilities Authority and the Illinois Community Development Finance Corporation 1/1/04. [31] 7/1/05, the name of the Department of Public Aid was changed to the Department of Healthcare and Family Services. [32] On 1/1/05, the name of the Illinois Industrial Commission was changed to the Illinois Workers' Compensation Commission. [33] On 1/1/99, PA 90-737 repealed the Governor's Ethics Commission and replaced it with the Executive Ethics Commission. [34] On 4/1/09 DFP's Division of Insurance was re-established as the Department of Insurance (part of DFP from 2003-2009). [35] On 6/30/09 the name of the Health Facilities Planning Board was changed to the Health Facilities and Services Review Board. [36] Formerly, Medical Center Commission. [37] PA 97-1129 created the Illinois Independent Tax Tribunal in 2012.

**HISTORY OF PEREMPTORY/EXEMPT RULEMAKING BY AGENCY
1978 THROUGH 2018**

AGENCY	78-99	00	01	02	03	04	05	06	07	08	09	10	11	12	13	14	15	16	17	18	Total
Aging, Department on	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1
Agriculture, Department of [16]	88	5	3	2	4	4	4	2	3	2	3	-	3	2	2	3	-	1	-	-	131
Central Management Services, Department of [2]	64	6	3	2	1	10	13	13	8	10	13	15	9	9	10	9	3	3	9	1	211
Children & Family Services, Department of	2	-	-	-	-	-	2	-	-	-	-	-	-	-	-	-	-	-	-	-	4
Commerce Commission	3	-	-	-	-	-	-	-	-	-	-	-	-	-	1	-	-	-	-	-	4
Comptroller	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1
Corrections, Department of	16	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	16
Education, State Board of	11	2	-	-	-	-	-	-	-	-	-	-	3	-	-	-	-	-	-	-	16
Emergency Management Agency	0	-	-	-	-	-	-	-	-	2	1	5	1	-	1	-	2	3	-	2	17
Employment Security, Department of	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1
Healthcare and Family Services, Department of [13]	90	-	-	-	-	-	-	-	-	3	1	-	-	-	-	-	-	-	-	-	94
Department of Human Services [11][1]	2	-	-	1	1	1	2	2	1	6	3	1	2	1	2	2	3	1	2	1	34
Labor, Department of	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1
Natural Resources, Department of [10]	2	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	2
Nature Preserves Commission	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1
Pollution Control Board	267	24	13	14	11	10	18	25	2	20	8	8	16	10	13	10	2	12	3	30	516
Public Health, Department of	2	-	-	-	-	-	-	-	-	-	-	-	-	-	1	-	-	-	-	-	3
Retirement System, State Employees	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1
Revenue, Department of	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1
Transportation, Department of [10]	2	-	-	-	-	4	5	-	-	-	-	-	-	-	-	-	-	-	-	-	11
Travel Regulation Council	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1
Treasurer	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1
Obsolete Boards & Commissions	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1
TOTALS	559	37	19	19	17	29	44	42	14	43	29	29	34	22	30	24	10	20	14	34	1,069

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