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INTRODUCTION

The *Illinois Register* is the official state document for publishing public notice of rulemaking activity initiated by State governmental agencies. The table of contents is arranged categorically by rulemaking activity and alphabetically by agency within each category.

Rulemaking activity consists of proposed or adopted new rules; amendments to or repealers of existing rules; and rules promulgated by emergency or peremptory action. Executive Orders and Proclamations issued by the Governor; notices of public information required by State Statute; and activities (meeting agendas; Statements of Objection or Recommendation, etc.) of the Joint Committee on Administrative Rules (JCAR), a legislative oversight committee which monitors the rulemaking activities of State Agencies; is also published in the Register.

The Register is a weekly update of the Illinois Administrative Code (a compilation of the rules adopted by State agencies). The most recent edition of the Code, along with the Register, comprise the most current accounting of State agencies' rulemakings.

The *Illinois Register* is the property of the State of Illinois, granted by the authority of the Illinois Administrative Procedure Act [5 ILCS 100/1-1, et seq.].

ILLINOIS REGISTER PUBLICATION SCHEDULE FOR 2020

| Issue# | Rules Due Date | Date of Issue |
|---------------|-----------------------|----------------------|
| 1 | December 23, 2019 | January 3, 2020 |
| 2 | December 30, 2019 | January 10, 2020 |
| 3 | January 6, 2020 | January 17, 2020 |
| 4 | January 13, 2020 | January 24, 2020 |
| 5 | January 21, 2020 | January 31, 2020 |
| 6 | January 27, 2020 | February 7, 2020 |
| 7 | February 3, 2020 | February 14, 2020 |
| 8 | February 10, 2020 | February 21, 2020 |
| 9 | February 18, 2020 | February 28, 2020 |
| 10 | February 24, 2020 | March 6, 2020 |
| 11 | March 2, 2020 | March 13, 2020 |
| 12 | March 9, 2020 | March 20, 2020 |
| 13 | March 16, 2020 | March 27, 2020 |
| 14 | March 23, 2020 | April 3, 2020 |
| 15 | March 30, 2020 | April 10, 2020 |
| 16 | April 6, 2020 | April 17, 2020 |
| 17 | April 13, 2020 | April 24, 2020 |
| 18 | April 20, 2020 | May 1, 2020 |
| 19 | April 27, 2020 | May 8, 2020 |
| 20 | May 4, 2020 | May 15, 2020 |
| 21 | May 11, 2020 | May 22, 2020 |
| 22 | May 18, 2020 | May 29, 2020 |

| | | |
|----|--------------------|--------------------|
| 23 | May 26, 2020 | June 5, 2020 |
| 24 | June 1, 2020 | June 12, 2020 |
| 25 | June 8, 2020 | June 19, 2020 |
| 26 | June 15, 2020 | June 26, 2020 |
| 27 | June 22, 2020 | July 6, 2020 |
| 28 | June 29, 2020 | July 10, 2020 |
| 29 | July 6, 2020 | July 17, 2020 |
| 30 | July 13, 2020 | July 24, 2020 |
| 31 | July 20, 2020 | July 31, 2020 |
| 32 | July 27, 2020 | August 7, 2020 |
| 33 | August 3, 2020 | August 14, 2020 |
| 34 | August 10, 2020 | August 21, 2020 |
| 35 | August 17, 2020 | August 28, 2020 |
| 36 | August 24, 2020 | September 4, 2020 |
| 37 | August 31, 2020 | September 11, 2020 |
| 38 | September 8, 2020 | September 18, 2020 |
| 39 | September 14, 2020 | September 25, 2020 |
| 40 | September 21, 2020 | October 2, 2020 |
| 41 | September 28, 2020 | October 9, 2020 |
| 42 | October 5, 2020 | October 16, 2020 |
| 43 | October 13, 2020 | October 23, 2020 |
| 44 | October 19, 2020 | October 30, 2020 |
| 45 | October 26, 2020 | November 6, 2020 |
| 46 | November 2, 2020 | November 13, 2020 |
| 47 | November 9, 2020 | November 20, 2020 |
| 48 | November 16, 2020 | November 30, 2020 |
| 49 | November 23, 2020 | December 4, 2020 |
| 50 | November 30, 2020 | December 11, 2020 |
| 51 | December 7, 2020 | December 18, 2020 |
| 52 | December 14, 2020 | December 28, 2020 |

ILLINOIS LABOR RELATIONS BOARD

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: General Procedures
- 2) Code Citation: 80 Ill. Adm. Code 1200
- 3)

| | |
|-------------------------|--------------------------|
| <u>Section Numbers:</u> | <u>Proposed Actions:</u> |
| 1200.40 | Amendment |
| 1200.50 | Amendment |
- 4) Statutory Authority: Authorized by Section 5(i) of the Illinois Public Labor Relations Act [5 ILCS 315]
- 5) A Complete Description of the Subjects and Issues Involved: The proposed amendment to Section 1200.40 establishes rules for holding remote hearings via video conferencing technology.

The proposed amendment to 1200.50 states that the Board will bear the costs charged by a stenographer for the first two days of a hearing, subject to appropriations. This will diminish the financial burden of the hearing process currently imposed upon the parties.

- 6) Any published studies or reports, along with the sources of underlying data, that were used when comprising this rulemaking? None
- 7) Will this rulemaking replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? Yes

| | | |
|------------------------|-------------------------|------------------------------------|
| <u>Section Number:</u> | <u>Proposed Action:</u> | <u>Illinois Register Citation:</u> |
| 1200.20 | Amendment | 44 Ill. Reg. 12061; July 24, 2020 |

- 11) Statement of Statewide Policy Objective: This rulemaking will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

ILLINOIS LABOR RELATIONS BOARD

NOTICE OF PROPOSED AMENDMENTS

- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this Notice to:

Anna Hamburg-Gal
Associate General Counsel
Illinois Labor Relations Board
160 N. LaSalle St. Ste. 400
Chicago IL 60601

312/793-6380
Anna.Hamburg-Gal@Illinois.gov

All written comments received within 45 days after this issue of the *Illinois Register* will be considered.

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: By establishing an option for remote hearings, the Board will positively affect municipalities located far from the Board's two offices by reducing the need for travel for a hearing. By assuming the stenographer's costs of the first two days of hearing, the Board will diminish the financial burden of the hearing process on parties who practice before the Board.
 - B) Reporting, bookkeeping or other procedures required for compliance: The rulemaking will not impose additional reporting, bookkeeping, or other procedures on the Board.
 - C) Types of professional skills necessary for compliance: None
- 14) Small Business Impact Analysis: None
- 15) Regulatory Agenda on which this rulemaking was summarized: The rulemaking was not summarized in a regulatory agenda because the need for the rulemaking was not anticipated.

The full text of the Proposed Amendments begins on the next page:

ILLINOIS LABOR RELATIONS BOARD

NOTICE OF PROPOSED AMENDMENTS

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES
SUBTITLE C: LABOR RELATIONS
CHAPTER IV: ILLINOIS LABOR RELATIONS BOARDPART 1200
GENERAL PROCEDURES

| Section | |
|----------|---|
| 1200.3 | General Statement of Purpose |
| 1200.5 | Board Information and Business Hours |
| 1200.7 | Board Meetings |
| 1200.10 | Definitions |
| 1200.20 | Filing and Service of Documents |
| 1200.30 | Computation and Extensions of Time |
| 1200.40 | Authority of Administrative Law Judges |
| 1200.45 | Motions |
| 1200.50 | Recording of Hearings and Payment of Court Reporting Services |
| 1200.60 | Closing Arguments and Briefs Before An Administrative Law Judge |
| 1200.70 | Representation of Parties |
| 1200.80 | Ex Parte Communications |
| 1200.90 | Subpoenas |
| 1200.100 | Transfer of Jurisdiction |
| 1200.105 | Consolidation of Proceedings |
| 1200.110 | Amicus Curiae Briefs (Repealed) |
| 1200.120 | Voluntary Settlement or Adjustment of Disputes |
| 1200.130 | Rules of Evidence |
| 1200.135 | Appeals Procedures, Board Review and Court Review |
| 1200.140 | Briefs |
| 1200.143 | Declaratory Rulings |
| 1200.145 | Filing of Contracts |
| 1200.150 | Conflicts of Interest |
| 1200.160 | Variations and Suspensions of Rules |
| 1200.170 | Board Member Meeting Attendance by Means other than Physical Presence |

AUTHORITY: Implementing and authorized by the Illinois Public Labor Relations Act [5 ILCS 315].

SOURCE: Emergency rule adopted at 8 Ill. Reg. 17314, effective September 11, 1984, for a maximum of 150 days; adopted at 9 Ill. Reg. 1846, effective January 25, 1985; amended at 11 Ill.

ILLINOIS LABOR RELATIONS BOARD

NOTICE OF PROPOSED AMENDMENTS

Reg. 6428, effective March 27, 1987; amended at 12 Ill. Reg. 20096, effective November 18, 1988; amended at 14 Ill. Reg. 19896, effective November 30, 1990; amended at 17 Ill. Reg. 15588, effective September 13, 1993; amended at 20 Ill. Reg. 7391, effective May 10, 1996; amended at 27 Ill. Reg. 7365, effective May 1, 2003; emergency amendment at 27 Ill. Reg. 15557, effective September 22, 2003, for a maximum of 150 days; emergency amendment expired February 18, 2004; amended at 28 Ill. Reg. 4166, effective February 19, 2004; emergency amendment at 28 Ill. Reg. 7540, effective May 12, 2004, for a maximum of 150 days; emergency expired October 8, 2004; amended at 28 Ill. Reg. 15154, effective November 1, 2004; emergency amendment at 37 Ill. Reg. 5897, effective April 22, 2013, for a maximum of 150 days; amended at 37 Ill. Reg. 14064, effective August 23, 2013; amended at 37 Ill. Reg. 20637, effective December 13, 2013; emergency amendment at 39 Ill. Reg. 10641, effective July 15, 2015, for a maximum of 150 days; amended at 39 Ill. Reg. 15803, effective November 25, 2015; amended at 40 Ill. Reg. 10892, effective August 1, 2016; expedited correction at 41 Ill. Reg. 4520, effective August 1, 2016; amended at 41 Ill. Reg. 6566, effective May 26, 2017; emergency amendment at 44 Ill. Reg. 11866, effective July 6, 2020, for a maximum of 150 days; amended at 45 Ill. Reg. _____, effective _____.

Section 1200.40 Authority of Administrative Law Judges

- a) The Administrative Law Judge (ALJ) shall have the duty to conduct a fair hearing, to take all necessary action to avoid delay, to maintain order, and to ensure development of a clear and complete record. The AJL ~~Administrative Law Judge~~ shall have all powers necessary to achieve these ends, including, but not limited to, the discretionary authority to:
- 1a) Require the parties to participate in a pre-hearing conference and/or mediation before proceeding with a hearing;
- 2b) Require all parties to submit pre-hearing information, including, but not limited to:
- A) a detailed written statement of the issue to be resolved at hearing and its position;
- B) a list of witnesses each party intends to call, the nature of their testimony, the estimated time for each witness' testimony, and the estimated time for the party's case in chief;

ILLINOIS LABOR RELATIONS BOARD

NOTICE OF PROPOSED AMENDMENTS

- C) a list of exhibits to be offered by each party in its case in chief and a copy of each exhibit; and
- D) all other information the ~~ALJ~~Administrative Law Judge requests;
- 3e) Regulate the proceedings of the case, and the conduct of the parties and their counsel;
- 4d) Administer oaths and affirmations;
- 5e) Receive relevant testimony and evidence;
- 6f) Establish reasonable limits on the frequency and duration of the testimony of any witness and limit repetitious or cumulative testimony;
- 7g) Examine witnesses and direct witnesses to testify; however, this provision does not lessen any party's burden of proof;
- 8h) Issue subpoenas and rule upon motions to revoke subpoenas;
- 9i) Take administrative notice of generally recognized facts of which Illinois courts may take judicial notice and of other facts within the specialized knowledge and experience of the Board;
- 10j) Rule on objections, motions and questions of procedure;
- 11k) Authorize the submission of briefs and set the time for their filing;
- 12l) Hear closing argument;
- 13m) Order a hearing reopened prior to the issuance of the ~~ALJ's~~Administrative Law Judge's recommended decision and order;
- 14n) Render and serve the recommended decision and order on the parties to the proceeding;
- 15e) Carry out the duties of ~~ALJ~~Administrative Law Judge as provided or otherwise authorized by the Act, this Part, or 80 Ill. Adm. Code 1210, 1220 or 1230 ~~or the Act~~.

ILLINOIS LABOR RELATIONS BOARD

NOTICE OF PROPOSED AMENDMENTS

- b) At the discretion of the ALJ, any hearing required under 80 Ill. Adm. Code 1210 and 1220 may be conducted either in person or by video teleconferencing.
- 1) Representation hearings shall be held at the offices of the Board or such other location as the Board deems appropriate. [5 ILCS 315/9(a)]
 - 2) Unfair labor practice hearings shall be held at the offices of the Board or such other location as the Board deems appropriate. [5 ILCS 315/11(a)]
 - 3) When a hearing is conducted using video teleconferencing, the parties and the ALJ need not be physically present at the same location.
 - 4) In deciding whether a hearing should be conducted by video teleconferencing, the ALJ shall consider factors such as cost-effectiveness, efficiency, facility accommodations, witness availability, public interest, the parties' preferences, and the proceeding's complexity and contentiousness.
 - 5) When a hearing is conducted using video teleconferencing, appropriate safeguards must be employed to ensure that the ALJ has the ability to assess the witness' credibility and that the parties have a meaningful opportunity to examine and cross-examine the witness. These safeguards must ensure that:
 - A) the representatives of the parties have the opportunity to be present at the remote location;
 - B) the ALJ, participants, and reporter are able to hear the testimony and observe the witness;
 - C) the camera view is adjustable to provide a close-up view of counsel and the witness and a panoramic view of the room;
 - D) exhibits used in the witness' examination are exchanged in advance of the examination; and
 - E) video technology assistance is available to address technical difficulties that arise during the examination.

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- 6) The ALJ may also impose additional safeguards to effectuate the use of video teleconferencing.
- 7) The official record of the videoconference testimony will be the official transcript prepared by the reporter designated to transcribe the testimony.

(Source: Amended at 45 Ill. Reg. _____, effective _____)

Section 1200.50 Recording of Hearings and Payment of Court Reporting Services

- a) When a hearing is held by the Board or its Administrative Law Judge at which oral argument, testimony, or other oral presentation is offered, it shall be recorded by stenographic or other means that adequately preserves the record. The records shall be transcribed and made part of the administrative record. ~~The parties shall share equally all costs charged to the Board by the stenographer or court reporting service. However, an individual, self-represented litigant may direct written correspondence to the General Counsel requesting that the Board pay his/her portion of the cost. Subject to appropriation, the Board will pay all or a portion of the costs that would otherwise be borne by an individual, self-represented litigant.~~
- b) Subject to appropriation, the Board will bear the costs charged by the stenographer or court reporting service for the first two days of hearing. The parties will share equally the costs of any additional days of hearing. When there is inadequate appropriation, the parties shall share equally all costs charged to the Board by the stenographer or court reporting service.
- c) The Board will bear the costs of producing a transcript of oral arguments when oral argument is requested by the Board, but not when oral argument is requested by either party.
- d) Parties may order transcripts and shall bear the costs of any transcripts that they order.

(Source: Amended at 45 Ill. Reg. _____, effective _____)

ILLINOIS LABOR RELATIONS BOARD

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Representation Proceedings
- 2) Code Citation: 80 Ill. Adm. Code 1210
- 3) Section Number: 1210.140 Proposed Action: Amendment
- 4) Statutory Authority: Authorized by Section 5(i) of the Illinois Public Labor Relations Act [5 ILCS 315]
- 5) A Complete Description of the Subjects and Issues Involved: The proposed rulemaking clarifies that when there are three or more choices on a ballot in a representation election and no choice receives a majority, the Board will conduct only one runoff election.
- 6) Any published studies or reports, along with the sources of underlying data, that were used when comprising this rulemaking? None
- 7) Will this rulemaking replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this Notice to:

Anna Hamburg-Gal
Associate General Counsel
Illinois Labor Relations Board
160 N. LaSalle St. Ste. 400
Chicago IL 60601

ILLINOIS LABOR RELATIONS BOARD

NOTICE OF PROPOSED AMENDMENT

312/793-6380

Anna.Hamburg-Gal@Illinois.gov

All written comments received within 45 days after this issue of the *Illinois Register* will be considered.

13) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
- B) Reporting, bookkeeping or other procedures required for compliance: The rulemaking will not impose additional reporting, bookkeeping, or other procedures on the Board.
- C) Types of professional skills necessary for compliance: None

14) Small Business Impact Analysis: None

15) Regulatory Agenda on which this rulemaking was summarized: The rulemaking was not summarized in a regulatory agenda because the need for the rulemaking was not anticipated.

The full text of the Proposed Amendment begins on the next page:

ILLINOIS LABOR RELATIONS BOARD

NOTICE OF PROPOSED AMENDMENT

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES
SUBTITLE C: LABOR RELATIONS
CHAPTER IV: ILLINOIS LABOR RELATIONS BOARDPART 1210
REPRESENTATION PROCEEDINGS

Section

| | |
|----------|--|
| 1210.10 | General Statement of Purpose |
| 1210.20 | Labor Organization Options in Seeking Recognition |
| 1210.30 | Employer Options in Responding to Recognition Requests |
| 1210.35 | Timeliness of Petitions and Bars to Elections |
| 1210.37 | Bargaining Unit Determinations |
| 1210.40 | Representation Petitions |
| 1210.50 | Intervention Petitions |
| 1210.60 | Decertification Petitions |
| 1210.65 | Declaration of Disinterest Petition |
| 1210.70 | Timeliness of Petitions (Repealed) |
| 1210.80 | Showing of Interest |
| 1210.90 | Posting of Notice (Repealed) |
| 1210.100 | Processing of Petitions |
| 1210.105 | Consent Elections |
| 1210.107 | Hearings |
| 1210.110 | Consent Elections (Renumbered) |
| 1210.120 | Bargaining Unit Determinations (Repealed) |
| 1210.130 | Eligibility of Voters |
| 1210.140 | Conduct of the Election |
| 1210.150 | Objections to the Election |
| 1210.160 | Voluntary Recognition Procedures |
| 1210.170 | Unit Clarification Procedures |
| 1210.175 | Stipulated Unit Clarification Procedures |
| 1210.180 | Procedures for Amending Certifications |
| 1210.190 | Expedited Elections Pursuant to Section 10(b)(7)(C) of the Act |

AUTHORITY: Implementing Section 9 and authorized by Section 5(i) and (j) of the Illinois Public Labor Relations Act [5 ILCS 315].

SOURCE: Emergency rule adopted at 8 Ill. Reg. 16014, effective August 22, 1984, for a maximum of 150 days; adopted at 9 Ill. Reg. 1870, effective January 25, 1985; amended at 11 Ill.

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Reg. 6461, effective March 27, 1987; amended at 12 Ill. Reg. 20110, effective November 18, 1988; amended at 14 Ill. Reg. 19930, effective November 30, 1990; amended at 17 Ill. Reg. 15612, effective September 13, 1993; amended at 20 Ill. Reg. 7406, effective May 10, 1996; amended at 27 Ill. Reg. 7393, effective May 1, 2003; emergency amendment at 27 Ill. Reg. 15563, effective September 22, 2003, for a maximum of 150 days; amended at 28 Ill. Reg. 4172, effective February 19, 2004; amended at 45 Ill. Reg. _____, effective _____.

Section 1210.140 Conduct of the Election

- a) The election shall be conducted under the supervision of the Board. Voting shall be by secret ballot. Whenever the Board determines that a mail ballot will better effectuate the purposes of the Act, it shall conduct the election by mail ballot. In all other cases, it shall conduct the election on site.
- b) Ballots shall list all labor organizations that properly petitioned or intervened in the election, the incumbent exclusive representative, and the choice of "No Representation".
- c) ~~When~~Where an election involves a bargaining unit that includes craft employees, and there has been a proper petition for a separate craft unit, craft employees shall be given two ballots: one to vote for or against craft severance and a second to vote on choice of representative, if any. Noncraft employees shall only be given ballots for voting on choice of representative.
- d) ~~When~~Where an election involves a bargaining unit containing professional and nonprofessional employees, all employees shall be given two ballots: one for indicating whether they desire a combined professional/nonprofessional unit and a second for indicating choice of representative, if any.
- e) On Site Election Procedures. When the election is conducted on site, the following procedures shall apply:
 - 1) Each party shall be entitled to an equal number of observers, as determined by the Executive Director or the Board agent. Observers for the employer may not be individuals who supervise any of the employees in the bargaining unit, other individuals closely identified with management, paid union staff, or attorneys for any party. The conduct of observers is subject to such reasonable limitations as the Executive Director or Board agent may prescribe.

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- 2) Parties must submit to the Board agent the names and job titles of each observer who will be present at the election. This information shall be submitted at least 2 days prior to the election.
- 3) Election observer duties include assisting in the identification of voters, challenging voters and/or ballots, if necessary, and otherwise assisting the Board agent.
- 4) The Board agent shall prescribe the area in proximity to the polling place in which electioneering shall be prohibited. Cameras, video equipment, and similar equipment shall be prohibited within the actual polling area while employees are voting.
- 5) Ballot boxes shall be examined in the presence of the observers immediately prior to the opening of the polls and shall be sealed at the opening of the polls. The seal shall allow for one opening on the top of the ballot box for voters to insert their ballots.
- 6) The Board agent or any authorized observer may challenge the eligibility of any voter. The observer must state the reason for the challenge. A voter whose identity has been challenged may establish identity by showing a driver's license or any other piece of identification acceptable to the Board agent. A challenged voter shall be permitted to vote in secret. The challenged voter's ballot shall be placed in a "challenged ballot" envelope. The envelope shall be sealed by the Board agent and initialed by the observers. The reason for the challenge and the voter's name shall be marked on the envelope and the envelope shall be placed in the ballot box.
- 7) A voter shall mark a cross (X) or check mark in the circle or block designating the voter's choice in the election. If the voter seeks assistance in marking the ballot, the intent of the voter shall be followed in that marking of the ballot. If the ballot is defaced, torn or marked in such a manner that it is not understandable, or identifies the voter, the ballot shall be declared void. If the voter inadvertently spoils a ballot, it may be returned to the Board agent who shall give the voter another ballot. The spoiled ballot shall be placed in a "spoiled ballot" envelope. The envelope shall be sealed by the Board agent and initialed by the observers, and the

ILLINOIS LABOR RELATIONS BOARD

NOTICE OF PROPOSED AMENDMENT

Board agent shall place the envelope in the ballot box.

- 8) A voter shall fold the ballot so that no part of its face is exposed and, on leaving the voting booth, shall deposit the ballot in the ballot box. If the election is continued for more than one period, the ballot box shall be sealed by the Board agent and initialed by the observers until the subsequent opening of the polls and shall remain in the custody of the Board agent until the counting of the ballots.
 - 9) The Board agent may privately assist any voter who, due to physical or other disability, is unable to mark the ballot.
 - 10) Each party shall designate a representative to observe the tallying of the ballots.
 - 11) Upon conclusion of the polling, ballots shall be tallied in accordance with subsection (g). If there was only one polling location, ballots shall be tallied at the polling site. If there was more than one polling location, the Board agent shall seal the ballot boxes, which shall be initialed by the observers, and bring them to a predetermined central location. When all of the ballot boxes have arrived, they shall be opened by the Board agent and the ballots shall be commingled for tallying.
- f) Mail Ballot Election Procedures. When the election is to be conducted by mail ballot, the following procedures shall apply:
- 1) Each eligible voter shall be mailed a packet containing a ballot, ballot envelope, ~~a~~ pre-addressed stamped return envelope, and instructions.
 - 2) The instructions shall advise the voter to mark the ballot without using a self-identifying mark, place the ballot in the ballot envelope, seal the ballot envelope and place it in the return envelope, seal the return envelope, both print and sign the return envelope across the seal, and mail it to the Board. The instructions will also advise the voter of the date, set by the Board, by which return envelopes must be postmarked.
 - 3) When the election includes a vote on a combined professional/ nonprofessional unit, or a vote on craft severance, the appropriate voters shall be mailed separate ballots and ballot envelopes for unit preference or

ILLINOIS LABOR RELATIONS BOARD

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craft severance, and for choice of representative. These voters shall be instructed to mark the ballots separately, place them in their respective ballot envelopes, and return both ballot envelopes in the return envelope.

- 4) The parties may designate an equal number of representatives, as set by the Board, to observe the tallying of the ballots. Ballots shall be tallied on a date set by the Board.
 - 5) Ballots shall remain unopened in their return envelopes until the date set for tallying. On the date set for tallying, the representatives and the Board agent shall have an opportunity to challenge any ballots prior to the opening of the return envelopes. Challenged ballots shall be handled in accordance with subsection (e)(6). All ballots that have not been challenged shall be separated from their return envelopes and commingled prior to tallying.
 - 6) The ballots shall be tallied in accordance with [subsection Section 1210.140\(g\)](#).
 - 7) The Board agent shall attempt to resolve ballot challenges before the ballots are counted.
- g) Vote Tally Procedures. In mail and on site elections, ballots will be tallied₂ in the presence of the parties' representatives attending the count₂ as follows:
- 1) The Board agent shall segregate the challenged ballots. The challenged ballots shall only be opened and counted if they could be determinative of the outcome of the election.
 - 2) If challenges to ballots have not been resolved, and if the challenges could affect the outcome of the election, the Board will treat the challenges in the same manner as objections to the election.
 - 3) When the election includes a vote on craft severance, the craft employee ballots on craft severance shall be tallied first. If a majority of the craft employees casting valid craft severance ballots choose craft severance, the craft and noncraft ballots on choice of representative, if any, shall be tallied separately. If a majority of the craft employees casting valid ballots do not choose craft severance, the ballots on choice of representative, if

ILLINOIS LABOR RELATIONS BOARD

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any, shall be tallied together.

- 4) When the election includes a vote on a combined professional/nonprofessional unit, the ballots on unit preference shall be tallied first. Separate tallies shall be made for professional and nonprofessional employees. If a majority of the employees casting valid ballots in each group vote for a combined unit, the ballots on choice of representative, if any, shall be tallied together. If a combined unit fails to receive a majority vote in either or both groups, the ballots on choice of representative, if any, shall be tallied separately.
- h) When there are only two choices on the ballot and each receives 50 percent of the vote, the following shall apply:
 - 1) In representation elections, absent valid objections or challenges, the Board shall certify that a majority of the employees have not voted to select the labor organization as their exclusive representative.
 - 2) In decertification elections, absent valid objections or challenges, the Board shall certify that a majority of the employees no longer desire to be represented by the labor organization.
- i) ~~When~~Where there are three or more choices on the ballot (two or more labor organizations and "No Representation") and no choice receives a majority of the valid ballots cast, the Board shall conduct ~~one~~an runoff election between the two choices that received the most votes. When there is a tie for first place among more than two choices, the runoff shall be among those choices involved in the tie. When the first place choice has not received a majority of the votes and there is a tie for second place, the runoff shall be among the first place choice and those tying for second place. The results of votes taken during the first election on craft severances and/or combined professional/nonprofessional units, if applicable, shall be binding on the runoff election.
- j) The Board shall preserve all ballots until such time as any objections to the election have been resolved and the results have been certified.

(Source: Amended at 45 Ill. Reg. _____, effective _____)

ILLINOIS LABOR RELATIONS BOARD

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Unfair Labor Practice Proceedings
- 2) Code Citation: 80 Ill. Adm. Code 1220
- 3)

| | |
|-------------------------|--------------------------|
| <u>Section Numbers:</u> | <u>Proposed Actions:</u> |
| 1220.80 | Amendment |
| 1220.100 | Amendment |
- 4) Statutory Authority: Authorized by Section 5(i) of the Illinois Public Labor Relations Act [5 ILCS 315]
- 5) A Complete Description of the Subjects and Issues Involved: The proposed amendment to Section 1220.80 clarifies the existing process by which parties may obtain a stay of a Board order.

The proposed amendment to Section 1220.100 establishes a regulatory framework for the implementation of the recent amendments to Section 6 of the Act. It outlines the process by which parties may file charges alleging that a labor organization unlawfully collected union dues.

- 6) Any published studies or reports, along with the sources of underlying data, that were used when comprising this rulemaking? None
- 7) Will this rulemaking replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? Yes

| | | |
|------------------------|-------------------------|------------------------------------|
| <u>Section Number:</u> | <u>Proposed Action:</u> | <u>Illinois Register Citation:</u> |
| 1220.20 | Amendment | 44 Ill. Reg. 12068; July 24, 2020 |

- 11) Statement of Statewide Policy Objective: This rulemaking will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

ILLINOIS LABOR RELATIONS BOARD

NOTICE OF PROPOSED AMENDMENTS

- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this Notice to:

Anna Hamburg-Gal
Associate General Counsel
Illinois Labor Relations Board
160 N. LaSalle St. Ste. 400
Chicago IL 60601

312/793-6380
Anna.Hamburg-Gal@Illinois.gov

All written comments received within 45 days after this issue of the *Illinois Register* will be considered.

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: The rulemaking will not impose additional reporting, bookkeeping, or other procedures on the Board.
 - C) Types of professional skills necessary for compliance: None
- 14) Small Business Impact Analysis: None
- 15) Regulatory Agenda on which this rulemaking was summarized: The rulemaking was not summarized in a regulatory agenda because the need for the rulemaking was not anticipated.

The full text of the Proposed Amendments begins on the next page:

ILLINOIS LABOR RELATIONS BOARD

NOTICE OF PROPOSED AMENDMENTS

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES
SUBTITLE C: LABOR RELATIONS
CHAPTER IV: ILLINOIS LABOR RELATIONS BOARDPART 1220
UNFAIR LABOR PRACTICE PROCEEDINGS

Section

- 1220.10 General Statement of Purpose
- 1220.20 Filing of a Charge
- 1220.30 Appointment of Counsel (Renumbered)
- 1220.40 Charge Processing and Investigation, Complaints and Responses
- 1220.50 Hearings
- 1220.60 Consideration by the Board (Repealed)
- 1220.65 Deferral to Arbitration
- 1220.70 Requests for Preliminary Relief
- 1220.80 Compliance Procedures
- 1220.90 Sanctions
- 1220.100 Unfair Labor Practice Charges Involving Fair Share Fees [and Unlawfully-
Collected Dues](#)
- 1220.105 Appointment of Counsel
- 1220.TABLE A "Adjusted Income" Standards for Appointment of Counsel in Unfair Labor
Practice Cases

AUTHORITY: Implementing Sections 10 and 11 and authorized by Section 5(i) of the Illinois Public Labor Relations Act [5 ILCS 315].

SOURCE: Emergency rule adopted at 8 Ill. Reg. 16043, effective August 22, 1984, for a maximum of 150 days; adopted at 9 Ill. Reg. 1898, effective January 25, 1985; amended at 11 Ill. Reg. 6481, effective March 27, 1987; amended at 12 Ill. Reg. 20122, effective November 18, 1988; amended at 14 Ill. Reg. 19959, effective November 30, 1990; amended at 17 Ill. Reg. 15628, effective September 13, 1993; amended at 20 Ill. Reg. 7415, effective May 10, 1996; amended at 27 Ill. Reg. 7436, effective May 1, 2003; emergency amendment at 44 Ill. Reg. 11873, effective July 6, 2020, for a maximum of 150 days; amended at 45 Ill. Reg. _____, effective _____.

Section 1220.80 Compliance Procedures

ILLINOIS LABOR RELATIONS BOARD

NOTICE OF PROPOSED AMENDMENTS

- a) Whenever it is determined that an unfair labor practice has been committed, a copy of the Board's decision and order, or a copy of the Administrative Law Judge's ~~(ALJ's)~~ recommended decision and order in cases ~~in which~~~~where~~ the Board has declined to review ~~the ALJ's~~~~such~~ recommended decision and order, shall be sent to the compliance officer who shall be responsible for monitoring the respondent's compliance with the order. Following an investigation, the compliance officer may order that the parties take certain actions or he or she may set the matter for a compliance hearing.
- b) Parties may request that the Board seek enforcement of the Board's order pursuant to Section 11(f) of the Act. Requests shall be in the form of a petition for enforcement filed with the Board and served upon the other parties. The petition shall set forth specifically the manner in which the respondent has failed to voluntarily comply with the Board's order, or ~~ALJ's Administrative Law Judge's~~ recommended order in cases ~~in which~~~~where~~ the Board has declined to review the ~~ALJ's Administrative Law Judge's~~ order.
- c) The compliance officer shall investigate the information in the petition and shall issue and serve upon the parties, no later than 75 days after the filing of the petition, an order dismissing the petition, directing specifically the actions to be taken by the respondent, or setting the matter for hearing before an ~~ALJ Administrative Law Judge~~.
- d) If a party fails or refuses to respond to a compliance officer's request for information, the compliance officer shall make the determinations based on the evidence presented.
- e) No later than 7 days after service of the compliance officer's order dismissing the petition or directing action by the respondent, the parties may file objections to the compliance order. The objections shall:
- 1) set forth specifically the finding, order or omission to which the objection is taken; and
 - 2) set forth specifically the grounds for the objection, and be accompanied by any available supporting documentation, specific calculations and requests for subpoenas.
- f) Any objection to a finding, order or omission not specifically urged shall be

ILLINOIS LABOR RELATIONS BOARD

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deemed waived. In the event that objections are filed by any party, the Board shall set the matter for hearing before an ~~ALJ~~Administrative Law Judge.

- g) Parties may appeal the ~~ALJ's~~Administrative Law Judge's recommended compliance decision and order in accordance with 80 Ill. Adm. Code 1200.135.
- h) *An aggrieved party may apply to the Appellate Court for a stay of the enforcement of the Board's order after the aggrieved party has followed the procedure prescribed by Supreme Court Rule 335. (Section 11(e))*
- 1) Pursuant to Supreme Court Rule 335(g), "application for a stay of a decision or order of an agency pending direct review in the Appellate Court shall ordinarily be made in the first instance to the agency."
- 2) Applications for a stay of a decision or order issued by the Board shall be made by motion filed with the General Counsel pursuant to 80 Ill. Adm. Code 1200.45, for consideration and ruling by the Board.
- ~~h) All proceeding under this Section shall be suspended during the pendency of any appeal from the Board's decision finding a violation of the Act. However, when a court denies a request for a stay of the proceedings, the compliance officer may resume monitoring the respondent's compliance with the Administrative Law Judge's or Board's decision and order.~~

(Source: Amended at 45 Ill. Reg. _____, effective _____)

Section 1220.100 Unfair Labor Practice Charges Involving Fair Share Fees and Unlawfully-Collected Dues

- a) Unfair Labor Practice Charges Involving Fair Share Fees
- 1) Unfair labor practice charges that proportionate share fees violate the Act shall be filed and processed in accordance with this Part.
- 2b) The Board shall consolidate charges involving proportionate share fees in accordance with 80 Ill. Adm. Code 1200.105. Specifically, the Board shall consolidate in a single proceeding all proportionate share fee charges involving the same bargaining unit. The Board shall consolidate charges involving two or more bargaining units whenever it determines that the

ILLINOIS LABOR RELATIONS BOARD

NOTICE OF PROPOSED AMENDMENTS

exclusive representatives are affiliated with a common employee organization, the exclusive representatives use similar methods for determining fair share fees, the consolidation would not prejudice the constitutional and statutory rights of the objecting employees, and the consolidation would resolve the charges in an efficient manner.

- 3e) In hearings on fair share fee charges, the exclusive representative shall have the burden of proving how the fair share fee was calculated and that the fee did not exceed the employee's proportionate share of *the costs of the collective bargaining process, contract administration and pursuing matters affecting wages, hours and conditions of employment.* (~~Section~~Sections 3(g) and (e) of the Act)

b) Unfair Labor Practice Charges Involving Unlawfully-Collected Dues

- 1) Unfair labor practice charges that a labor organization has unlawfully collected dues from a public employee in violation of the Act shall be filed and processed in accordance with this Part.
- 2) *In cases in which a public employee alleges that a labor organization has unlawfully collected dues, the public employer shall continue to deduct the employee's dues from the employee's pay, but shall transmit the dues to the Board for deposit in an escrow account maintained by the Board.* (Section 6(f-35) of the Act)
- 3) An exclusive representative must maintain an escrow account for the purpose of holding dues deductions to which employees have objected.
- 4) The employer shall transmit the entire amount of dues to the exclusive representative, and the exclusive representative shall hold them in escrow.
- 5) An escrow account maintained by an exclusive representative shall meet the following standards:
 - A) The account shall be maintained in a federally insured financial institution.
 - B) The account shall earn interest of at least the rate provided by commercial banks for regular passbook savings accounts.

ILLINOIS LABOR RELATIONS BOARD

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- C) If the account combines the dues of more than one objector, separate records must be kept of each objector's dues, prorating the interest earned on the account.
- D) The escrow account may contain the fees of objecting employees in different bargaining units.
- E) Any charges resulting from a financial institution for the cost of maintaining an escrow account shall be borne by the exclusive representative.

(Source: Amended at 45 Ill. Reg. _____, effective _____)

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NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Impasse Resolution
- 2) Code Citation: 80 Ill. Adm. Code 1230
- 3) Section Number: 1230.90 Proposed Action:
Amendment
- 4) Statutory Authority: Authorized by Section 5(i) of the Illinois Public Labor Relations Act [5 ILCS 315]
- 5) A Complete Description of the Subjects and Issues Involved: The proposed rulemaking corrects a citation reference.
- 6) Any published studies or reports, along with the sources of underlying data, that were used when comprising this rulemaking? None
- 7) Will this rulemaking replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this Notice to:

Anna Hamburg-Gal
Associate General Counsel
Illinois Labor Relations Board
160 N. LaSalle St. Ste. 400
Chicago IL 60601

312/793-6380

ILLINOIS LABOR RELATIONS BOARD

NOTICE OF PROPOSED AMENDMENT

Anna.Hamburg-Gal@Illinois.gov

All written comments received within 45 days after this issue of the *Illinois Register* will be considered.

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: The rulemaking will not impose additional reporting, bookkeeping, or other procedures on the Board.
 - C) Types of professional skills necessary for compliance: None
- 14) Small Business Impact Analysis: None
- 15) Regulatory Agenda on which this rulemaking was summarized: The rulemaking was not summarized in a regulatory agenda because the need for the rulemaking was not anticipated.

The full text of the Proposed Amendment begins on the next page:

ILLINOIS LABOR RELATIONS BOARD

NOTICE OF PROPOSED AMENDMENT

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES
SUBTITLE C: LABOR RELATIONS
CHAPTER IV: ILLINOIS LABOR RELATIONS BOARD

PART 1230
IMPASSE RESOLUTION

SUBPART A: STATEMENT OF PURPOSE AND DEFINITIONS

Section

- 1230.10 General Statement of Purpose
- 1230.20 Definitions (Repealed)

SUBPART B: IMPASSE PROCEDURES FOR PROTECTIVE SERVICES UNITS

Section

- 1230.30 General Purpose of this Subpart
- 1230.40 Filing of Contracts (Repealed)
- 1230.50 Bargaining Notices for Protective Services Units
- 1230.60 Mediation
- 1230.70 Demand for Compulsory Interest Arbitration
- 1230.80 Composition of the Arbitration Panel
- 1230.90 Conduct of the Interest Arbitration Hearing
- 1230.100 The Arbitration Award
- 1230.110 Employer Review of the Award

SUBPART C: IMPASSE PROCEDURES FOR GENERAL PUBLIC EMPLOYEE UNITS

Section

- 1230.120 General Purpose of this Subpart
- 1230.130 Filing of Contracts (Repealed)
- 1230.140 Bargaining Notices for General Public Employee Units
- 1230.150 Mediation
- 1230.160 Fact-finding
- 1230.170 Voluntary Interest Arbitration
- 1230.180 Strikes
- 1230.190 Petitions for Strike Investigations

SUBPART D: GRIEVANCE ARBITRATION AND MEDIATION

ILLINOIS LABOR RELATIONS BOARD

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Section

1230.200 Grievance Arbitration

1230.210 Grievance Mediation

SUBPART E: ILLINOIS PUBLIC EMPLOYEE MEDIATION/ARBITRATION ROSTER

Section

1230.220 Mediation/Arbitration Roster

AUTHORITY: Implementing Sections 7, 12, 13, 17 and 18 and authorized by Section 5(i) and (j) of the Illinois Public Labor Relations Act [5 ILCS 315].

SOURCE: Emergency rule adopted at 8 Ill. Reg. 17322, effective September 11, 1984, for a maximum of 150 days; adopted at 9 Ill. Reg. 1857, effective January 25, 1985; Part repealed, new Part adopted at 11 Ill. Reg. 6434, effective March 27, 1987; amended at 12 Ill. Reg. 20102, effective November 18, 1988; amended at 14 Ill. Reg. 19903, effective November 30, 1990; amended at 17 Ill. Reg. 15599, effective September 13, 1993; amended at 27 Ill. Reg. 7456, effective May 1, 2003; amended at 41 Ill. Reg. 4510, effective April 17, 2017; amended at 45 Ill. Reg. _____, effective _____.

SUBPART B: IMPASSE PROCEDURES FOR PROTECTIVE SERVICES UNITS

Section 1230.90 Conduct of the Interest Arbitration Hearing

- a) The neutral chairman of the arbitration panel shall provide the parties with reasonable notice of a hearing to commence within 15 days following the Chairman's appointment. The parties may agree in writing to extend the time for commencement of the hearing for a period of time not to exceed 90 days. The hearing shall conclude within 30 days following its commencement, unless the parties agree to extend this period.
- b) The arbitration panel shall be responsible for choosing the location of the hearing and securing the premises. The Board hereby deems it appropriate for hearings to take place at the location selected by the panel. Requests to use the hearing rooms at the Board's offices must be made to the Board at least 10 days in advance, and will only be granted if space is available.
- c) The neutral chairman *shall preside over the hearing and shall take testimony.*

ILLINOIS LABOR RELATIONS BOARD

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(Section 14(d) of the Act) The neutral chairman shall control the hearing to ensure that it is concluded expeditiously within 30 days after its commencement or within such longer period to which the parties may agree.

- d) The neutral chairman shall have the authority to issue subpoenas in accordance with this Section. Subpoenas shall be secured by the neutral chairman from the Board's office. *If any person refuses to obey a subpoena, or refuses to be sworn or to testify, or if any witness, party or representative is guilty of contempt while in attendance at the hearing, the neutral chairman may advise the Board's General Counsel. The General Counsel shall request the assistance of the Attorney General to invoke the aid of the circuit court within the jurisdiction in which the hearing is being held.* (Section 14(e) of the Act)
- e) The arbitration proceeding shall be informal. *Technical rules of evidence shall not apply and the competence of evidence shall not thereby be deemed impaired.* (Section 14(d) of the Act)
- f) *The arbitration panel may administer oaths, require the attendance of witnesses and the production of books, papers, contracts, agreements, and documents as may be deemed by it to be material to a just determination of the issues in dispute.* (Section 14(e) of the Act)
- g) The hearing proceedings shall be transcribed. The arbitration panel shall arrange for the recording and transcription of the proceedings. The costs of recording and transcribing the hearing shall be shared equally by the parties. Any party that desires a copy of the transcript shall be responsible for the cost of its copy.
- h) The neutral chairman, *if he or she is of the opinion that it would be useful or beneficial to do so, may remand the dispute to the parties for further collective bargaining for a period not to exceed 2 weeks.* (Section 14(f) of the Act) The chairman shall notify the Board in writing of any such remand. If the dispute is remanded to the parties, the running of the time period for conclusion of the hearing shall be stayed.
- i) *Majority actions and rulings shall constitute the actions and rulings of the arbitration panel.* (Section 14(d) of the Act)
- j) *Arbitration proceedings shall not be interrupted or terminated by reason of any unfair labor practice charges involving either party.* (Section 14(d) of the Act)

ILLINOIS LABOR RELATIONS BOARD

NOTICE OF PROPOSED AMENDMENT

- k) Whenever one party has objected in good faith to the presence of an issue before the arbitration panel on the ground that the issue does not involve a subject over which the parties are required to bargain, the arbitration panel's award shall not consider that issue. However, except as provided in subsections (1) and (m) ~~of this Section~~, the arbitration panel may consider and render an award on any issue that has been declared by the Board, or by the General Counsel pursuant to 80 Ill. Adm. Code 1200.143140(b), to be a subject over which the parties are required to bargain.
- l) Arbitration – Peace Officers
- 1) In arbitration proceedings involving peace officers, *the arbitration panel's decision shall be limited to wages, hours and conditions of employment (which may include residency requirements in municipalities with a population under 1,000,000, but those residency requirements shall not allow residency outside of Illinois) and shall not include the following:*
- A) *residency requirements in municipalities with a population of at least 1,000,000;*
- B) *the type of equipment, other than uniforms, issued or used;*
- C) *manning;*
- D) *the total number employees employed by the department;*
- E) *mutual aid and assistance agreements to other units of government; and*
- F) *the criterion pursuant to which force including deadly force, can be used.*
- 2) *However, provided nothing in Section 14(i) of the Act or in this subsection (1) herein shall preclude an arbitration decision regarding equipment or manning considerations in a specific work assignment involve a serious risk to the safety of a peace officer beyond that which is inherent in the normal performance of police duties. (Section 14(i) of the Act)*

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- m) Arbitration – Firefighters/Paramedics
- 1) In arbitration proceedings involving firefighters or paramedics employed by fire departments or fire protection districts, the arbitration *panel's decision shall be limited to wages, hours and conditions of employment (which may include residency requirements in municipalities with a population under 1,000,000, but those residency requirements shall not allow residency outside of Illinois) and shall not include the following matters:*
- A) *residency requirements in municipalities with a population of at least 1,000,000;*
- B) *the type of equipment (other than uniforms and fire fighter turnout gear) issued or used;*
- C) *the total number of employees employed by the department;*
- D) *mutual aid and assistance agreements to other units of government; and*
- E) *the criterion pursuant to which force, including deadly force, can be used;*
- 2) ~~However, provided, however,~~ nothing in Section 14(i) of the Act or this subsection (m) herein shall preclude an arbitration decision regarding equipment levels if ~~that such~~ decision is based on a finding that the equipment considerations in a specific work assignment involve a serious risk to the safety of a fire fighter beyond that which is inherent in the normal performance of fire fighter duties. (Section 14(i) of the Act)
- 3) ~~The~~ These limitations of this subsection (m) shall not apply to any provision of a firefighter collective bargaining agreement in effect and applicable as of January 1, 1986.
- n) If issues of peace officer manning, or peace officer, firefighter or paramedic equipment, are raised, unless otherwise agreed to by the parties, the panel shall receive evidence concerning the existence of a serious safety risk beyond that which is inherent in the normal performance of the employee's duties and

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evidence concerning the merits of the issue in the same proceeding.

- o) The arbitration panel:
- 1) shall:
 - A) determine which issues are in dispute and which of those issues are economic issues; ~~and~~
 - B) serve a copy of that determination on the parties; and
 - C) require the parties to submit their final offers of settlement on each economic issue in dispute.
 - 2) need not determine whether, with regard to protective service employees, equipment or manning issues involve serious safety risks beyond that which is inherent in the normal performance of the employees' duties at this stage of the proceeding.
 - 3) may allow the parties reasonable additional time, as determined by the number and the complexity of the issues, for presenting written or oral arguments in support of their positions. The hearing shall be considered concluded when final offers are submitted or when written or oral arguments are presented, whichever is later.
 - 4) ~~when~~where the Board has issued an order or the General Counsel has issued a declaratory ruling, or an issue concerning the mandatory or non-mandatory nature of a matter is in dispute between the parties, allow parties to amend those aspects of their final offers affected by the Board Order or General Counsel's declaratory ruling.
- p) The following costs shall be shared equally by the parties:
- 1) ~~the~~The neutral chairman's fee; ~~and~~
 - 2) costs of recording and transcribing the hearing; and
 - 3) the rent, if any, for the hearing room; and

ILLINOIS LABOR RELATIONS BOARD

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- 4) all other costs of the proceeding, except for supplemental proceedings necessitated by an employer's rejection of an arbitration award, ~~shall be shared equally by the parties.~~

(Source: Amended at 45 Ill. Reg. _____, effective _____)

ILLINOIS LABOR RELATIONS BOARD

NOTICE OF PROPOSED REPEALER

- 1) Heading of the Part: Gubernatorial Designation of Positions Excluded from Collective Bargaining
- 2) Code Citation: 80 Ill. Adm. Code 1300
- 3)

| <u>Section Numbers</u> : | <u>Proposed Actions</u> : |
|--------------------------|---------------------------|
| 1300.10 | Repealed |
| 1300.20 | Repealed |
| 1300.30 | Repealed |
| 1300.40 | Repealed |
| 1300.50 | Repealed |
| 1300.60 | Repealed |
| 1300.70 | Repealed |
| 1300.80 | Repealed |
| 1300.90 | Repealed |
| 1300.100 | Repealed |
| 1300.110 | Repealed |
| 1300.120 | Repealed |
| 1300.130 | Repealed |
| 1300.140 | Repealed |
| 1300.150 | Repealed |
- 4) Statutory Authority: Authorized by Section 5(i) of the Illinois Public Labor Relations Act [5 ILCS 315]
- 5) A Complete Description of the Subjects and Issues Involved: These rules are being repealed because the legislation they implemented is no longer in effect.
- 6) Any published studies or reports, along with the sources of underlying data, that were used when comprising this rulemaking? None
- 7) Will this rulemaking replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No

ILLINOIS LABOR RELATIONS BOARD

NOTICE OF PROPOSED REPEALER

- 11) Statement of Statewide Policy Objective: This rulemaking will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this Notice to:

Anna Hamburg-Gal
Associate General Counsel
Illinois Labor Relations Board
160 N. LaSalle St. Ste. 400
Chicago IL 60601

312/793-6380

Anna.Hamburg-Gal@Illinois.gov

All written comments received within 45 days after this issue of the *Illinois Register* will be considered.

- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: The rulemaking will not impose additional reporting, bookkeeping, or other procedures on the Board.
 - C) Types of professional skills necessary for compliance: None
- 14) Small Business Impact Analysis: None
- 15) Regulatory Agenda on which this rulemaking was summarized: The rulemaking was not summarized in a regulatory agenda because the need for the rulemaking was not anticipated.

The full text of the Proposed Repealer begins on the next page:

ILLINOIS LABOR RELATIONS BOARD

NOTICE OF PROPOSED REPEALER

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES
SUBTITLE C: LABOR RELATIONS
CHAPTER IV: ILLINOIS LABOR RELATIONS BOARDPART 1300
GUBERNATORIAL DESIGNATION OF POSITIONS EXCLUDED
FROM COLLECTIVE BARGAINING (REPEALED)

Section

| | |
|----------|---|
| 1300.10 | General Statement of Purpose |
| 1300.20 | Board Information and Business Hours |
| 1300.30 | Definitions |
| 1300.40 | Board's Jurisdiction |
| 1300.50 | Filing a Designation |
| 1300.60 | Processing and Investigation |
| 1300.70 | Hearing |
| 1300.80 | Authority of Administrative Law Judges |
| 1300.90 | Computation and Extensions of Time; Service |
| 1300.100 | Motions |
| 1300.110 | Subpoenas |
| 1300.120 | Representation of Parties |
| 1300.130 | Appeals Procedures, Board Review and Court Review |
| 1300.140 | Ex Parte Communications |
| 1300.150 | Variances and Suspensions of Rules |

AUTHORITY: Implementing Section 6.1 of the Illinois Public Labor Relations Act [5 ILCS 315/6.1] and authorized by the Illinois Public Labor Relations Act [5 ILCS 315].

SOURCE: Adopted by emergency rulemaking at 37 Ill. Reg. 5901, effective April 22, 2013, for a maximum of 150 days; adopted at 37 Ill. Reg. 14068, effective August 23, 2013; repealed at 45 Ill. Reg. _____, effective _____.

Section 1300.10 General Statement of Purpose

- a) This Part establishes:
 - 1) the procedures that the Board will use in determining whether designations made by the Governor of the State of Illinois or the Governor's agent under Section 6.1 of the Illinois Public Labor Relations Act [5 ILCS 315],

ILLINOIS LABOR RELATIONS BOARD

NOTICE OF PROPOSED REPEALER

excluding State employment positions from the self-organization and collective bargaining provisions of Section 6 of the Act, are lawful;

- 2) the procedures that the Governor of the State of Illinois or the Governor's agent shall use for designating State employment positions as excluded from the self-organization and collective bargaining provisions of Section 6 of the Act, as described in Section 6.1 of the Act;
 - 3) the procedures that employees and labor organizations shall use for conducting proceedings before the Board regarding gubernatorial designation of State employment positions as excluded from the self-organization and collective bargaining provisions of Section 6 of the Act, as described in Section 6.1 of the Act; and
 - 4) time limits and deadlines due to the nature of the proceedings at issue in this Part and the compressed timeline provided by Section 6.1 of the Act for resolution of gubernatorial designations.
- b) This Part shall not apply to any other charges or petitions filed with the Illinois Labor Relations Board pursuant to the Act.
 - c) The provisions of 80 Ill. Adm. Code 1200, 1210, 1220, 1230 and 1240 only apply to this Part when specifically invoked by reference.

Section 1300.20 Board Information and Business Hours

- a) The Springfield office of the Board is located at:

One Natural Resources Way
First Floor
Springfield, Illinois 62702
telephone: 217-785-3155
facsimile: 217-785-4146

- b) The Chicago office of the Board is located at:

160 North LaSalle Street
Suite S-400
Chicago, Illinois 60601

ILLINOIS LABOR RELATIONS BOARD

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telephone: 312-793-6400

facsimile: 312-793-6989

- c) The Board's website address is www.state.il.us/ilrb. For electronic filing purposes for this Part only, the electronic mail (e-mail) address for the Board is ILRB.Filing@illinois.gov.
- d) The official business hours of the Board are 8:30 a.m. to 5:00 p.m., Monday through Friday.

Section 1300.30 Definitions

This Part relies on the definitions contained in the Act, as well as other definitions set forth in this Section.

"Act" means the Illinois Public Labor Relations Act [5 ILCS 315].

"Administrative Law Judge" or "ALJ" means either the agency head or an attorney licensed to practice in Illinois.

"Administrative Law Judge's recommended decision and order" means findings of fact and conclusions of law and reasons for those findings and conclusions. It is not a final decision of the Board. A recommended decision and order will be reviewed by the Board upon the filing of exceptions or on the Board's own motion.

"Board" means the Illinois Labor Relations Board or State or Local Panel, individually as applicable, or an agent designated by the Board.

"Board Agent" means any Board employee who is designated by the Board to perform the acts and/or responsibilities outlined in the relevant Sections of this Part.

"Serve", unless otherwise limited by a specific rule, means to serve by U.S. Mail, by hand delivery or by e-mail at the served person's e-mail address. When service is made by e-mail, service shall be to the e-mail address indicated on the designation form.

Section 1300.40 Board's Jurisdiction

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The Board shall undertake the process of determining whether a gubernatorial designation of a State employment position as excluded from self-organization and collective bargaining comports with Section 6.1 of the Act upon filing of a designation with the Board. All proceedings conducted under this Part are subject to the jurisdiction of the Board's State Panel pursuant to Section 5(a-5) of the Act.

Section 1300.50 Filing a Designation

- a) When, pursuant to Section 6.1 of the Act, the Governor chooses to designate a position as excluded from the self-organization and collective bargaining provisions of Section 6 of the Act, the Governor or the Governor's agent must file a designation with the Board by e-mail by sending the designation to ILRB.Filing@illinois.gov. The Governor or the Governor's agent must also submit a hard copy of the designation to the Board at its Springfield office by U.S. Mail postmarked on the date that the designation was filed by e-mail or by hand delivery on the date that the designation was filed by e-mail. A designation shall be made on a form provided by the Board for this purpose and must provide the information required by Section 6.1(b) of the Act: the job title and job duties of the employment position; the name of the State employee currently in the employment position, if any; the name of the State agency employing the public employee; and the category under which the position qualifies for designation under Section 6.1(b) of the Act.
- 1) As provided in Section 6.1(a), the Governor may *designate up to 3,580 State employment positions collectively within State agencies directly responsible to the Governor, and, upon designation, those positions and employees in those positions, if any, are hereby excluded from the self-organization and collective bargaining provisions of Section 6 of the Act. Only those employment positions that have been certified in a bargaining unit on or after December 2, 2008 that have a pending petition for certification in a bargaining unit on April 5, 2013, or that neither have been certified in a bargaining unit on or after December 2, 2008 nor have a pending petition for certification in a bargaining unit on April 5, 2013 are eligible to be designated by the Governor under this Section. The Governor may not designate under this Section, however, more than 1,900 employment positions that have been certified in a bargaining unit on or after December 2, 2008.* [5 ILCS 315/6.1(a)]

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- 2) To qualify for designation under Section 6.1, the employment position must meet the requirements of at least one of the following categories:
- A) the position *must authorize an employee in that position to act as a legislative liaison* [5 ILCS 315/6.1(b)(1)];
 - B) the position *must have a title of, or authorize a person who holds that position to exercise substantially similar duties as an, Agency General Counsel, Agency Chief of Staff, Agency Executive Director, Agency Deputy Director, Agency Chief Fiscal Officer, Agency Human Resources Director, Senior Public Service Administrator, Public Information Officer, or Chief Information Officer* [5 ILCS 315/6.1(b)(2)];
 - C) the position *must be a Rutan-exempt, as designated by the employer, position and completely exempt from jurisdiction B of the Personnel Code* [20 ILCS 415/8(b)] [5 ILCS 315/6.1(b)(3)];
 - D) the position *must be a term appointed position pursuant to Section 8b.18 or 8b.19 of the Personnel Code* [5 ILCS 315/6.1(b)(4)]; or
 - E) the position *must authorize an employee in that position to have significant and independent discretionary authority as an employee* [5 ILCS 315/6.1(b)(5)]. A person has significant and independent discretionary authority as an employee if he or she:
 - i) *is engaged in executive and management functions of a State agency and charged with the effectuation of management policies and practices of a State agency or represents management interests by taking or recommending discretionary actions that effectively control or implement the policy of a State agency; or*
 - ii) *qualifies as a supervisor of a State agency as that term is defined under Section 152 of the National Labor Relations Act (29 USC 152) or any orders of the National Labor Relations Board interpreting that provision or decisions of courts reviewing decisions of the National Labor Relations Board.* [5 ILCS 315/6.1(c)]

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- b) Failure to fully complete the form could result in rejection of the filing of the designation by the Board.
- c) In cases in which a designation is made for a position having an incumbent employee who is not currently represented by a collective bargaining representative and is not the subject of a pending petition for representation, the Board shall serve the designation on each unrepresented incumbent employee whose position has been designated. In cases in which a designation is made for a position that is represented by a collective bargaining representative or, in cases in which a collective bargaining representative has a petition for certification that includes the designated position pending before the Board at the time of the filing of the designation, the Board will serve the designation on the appropriate collective bargaining representative and on each incumbent employee whose position has been designated.

Section 1300.60 Processing and Investigation

- a) Initial Processing
 - 1) Upon filing of the designation with the Board, the Board or its agent will verify that the designation includes all information required by Section 6.1(b) of the Act, as provided in Section 1300.50, and will verify that the designated position was not certified in a bargaining unit before December 2, 2008.
 - 2) After verification, the Board will provide a notice to the Governor or the Governor's agent to be posted at the workplace of the position that has been designated. Each affected employee's employing agency shall post the notice within 2 days after receipt of the notice by the Governor or the Governor's agent. The notice shall remain posted for 10 consecutive days. The employing agency or its agent shall certify, on a form provided by the Board, that the posting has been completed and shall return this form to the Board.
 - 3) In cases in which a position is represented or subject to a pending petition for representation, the collective bargaining representative or incumbent employee shall have 10 days from the date of service of the designation to object to the designation. In cases in which the position is not represented

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or subject to a pending petition for representation, the incumbent employee shall have 10 days from the date of service of the designation to object to the designation. Objections must be made in writing and received in the Board's Springfield or Chicago office within the 10-day period. An objecting party may submit objections via U.S. Mail, hand delivery or e-mail to the Board at ILRB.Filing@illinois.gov. If an objecting party chooses to submit objections via e-mail, the party must also submit those objections in hard copy via U.S. Mail postmarked on the date that the objections were submitted via e-mail or by hand delivery to the Board's Springfield or Chicago office within the 10-day period. If an objecting party chooses to submit objections by e-mail, the party shall attach the objections to the e-mail in Microsoft Word format (.doc or .docx) or in Portable Document Format (PDF) (.pdf). Objections shall set forth the party's position with respect to the matters asserted in the designation regarding the job duties and functions of the position that is the subject of a designation, shall specifically state the basis for the objection, and shall include supporting documentation. The objections shall be simultaneously served on other parties as follows:

- A) In cases in which an employee subject to the designation is not represented by a collective bargaining representative, an employee filing an objection under this Section shall serve a copy of the objection and copies of any supporting documentation upon the employer. If an objecting party chooses to serve objections by e-mail, the party shall attach the objections to the e-mail in Microsoft Word format or PDF.
- B) In cases in which an employee subject to the designation is represented by a collective bargaining representative or is the subject of a petition for representation that is pending before the Board at the time of the filing of the designation, an employee filing an objection under this Section shall serve the objection and any supporting documentation upon the employer at its address indicated on the designation form and upon the collective bargaining representative at its address indicated on the designation form. A collective bargaining representative filing an objection under this Section shall serve the objection and any supporting documentation upon the employer at its address as indicated on the designation form and upon each employee whose

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position is the subject of the objection at his or her work address. In all cases, if an objecting party chooses to serve objections by e-mail, the party shall attach the objections to the e-mail in Microsoft Word format or PDF.

- b) The Board may consolidate two or more gubernatorial designations or may sever gubernatorial designations that are filed together if the Board determines that the consolidation or severance would result in the efficient and expeditious resolution of designations.
- c) If no objection to a designation is filed within the time allowed and the designation appears otherwise proper, the designation shall be forwarded to the Executive Director for certification as a designated excluded position.
- d) Assignment to Administrative Law Judge
 - 1) If objections to a designation are filed within the time allowed, the designation and objections shall be assigned to an ALJ.
 - 2) The assigned ALJ will review the designation, any objections, and the documentation in support of such objections.
 - A) The ALJ may make a factual finding that the designation is proper based solely on the information submitted to the Board in cases in which the objections submitted fail to overcome the presumption that the designation is proper under Section 6.1 of the Act. In those cases, the ALJ will issue a recommended decision and order to the Board that such designation be certified.
 - B) If the ALJ finds that the objections submitted raise an issue of law or fact that might overcome the presumption that the designation is proper under Section 6.1 of the Act, the ALJ will order a hearing to be held to determine whether the designation is proper. After the hearing, the ALJ shall issue a recommended decision and order to the Board regarding the designation.

Section 1300.70 Hearing

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- a) Considering the nature of the designation and the representatives of the parties, the ALJ will, insofar as practicable, apply the rules of evidence applicable in Illinois courts. The ALJ may, upon proper objection, exclude evidence that is irrelevant, immaterial or unduly repetitious. Evidence may be presented in the form of testimony, exhibits, stipulations or affidavits.
- b) Any hearing conducted in accordance with this Part shall be recorded by stenographic or other means that adequately preserves the record. The ALJ or the Board may order that the recording be transcribed. Parties may order transcripts and shall bear the costs of any transcripts they order.
- c) Upon request, a party is entitled to a reasonable period at the close of the hearing for oral argument, which shall be made part of the record. Due to the nature of the proceedings at issue in this Part and the compressed timeline provided by Section 6.1 of the Act, the ALJ shall direct the filing of briefs only in extraordinary circumstances, when the filing is, in the opinion of the ALJ, warranted by the nature of the proceedings or the particular issues involved. All briefs shall be no more than a total of 50 double-spaced pages with margins of at least ½ inch, including attachments. All pages in excess of the 50 page limit will be rejected. The Board's General Counsel may grant approval of exceptions and briefs containing more than 50 pages only in extraordinary circumstances.
- d) Except in extraordinary circumstances, hearings regarding designations shall be held within 14 days after receipt of objections by the Board and shall be limited in duration to one day of hearing.
- e) Designation hearings shall be non-adversarial in nature. All parties may present evidence and make arguments, subject to the control of the ALJ. In designation hearings, the objecting party shall present its evidence first.
- f) If the objecting party fails to appear after proper service of Notice of Hearing, the ALJ may recommend that the designation be certified by the Board. If any party other than the objecting party fails to appear, the ALJ may proceed in its absence and issue a recommended decision and order.
- g) Pursuant to 80 Ill. Adm. Code 1200.40, the ALJ may schedule a pre-hearing conference when it appears to the ALJ that doing so would expedite the procedure.

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- h) Intermediate rulings of the ALJ shall not be subject to interlocutory appeal. Parties may raise objections to intermediate rulings in their exceptions to the ALJ's recommended decision.
- i) The ALJ shall file and serve on the parties a recommended decision and order as expeditiously as possible. Due to the nature of the proceedings at issue in this Part and the compressed timeline provided by Section 6.1 of the Act, the ALJ may issue a recommended decision and order before completion of a transcript of the proceedings.
- j) All exceptions to the ALJ's recommended decision and order shall be filed and served in accordance with Sections 1300.90 and 1300.130.

Section 1300.80 Authority of Administrative Law Judges

The ALJ shall have the duty to conduct fair proceedings, to take all necessary action to avoid delay, to maintain order and to ensure development of a clear and complete record. The ALJ shall have all powers necessary to achieve these ends, including, but not limited to, the discretionary authority to:

- a) Review the designation, any objections and any supporting documentation and determine whether a designation is proper based solely on the information submitted to the Board or whether a hearing is necessary to determine whether the designation is proper;
- b) Require the parties to participate in a pre-hearing conference before proceeding with a hearing;
- c) Require all parties to submit pre-hearing information, including, but not limited to:
 - 1) a detailed written statement of the issue to be resolved at hearing and its position;
 - 2) a list of witnesses each party intends to call, the nature of their testimony, the estimated time for each witness' testimony, and the estimated time for the party's case in chief;

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- 3) a list of exhibits to be offered by each party in its case in chief and a copy of each exhibit; and
- 4) all other information the ALJ requests;
- d) Regulate the proceedings of the case and the conduct of the parties and their counsel;
- e) Administer oaths and affirmations;
- f) Receive relevant testimony and evidence;
- g) Establish reasonable limits on the frequency and duration of the testimony of any witness and limit repetitious or cumulative testimony;
- h) Examine witnesses and direct witnesses to testify; however, this provision does not lessen any party's burden of proof;
- i) Issue subpoenas and rule upon motions to revoke subpoenas;
- j) Take administrative notice of generally recognized facts of which Illinois courts may take judicial notice and of other facts within the specialized knowledge and experience of the Board;
- k) Rule on objections, motions and questions of procedure;
- l) Hear closing argument and, in extraordinary circumstances, authorize the submission of briefs and set the time for their filing;
- m) Order a hearing reopened before the issuance of the ALJ's recommended decision and order;
- n) Render and serve the recommended decision and order on the parties to the proceeding; and
- o) Carry out the duties of the ALJ as provided or otherwise authorized by this Part or the Act.

Section 1300.90 Computation and Extensions of Time; Service

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- a) In computing any period of time prescribed by the Act or this Part, the designated period of time begins to run the day after the act, event or default and ends on the last day of the period so computed. If the last day falls on a Saturday, Sunday or legal holiday, the time period shall be automatically extended to the next day that is not a Saturday, Sunday or legal holiday.
- b) When a time period prescribed under the Act or this Part is less than 7 days, intervening Saturdays, Sundays or legal holidays shall not be included.
- c) Service of Documents
 - 1) Service of a document upon a party by mail shall be presumed complete 3 days after mailing, if proof of service shows the document was properly addressed. This presumption may be overcome by the addressee, with evidence establishing that the document was not delivered or was delivered at a later date. A party's failure to accept or claim a document served by mail shall not be grounds for overcoming the presumption.
 - 2) Service of a document upon a party by e-mail shall be presumed complete on the day that the document is transmitted via e-mail. This presumption may be overcome by the addressee, with evidence establishing that the document was not delivered, was delivered at a later date or was not accessible by the party. A party's failure or refusal to open a document served by e-mail shall not be grounds for overcoming the presumption.
- d) Due to the nature of the proceedings at issue in this Part and the compressed timeline provided by Section 6.1 of the Act, the Board may use U.S. Mail, hand delivery and e-mail as methods of transmitting and filing certain documents in processing gubernatorial designations.
 - 1) The original designation must be transmitted to the Board in its Springfield office as described in Section 1300.50.
 - 2) Service of designations by the Board may be accomplished by U.S. Mail, hand delivery or e-mail.
 - 3) Objections to designations must be transmitted to the Board in its Springfield or Chicago office and to other parties as described in Section

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1300.60. Objections to designations must be received by the Board in its Springfield or Chicago office within 10 days after the date of service of the designation on the objecting party.

- 4) The recommended decision and order of the ALJ will be served on the parties to the proceeding by e-mail only.
- 5) Exceptions to the recommended decision and order of the ALJ will be filed with the Board by e-mail only at ILRB.Filing@illinois.gov and will be served on all other parties via e-mail subject to the following:
 - A) In cases in which an employee subject to the designation is not represented by a collective bargaining representative, an employee filing exceptions under this Section shall serve the exceptions upon the employer at its e-mail address.
 - B) In cases in which an employee subject to the designation is represented by a collective bargaining representative or is the subject of a petition for representation that is pending before the Board at the time of the filing of the designation, an employee filing exceptions under this Section shall serve the exceptions upon the employer at its e-mail address and on the collective bargaining representative at its e-mail address. A collective bargaining representative filing exceptions under this Section shall serve the exceptions upon the employer at its e-mail address and on each employee whose position is the subject of the objection at his or her e-mail address.
- e) Requests for postponements of hearings shall be filed in accordance with Section 1300.100. Requests for postponements of other deadlines, as well as requests for extensions for the filing of briefs or exceptions, must be made before the then existing deadlines. Except for good cause shown, no request for postponement will be granted on any of the 3 days immediately preceding the date of a hearing. For purposes of this Section, good and sufficient cause may include a showing to the satisfaction of the Board or its agents that a postponement or extension will result in settlement of the case. Such a request will only be granted in extraordinary circumstances after consideration of its potential impact on the Board's ability to meet the time requirements of the Act and limited to the following circumstances:

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- 1) all requests must be in writing, directed to the Board agent responsible for the proceeding (designated in the Notice of Hearing);
- 2) the grounds for the request must be set forth in detail;
- 3) the requesting party must specify alternative dates for scheduling the hearing or conference or for the due date of any documents;
- 4) the position of all parties concerning both the postponement or extension requested and the proposed alternative dates must be ascertained in advance by the requesting party and set forth in the request; and
- 5) the request is made for a continuance to a date and time certain; in no event shall an indefinite continuance be granted.

Section 1300.100 Motions

- a) In matters set for hearing, all motions must be filed with the assigned ALJ via e-mail to the e-mail address provided by the ALJ. Motions shall be simultaneously served on other parties via e-mail at the e-mail addresses specified by each party as follows:
 - 1) In cases in which an employee subject to the designation is not represented by a collective bargaining representative, an employee filing a motion under this Section shall serve the motion upon the employer at its e-mail address.
 - 2) In cases in which an employee subject to the designation is represented by a collective bargaining representative or is the subject of a petition for representation that is pending before the Board at the time of the filing of the designation, an employee filing a motion under this Section shall serve the motion upon the employer at its e-mail address and on the collective bargaining representative at its e-mail address. A collective bargaining representative filing a motion under this Section shall serve the motion upon the employer at its e-mail address and on each employee whose position is the subject of the motion at his or her e-mail address.

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- b) Once the ALJ's recommended decision and order has been issued, all motions shall be filed with the Board by e-mail at ILRB.Filing@illinois.gov and simultaneously served on other applicable parties as described in subsections (a)(1) and (2).
- c) Motions to postpone or extend a hearing must be made in writing via e-mail unless made during the hearing, at which time the motions may be made verbally, on the record. Motions must briefly state the grounds for the motion and any relief requested.
- 1) Motions to extend the time for the filing of documents must contain a statement that the moving party discussed the requested extension with the other parties. If no objections were raised, the moving party must certify that the other parties were consulted and authorized the moving party to represent that they have no objections. If objections were raised, the moving party must describe those objections and its response. Motions to extend time filed in conjunction with hearings on gubernatorial designation of positions as excluded from collective bargaining will be granted only in extraordinary circumstances.
 - 2) Motions for continuance must contain a statement that the moving party consulted with the other parties to determine whether they have any objection to the requested continuance. When there are no objections, the moving party must certify that it has consulted with the other parties and that they authorized the moving party to represent that they have no objections. When objections are raised, the moving party must describe those objections and its response. The motion for continuance must contain a statement that the moving party contacted the other parties to determine their availability for hearing on subsequent dates and it must indicate those dates in the motion. Motions for continuance filed in conjunction with hearings on gubernatorial designation of positions as excluded from collective bargaining will be granted only in extraordinary circumstances.
 - 3) At any time before the issuance of the recommended decision and order, a party may move to disqualify the ALJ on the grounds of bias or conflict of interest. The motion shall be in writing to the Board's General Counsel, with a copy to the ALJ, setting out the specific instances of bias or conflict of interest. An adverse decision or ruling, in and of itself, is not grounds

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for disqualification. The General Counsel may decline to disqualify the ALJ or may appoint another ALJ to hear the case.

- d) Responses and any other answering documents, including memoranda and affidavits, must be filed within 3 days after service of the motion, or as otherwise required by the ALJ or the Board. Responses must be filed with the assigned ALJ via e-mail to the e-mail address provided by the ALJ and will be served on all opposing parties via e-mail at the e-mail addresses specified by each party.
- e) Rulings on motions shall be made in writing and served on all parties to the proceeding. The ALJ may reserve ruling on any motion until the issuance of a recommended decision and order. Motions and responses shall not serve to postpone or delay the proceedings.
- f) Rulings on motions are not appealable to the Board, unless otherwise provided by the Board.

Section 1300.110 Subpoenas

Following a Notice of Hearing on a designated position or positions, the Board, upon the request of an ALJ or upon the written application of a party, shall have the power to issue subpoenas for witnesses and subpoenas for documents. Requests for subpoenas must be filed with the assigned ALJ via e-mail to the e-mail address provided by the ALJ and will be served on all opposing parties via e-mail at the e-mail addresses specified by each party.

- a) Subpoenas for Witnesses
 - 1) A party's written application for subpoenas for witnesses must be directed to the ALJ and must contain the following information:
 - A) the title and case number of the proceeding;
 - B) the name, address and phone number of the party requesting the subpoena and its representative;
 - C) the name of the person to be subpoenaed; and
 - D) the date, time and place of the appearance to be commanded.

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- 2) Applications must be filed with the ALJ and served on the other parties to the case at least 5 days before the hearing. The requested subpoenas may be picked up at the Board's office where the hearing will be held or at the office specified by the applicant in the subpoena request.
 - 3) The party requesting the subpoenas shall be responsible for serving the subpoenas on the witnesses at least 3 days before the hearing date. The party requesting the subpoenas shall also be responsible for payment of the witness fees for attendance, subsistence and mileage. Witnesses appearing at a hearing pursuant to subpoena are entitled to the same fees and mileage as are allowed witnesses in civil cases in the courts of the State of Illinois, pursuant to Section 4.3 of the Fees and Salaries Act [705 ILCS 35/4.3]. The requesting party must tender all fees with the subpoena. A witness appearing at the request of the Board shall submit the subpoena with a voucher when claiming reimbursement.
 - 4) Board employees shall not be subpoenaed to testify regarding matters that occurred during their employment with the Board.
 - 5) Subpoenas shall remain in effect throughout the course of the proceedings.
- b) Subpoenas for Documents (Subpoena Duces Tecum)
- 1) A party's written application for subpoenas for documents must be directed to the ALJ and must contain the following information:
 - A) the title and case number of the proceeding;
 - B) the name, address and phone number of the party requesting the subpoena and its representative;
 - C) a detailed description of the books, papers, documents or other objects to be produced pursuant to the subpoena;
 - D) the name of the person to be served with the subpoena; and
 - E) the date, time and place of production to be commanded.

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- 2) Applications must be filed with the ALJ and served on the other parties to the case at least 5 days before the hearing. The date and time for production of documents may be before the hearing. The requested subpoenas may be picked up at the Board's office where the hearing will be held or at the office specified by the applicant in the subpoena request.
 - 3) The party requesting the subpoenas shall be responsible for serving the subpoenas at least 3 days before the hearing date and 3 days before the date on which the documents are to be produced.
 - 4) Confidential Board documents as defined in 2 Ill. Adm. Code 2501.20(c) shall not be subpoenaed.
- c) **Motions to Revoke Subpoenas**
A person objecting to the subpoena may file a motion to revoke the subpoena. The motion must be filed at least one day before the hearing and shall be filed with the ALJ assigned to the case. Grounds for revocation shall include irrelevance, undue burden and privilege.

Section 1300.120 Representation of Parties

A party may be represented by counsel or any other representative of the party's choosing. The representative shall file a Notice of Appearance with the Board. Filing objections on behalf of a party shall be equivalent to filing a Notice of Appearance.

Section 1300.130 Appeals Procedures, Board Review and Court Review

- a) **ALJ's Recommended Decision and Order**
 - 1) Parties may file exceptions to the ALJ's recommended decision and order, and briefs in support of those exceptions, not later than 3 days after service of the recommended decision and order. All exceptions shall be filed and served in accordance with Section 1300.90. Each party shall serve its exceptions on the other parties. If the original exceptions are withdrawn, then all subsequent exceptions are moot. A party not filing timely exceptions waives its right to object to the ALJ's recommended decision and order.

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- 2) Exceptions shall specifically set forth the questions of procedure, fact, law or policy to which exception is taken, shall identify that part of the ALJ's recommended decision and order to which objection is made, shall state the grounds for the exceptions, and shall include the citation of authorities unless set forth in a supporting brief. Any exception to a ruling, finding, conclusion or recommendation that is not specifically urged shall be considered waived. Any exception that fails to comply with the foregoing requirements may be disregarded.
- 3) Any brief in support of exceptions shall be confined to the subjects raised in the exceptions and shall contain:
 - A) a clear and concise statement of the case containing all that is material to the consideration of the questions presented;
 - B) a specification of the questions involved and the issues to be argued; and
 - C) an argument presenting clearly the points of fact and law relied upon in support of the position taken on each question.
- 4) The Board will review the ALJ's recommended decision and order upon timely filing of exceptions or at any time on its own motion. The Board may adopt all, part or none of the recommended decision and order, depending on the extent to which it is consistent with the record and applicable law. The Board shall issue and serve on all parties its decision and order. If the gubernatorial designation is found to be proper by the Board in its decision and order, the Executive Director shall certify the position as a gubernatorial designation.
- 5) If no exceptions to the ALJ's recommended decision and order have been filed within the prescribed time period, the parties will be considered to have waived their exceptions. Unless the Board reviews the recommended decision and order upon its own motion, it will not be legal precedent and shall be final and binding only on the parties to that proceeding. The Board's General Counsel shall issue an order so providing. If the gubernatorial designation is found to be proper by the ALJ's recommended decision and order as supported by the General

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Counsel's order, the Executive Director shall certify the position as a gubernatorial designation.

- b) **Court Review of Board Orders**
A party aggrieved by a final order of the Illinois Labor Relations Board State Panel may obtain judicial review of that order in accordance with the Administrative Review Law [735 ILCS 5/Art. III], except that review shall be afforded directly in the Appellate Court for the district in which the party resides or does business, in accordance with Section 11(e) of the Act.

Section 1300.140 Ex Parte Communications

No party or other persons legally interested in the outcome of a hearing may communicate ex parte, either directly or indirectly, with an ALJ or with any member of the Board regarding matters pending before the Board.

Section 1300.150 Variances and Suspensions of Rules

The provisions of this Part may be waived or suspended by the Board when it finds that:

- a) the provision from which the variance is granted is not statutorily mandated;
- b) no party will be injured by the granting of the variance; and
- c) application of the rule from which the variance is granted would, in the particular case, be unreasonable or unnecessarily burdensome.

OFFICE OF THE SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Collection of Fees
- 2) Code Citation: 92 Ill. Adm. Code 1003
- 3) Section Number: 1003.20 Proposed Action: Amendment
- 4) Statutory Authority: Implementing Sections 2-124 and 3-824 and authorized by Sections 2-101 and 2-104 of the Illinois Vehicle Title & Registration Law [625 ILCS 5].
- 5) A Complete Description of the Subjects and Issues Involved: This amendment authorizes the Secretary of State to issue refund requests, from the 2019 and 2020 calendar years only, which have historically been referred to the Court of Claims, if submitted after 6 months of payment.
- 6) Any published studies or reports, and sources of underlying data, used to compose this rulemaking? None
- 7) Will this rulemaking replace an emergency rule currently in effect? Yes
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: No expenditures by units of local government.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:

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OFFICE OF THE SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Any which are seeking refunds paid during the 2019 or 2020 calendar years.
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Small Business Impact Analysis: None
- 15) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent agendas because the Agency did not anticipate this rulemaking at the time the agendas were filed.

The full text of the Proposed Amendment is identical to the text of the Emergency Amendment for this part, and begins in this issue of the *Illinois Register* on page 17031.

OFFICE OF THE STATE TREASURER

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: College Savings Pool
- 2) Code Citation: 23 Ill. Adm. Code 2500
- 3)

| <u>Section Numbers:</u> | <u>Proposed Actions:</u> |
|-------------------------|--------------------------|
| 2500.10 | Amendment |
| 2500.20 | Amendment |
| 2500.30 | Amendment |
| 2500.40 | Amendment |
| 2500.50 | Amendment |
| 2500.60 | Amendment |
| 2500.70 | Amendment |
| 2500.80 | Amendment |
| 2500.90 | Amendment |
| 2500.100 | Amendment |
| 2500.110 | Amendment |
| 2500.120 | Repealed |
| 2500.130 | Repealed |
- 4) Statutory Authority: Implementing and authorized by Section 16.5 of the State Treasurer Act [15 ILCS 505].
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking updates the existing rule to make it consistent with PA 100-905 and 101-26. The changes will provide clarification as to how the Pool is administered in accordance with the amended state statute as well as federal statutes and guidelines provided by federal regulatory agencies.
- 6) Any published studies or reports, and sources of underlying data, used to compose this rulemaking? None
- 7) Will this rulemaking replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? Yes, see the definitions of "Code" and "Eligible Educational Institutions" in Section 20.
- 10) Are there any other rulemakings pending on this Part? No

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- 11) Statement of Statewide Policy Objective: This rulemaking does not create or expand a State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following publication of this Notice. Comments should be submitted to:

Laura J. Duque
General Counsel
Illinois State Treasurer
100 W. Randolph St, Suite 15-600
Chicago IL 60601

217/720-0991
LDuque@illinoistreasurer.gov

The Department will consider fully all written comments on this proposed rulemaking submitted during the 45-day comment period. Comments submitted by small businesses should be identified as such.

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None
- 14) Small Business Impact Analysis: None
- 15) Regulatory Agenda on which this rulemaking was summarized: July 2020

The full text of the Proposed Amendments begins on the next page:

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TITLE 23: EDUCATION AND CULTURAL RESOURCES
CHAPTER XVI: TREASURERPART 2500
COLLEGE SAVINGS POOL

| | |
|----------|--|
| Section | |
| 2500.10 | Purpose |
| 2500.20 | Definition of Terms |
| 2500.30 | Application Process Participation Requirements |
| 2500.40 | Program Administration Deposits at Participating Financial Institutions |
| 2500.50 | Investment Policy |
| 2500.60 | Contributions Record Keeping |
| 2500.70 | Distributions Withdrawals |
| 2500.80 | Administrative Fees, Costs, and Expenses |
| 2500.90 | Account Limits |
| 2500.100 | Debt |
| 2500.110 | Program Documents |
| 2500.120 | Private Contractors (Repealed) |
| 2500.130 | Amendment of Rules (Repealed) |

AUTHORITY: Implementing and authorized by Section 16.5 of the State Treasurer Act [15 ILCS 505].

SOURCE: Adopted by emergency rule at 24 Ill. Reg. 6118, effective March 24, 2000, for a maximum of 150 days; emergency expired August 20, 2000; adopted at 24 Ill. Reg. 14441, effective September 12, 2000; emergency amendment at 25 Ill. Reg. 13323, effective October 3, 2001, for a maximum of 150 days; amended at 26 Ill. Reg. 3747, effective February 20, 2002; emergency amendment at 29 Ill. Reg. 19308, effective November 14, 2005, for a maximum of 150 days; emergency expired April 12, 2006; amended at 41 Ill. Reg. 13368, effective October 20, 2017; amended at 45 Ill. Reg. _____, effective _____.

Section 2500.10 Purpose

The Treasurer ~~may~~[shall](#) establish and administer the ~~Pool~~[pool](#) as a qualified State tuition program under section 529 of the Code, ~~thus providing participants with the federal tax benefits provided in section 529 of the Code.~~ The ~~Pool~~[pool](#) shall be structured to enable [account owners](#)~~participants~~ to own an interest in a pool of assets, which may include, but need not be limited to, equities, bonds, money market instruments, financial institution deposits, or

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investment funds consisting primarily of those assets. The Treasurer, in a manner that is in compliance with federal and State securities laws, ~~may~~shall issue interests in the ~~Pool~~pool. The Treasurer ~~may receive, shall hold, and invest moneys paid into the assets of~~ the ~~Pool~~pool in trust for the benefit of the ~~account owners~~participants and designated beneficiaries. In order to qualify the ~~Pool~~pool as a qualified state tuition program under section 529 of the Code and to so hold the assets of the ~~Pool~~pool in trust, the Treasurer may create a trust by declaration of trust. The trust shall be an instrumentality of the State of Illinois.

(Source: Amended at 45 Ill. Reg. _____, effective _____)

Section 2500.20 Definition of Terms

The following definitions shall apply to this Part:

"Act": Section 16.5 of the State Treasurer Act [15 ILCS 505/16.5] that establishes the College Savings Pool.

"Account": An individual investment account established and maintained in the College Savings Pool.

"Account Owner": Any person or entity who has opened an account or to whom ownership of an account has been transferred, as allowed by the Code, and who has authority to withdraw funds, direct withdrawal of funds, change the designated beneficiary, or otherwise exercise control over an account in the College Savings Pool.

"Administrative Fees, Costs, and Expenses": Any fees, costs, and~~All~~ expenses, including investment fees and expenses, to cover the costs of administration, recordkeeping, and investment management, and payments to third parties, related to the Pool, associated with the implementation, administration and marketing of the pool, including fees payable to third parties providing services related to the implementation, administration and marketing of the pool. Investment expenses, such as the internal fees and expenses of an investment fund in which assets of the pool are invested and other similar expenses, shall not be considered administrative expenses.

~~"Account": An individual investment account established and maintained in the pool.~~

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"Applicant": Any person who has applied or who is in the process of applying to open an account in the Pool.

"Code": The Internal Revenue Code of 1986, as amended (26 USC 1 et seq.).

"College Savings Pool" or "Pool": The College Savings Pool authorized to be established by the Treasurer under the Act and operated in accordance with section 529 of the Code, which may consist of one or more programs.

"College Savings Program" or "Program": An Illinois qualified tuition program established under the Act and operated in accordance with section 529 of the Code.

"Contributions": Contributions made to an account by a donor.

~~"Deposits": The deposits to be made by the Treasurer, on behalf of and for the benefit of the account owners, with financial institutions accepting deposits as required by the Act.~~

~~*"Designated Beneficiary": Any individual designated as the beneficiary of an account in the Pool by an account owner. A designated beneficiary must have a valid social security number or taxpayer identification number. In the case of an account established as part of a scholarship program permitted under section 529 of the Code, the designated beneficiary is any individual receiving benefits accumulated in the account as a scholarship.*~~
"Designated Beneficiary": The designated individual whose qualified expenses are expected to be paid from an account. A designated beneficiary may be the individual designated on the application, a new beneficiary in the case of a change of beneficiaries, or an individual as part of a scholarship program operated by a State or local government (or their agency or instrumentality) or an organization described in section 501(c)(3) of the Code.

~~*"Donor": Any person or entity who makes a contribution to an account in the Pool.*~~

"Earnings": The aggregate total of all dividends and interest income received by the College Savings Pool. The aggregate total of dividends and interest income shall be reduced by the aggregate total of administrative fees, costs, and expenses paid out of the Pool prior to calculating earnings. Earnings shall be determined

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~~without regard to realized or unrealized capital gains and losses incurred by the Pool. The aggregate total of all dividends, interest income, and realized and unrealized capital gains and losses received or accrued by the College Savings Pool, reduced by the aggregate total of investment and administrative expenses paid out of the pool.~~

~~*"Eligible Educational Institutions": Public and private colleges, community colleges, graduate schools, and certain vocational institutions that are described in section 20 USC 1001 (Higher Education Resource and Student Assistance) and that are eligible to participate in U.S. Department of Education student aid programs.*~~

~~"Institutions of Higher Education": Educational institutions that are described in section 481 of the Higher Education Act of 1965 (20 USC 1088), as in effect on August 5, 1997, and are eligible to participate in a program under Title IV of that Act. The term may include, but is not limited to, community colleges, public and private four-year colleges, universities, graduate and post-graduate programs, and certain proprietary and vocational schools as allowed by section 481.~~

~~"Investment Options": TheRefers to the underlying funds and investment portfolios available to account owners~~participants~~ within a program.~~

~~"Investment Policy Statement": The Investment Policy Statement adopted by the Treasurer pursuant to the Act, which ~~establishes the College Savings Pool and~~ sets forth the policies, objectives, and guidelines that govern the investment of moneys~~deposits~~ in the programs.~~

~~"Investment Selection": Refers to the process of choosing the underlying investment funds, as well as the investment portfolios, by participants.~~

~~"Participant": An owner of an account on behalf of a designated beneficiary.~~

~~"Participating Financial Institution": Any financial institution ~~insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration and lawfully doing business in the State of Illinois, and any credit union~~ lawfully doing business in the State of Illinois that has executed a participation agreement with the Treasurer or his or her agent, for the purposes of promoting a college savings program in the Pool.~~

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~~"Pool": The College Savings Pool authorized to be established under the Act.~~

~~"Prevailing Interest Rate": The interest rate offered by a participating financial institution to an ordinary customer seeking to deposit a given amount of money at the institution. The prevailing interest rate may be lower than the rate that is offered to certain preferred customers.~~

~~"Program Disclosure Statement": The offering document distributed to applicants and account owners describing the program describing the College Savings Plans for distribution to participants in connection with their opening of an account and entering into a participation agreement and to others having an interest in the College Savings Plans. The Program Disclosure Statement program disclosure statement shall include, without limitation and unless contained in the application for enrollment participation agreement, the information required by the Act and otherwise required under applicable federal and Illinois laws.~~

~~*"Program Manager": Any financial institution or entity lawfully doing business in the State of Illinois selected by the Treasurer to oversee the recordkeeping, custody, customer service, investment management, and marketing for one or more of the programs in the College Savings Pool.*~~

~~*"Qualified Expenses":*~~

~~*Tuition, fees, and the costs of books, supplies, and equipment required for enrollment or attendance at an eligible educational institution;*~~

~~*Expenses for special needs services, in the case of a special needs beneficiary, that are incurred in connection with the enrollment or attendance;*~~

~~*Certain expenses for the purchase of computer or peripheral equipment, as defined in section 168 of the Code, computer software, as defined in section 197 of the Code, or Internet access and related services, if the equipment, software, or services are to be used primarily by the beneficiary during any of the years the beneficiary is enrolled at an eligible educational institution, except that, these expenses shall not include expenses for computer software designed for sports, games, or hobbies, unless the software is predominantly educational in nature; and*~~

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~~*Room and board expenses incurred while attending an eligible educational institution at least half-time. A student shall be considered to be enrolled at least half-time if the student is enrolled for at least half the full-time academic workload for the course of study the student is pursuing, as determined under the standards of the institution at which the student is enrolled. [15 ILCS 505/16.5]"Qualified Expenses": Those expenses treated as "qualified higher education expenses" under section 529 of the Code, including: tuition, fees, computers and related equipment and services, books, supplies, special needs services in the case of a special needs beneficiary, equipment and costs for room and board (subject to certain limits as specified under the Code).*~~

~~*"Third-party Service Provider" means a subcontractor of the Program Manager for the exclusive purpose of distributing the Bright Directions advisor-sold plan.*~~

~~*"Treasurer": The duly elected Treasurer of the State of Illinois or his or her designee or designees, which may include one or more third party service providers.*~~

(Source: Amended at 45 Ill. Reg. _____, effective _____)

Section 2500.30 Application Process~~Participation Requirements~~

- a) ~~*The Treasurer may permit persons, including trustees of trusts and custodians under a Uniform Transfers to Minors Act or Uniform Gifts to Minors Act account, and certain legal entities to be account owners, including as part of a scholarship program, provided that:*~~
- ~~*1) An individual, trustee or custodian must have a valid social security number or taxpayer identification number, be at least 18 years of age, and have a valid United States street address; and*~~
 - ~~*2) A legal entity must have a valid taxpayer identification number and a valid United States street address. [15 ILCS 505/16.5(d)]Participants on behalf of designated beneficiaries shall make contributions to the pool. Any person residing in the United States at the time the account is processed may be a participant. Any person may be a designated beneficiary. Contributions may be made only in cash and not in property. Cash contributions may be made by check, money order, electronic transfer, or*~~

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~~similar methods allowed by the Code. Cash contributions may not be made by credit card.~~

- b) ~~Applications may~~New accounts in the pool shall be processed through a program manager~~participating financial institutions. Completed applications must be submitted as specified in the application form and the program disclosure statement.~~
- c) The Treasurer shall create applications for participation in the ~~Pool~~pool to be completed by the applicant ~~and the participating financial institution~~. The applicant ~~and the participating financial institution~~ shall be responsible for providing all of the information requested by the Treasurer. The application shall include, but is not limited to, the following information~~require the applicant to provide the following information:~~
- 1) ~~The applicant's name~~Name, physical address, date of birth, Social Security number or ~~Taxpayer~~Individual Tax Identification ~~Number~~number, and signature ~~of applicant~~;
 - 2) ~~The designated beneficiary's name~~Name, physical address, date of birth, and Social Security number or Individual ~~Taxpayer~~Tax Identification ~~Number~~number of the designated beneficiary;
 - 3) Investment selection;
 - 4) Funding method; and
 - 5) Additional information that may be beneficial to the administration of the program, or that is required by federal regulations and/or guidance.
- d) The Treasurer shall keep all information received from applicants and account owners confidential and may only share the information as required by law or as necessary~~with third parties to the extent required~~ to operate the College Savings Pool~~pool~~.
- e) When an application is submitted through a financial advisor, the financial advisor~~Participating financial institutions shall be required to~~ provide information regarding the ~~participating financial~~ advisor~~institution~~ on the application to enable the Treasurer to open an account for the applicant ~~and verify that the account was~~

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~~processed through a participating financial institution. Applications that have the relevant section completed by the participating financial institution shall be deemed to be processed through the participating financial institution. Completed applications must be submitted as specified in the application form and the program disclosure statement.~~

- ~~f~~d) Applications may include an initial contribution to the ~~Pool~~~~pool in any amount~~ in a manner set forth in ~~Section 2500.60~~~~subsection (a)~~. No minimum contribution shall be required to open an account. Applications that are incomplete and applications that fail to meet the guidelines established by the Treasurer ~~or set by the Code may in an effort to comply with section 529 of the Code shall be~~ rejected.
- e) ~~Subsequent contributions to the pool may be in any amount and may be made by the participant directly to the pool. Subsequent contributions may be made by a method set forth in subsection (a).~~

(Source: Amended at 45 Ill. Reg. _____, effective _____)

Section 2500.40 Program Administration~~Deposits at Participating Financial Institutions~~

- a) The Treasurer is the trustee and administrator of the College Savings Pool. The Treasurer's duties include, but are not limited to:
- 1) Providing administrative support to the Pool;
 - 2) Developing and implementing investment policies for the Pool; and
 - 3) Appointing program managers and vendors to provide management, oversight and other tasks necessary to administer the Pool.~~The Treasurer, in accordance with the State Treasurer Act [15 ILCS 505], shall make a percentage of each account processed by a participating financial institution available for investments as deposits in participating financial institutions. Unless a participating financial institution elects not to accept the deposits or is prohibited by law from accepting the deposits, the Treasurer will make deposits in participating financial institution in an amount that is at least as great as the percentages provided in the Act, provided that the deposit is federally insured or collateralized with United States Treasury obligations having maturities of 10 years or less, the~~

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~~principal and interest on which are guaranteed as to the timely payment by the United States, in an amount equal to 105% of the amount of deposit to be collateralized. The required percentage of each account to be invested in these deposits shall be invested in all participating financial institutions accepting deposits.~~

- b) ~~Accounts in the Pool may be processed through a program manager or its approved designees. The program manager is responsible for the day-to-day oversight and management of the programs in the Pool. The program manager's duties include, but are not limited to, oversight of the recordkeeping, custody, customer service, investment management, and marketing for one or more of the programs in the Pool. The Treasurer shall make all deposits required by the Act at least annually. A participating financial institution that elects to accept deposits shall be entitled to receive the deposits related to the accounts processed through the participating financial institution as long as the accounts exist, unless the institution is prohibited by law from accepting the deposits. A participating financial institution may choose to revoke its election to accept deposits for existing accounts or may assign its right to those deposits to another participating financial institution that accepts these deposits. If a participating financial institution revokes its election to accept deposits for existing accounts, the Treasurer shall invest the deposits to which the participating financial institution would otherwise be entitled in one or more participating financial institutions selected by the Treasurer. The Treasurer shall seek to place the deposits at a participating financial institution whose main address is in close geographic proximity to the participating financial institution that has revoked its election to accept those deposits. The Treasurer shall, until each annual adjustment date, invest in deposits at financial institutions selected by the Treasurer. The Treasurer may aggregate multiple deposits to a participating financial institution.~~
- c) ~~The program manager shall maintain records as required by law and in accordance with the Treasurer's records retention policies. The records maintained by the program manager shall include records that enable the production of a report for each account in the Pool. A separate accounting shall be provided to the account owner, and, if applicable, to the financial advisor, at least annually and shall show the account balance, the investment in the account, the investment earnings, and the distributions from the account. Participating financial institutions shall offer to the College Savings Pool their full range of deposit products at prevailing interest rates. Participating financial institutions shall make time deposits available to the pool at prevailing interest rates for certificates of deposit~~

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~~whether or not the amounts of the deposits meet the minimum investment amount required to purchase certificates of deposit. The Treasurer may require that, when a time deposit is redeemed in part prior to maturity, the participating financial institution will apply any penalty only to the redeemed portion and not to the non-redeemed portion of the time deposit. The Treasurer may require participating financial institutions to provide written confirmation that the rates offered to the pool are prevailing interest rates.~~

- ~~d) The deposits in participating financial institutions shall be pooled.~~
- ~~e) To the extent that a deposit is not insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration, the Treasurer shall require that the deposit is fully collateralized.~~

(Source: Amended at 45 Ill. Reg. _____, effective _____)

Section 2500.50 Investment Policy

- a) ~~The Treasurer shall select the investment options to be offered by the Poolpool to the account ownersparticipants. *The Treasurer shall develop, publish, and implement an investment policy covering the investment of the moneys in each of the programs in the Pool. The policy shall be published each year as part of the audit of the College Savings Pool by the Auditor General. The policy shall be distributed to all account owners in each program. The Treasurer shall notify all account owners in the program in writing, and the Treasurer shall publish, in a newspaper of general circulation in both Chicago and Springfield, any changes to the previously published investment policy at least 30 calendar days before implementing the policy.* [15 ILCS 505/16.5(g)]The Treasurer shall, by the commencement date of the pool and each year thereafter, develop, publish and implement an investment policy covering the investment of monies in the pool. The policy may be amended at any time and shall be published and distributed to participants 30 days prior to implementing the policy in accordance with the Act. The investment policy shall govern the investment of accounts, including the investment options available to participants.~~
- b) The investment policy is a written statement describing the risk management and oversight program and should be designed to:

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- 1) ensure that an effective risk management process is in place to monitor the risk levels of the Pool~~pool~~;
 - 2) ensure that risks taken are prudent, properly managed, and adequately compensated compared to applicable performance benchmarks and standards;
 - 3) describe the Treasurer's investment objectives; and
 - 4) describe the process of evaluating performance of employees and contractors that provide investment management services to the Pool~~pool~~.
- c) The Treasurer shall ~~utilize~~abide by the following investment principles when constructing, evaluating, and selecting the investment framework, investment options, and selecting investment funds for the Pool~~options for college savings accounts~~:
- 1) Low Cost – The Treasurer must use his or her best efforts to keep fees as low as possible and consistent with the administration of high quality competitive college savings programs. [15 ILCS 505/16.5(e)]~~The pool's investment options shall be constructed and administered in a manner that is designed to minimize investment fees to designated beneficiaries.~~
 - 2) Open Architecture – The Pool's~~pool's~~ investment framework shall utilize an open architecture plan design, meaning it ~~shall~~will not be required to ~~select~~use proprietary investment funds or investment options. The open architecture design shall allow the Treasurer to select the underlying investment options and investment funds. The open architecture design is intended to~~shall also~~ provide the Treasurer~~treasurer~~ with:
 - A) Access~~access~~ to best in class portfolio managers;
 - B) The~~the~~ ability to use nonproprietary products;
 - C) Increased~~increased~~ flexibility when choosing underlying investment strategies; and
 - D) The~~the~~ ability to minimize account owner~~obtain the lowest participant~~ fees on~~for~~ underlying investment funds and accounts.

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- 3) Various Investment Options – The ~~Pool's~~ investment options may include, but are not limited to:
- A) ~~Dynamic,~~ Dynamic age-based portfolios;
 - B) ~~Static~~ Static portfolios with varying target allocations (i.e., aggressive, moderate or conservative risk profiles); and
 - C) ~~Individual~~ Individual fund portfolios, ~~that~~
- 4) The portfolios listed in subsection (c)(3) may include some or all of the following asset categories:
- A) Short-term investments (i.e., money market funds);
 - B) Fixed income investments;
 - C) Real estate investments;
 - D) Domestic equity investments; and
 - E) International equity investments.
- d) ~~No participant or designated beneficiary may, directly or indirectly, cause the investment of any contributions to an account or any earnings on an account to be made to any investment option other than one currently offered to the participants. The investment selection may be changed by the participant, provided it is in accordance with section 529 of the Code.~~

(Source: Amended at 45 Ill. Reg. _____, effective _____)

Section 2500.60 Contributions~~Record Keeping~~

- a) Contributions may be made only in cash. Cash contributions may be made by check, money order, electronic transfer, payroll contribution, wire transfer, or similar methods allowed by the Code.

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- b) The Pool shall have no requirement on minimum contributions, and donors may make contributions at any time. Contributions shall not be allowed once a designated beneficiary has reached the account balance limit determined in accordance with Section 2500.90.
- c) Contributions may be made by the account owner or any other person. No person other than the account owner may direct the investment and distribution of contributions to an account (or earnings thereon).
- d) An account owner may, directly or indirectly, direct the investment of any contributions to the Pool (or any earnings thereon), only as provided in section 529(b)(4) of the Code. Donors and designated beneficiaries, in those capacities, may not, directly or indirectly, direct the investment of any contributions to the Pool (or any earnings thereon). The Treasurer shall maintain records that enable the Treasurer to produce a report for each account in the pool, at least annually, that documents the account balance and investment earnings. There shall be a separate accounting for each account and contributions to each account and any earnings attributable to the account must be allocated to the appropriate account. The Treasurer shall provide, or cause to be provided, to each participant and to the participating financial institution at which the account was processed, at least annually, an account statement showing the total account balance, the investment in the account, and earnings and distributions from the account.

(Source: Amended at 45 Ill. Reg. _____, effective _____)

Section 2500.70 Distributions~~Withdrawals~~

- a) Distributions made from an account in the Pool may be made directly to the eligible educational institution, directly to a vendor, in the form of a check payable to both the designated beneficiary and the institution or vendor, directly to the designated beneficiary or account owner, or in any other manner that is permissible under section 529 of the Code. [15 ILCS 505/16.5(i)]~~There shall be no penalty assessed for withdrawals for qualified expenses, withdrawals for expenses other than qualified expenses upon the death or disability of the designated beneficiary in accordance with the provisions of section 529 of the Code, withdrawals for the attendance by the beneficiary at a U.S. military academy, withdrawals included in income only because the qualified education expenses were taken into account in determining the applicable credit allowed under section 529(c)(3)(v) of the Code, or for withdrawals for expenses other than~~

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~~qualified expenses if the designated beneficiary receives a scholarship (or allowance or payment described in section 135(d)(1)(b) or (c) of the Code) that equals or exceeds the distribution. In addition, no penalty shall be assessed on a transfer from an account of a designated beneficiary to an account of another designated beneficiary who is a member of the family of the preceding designated beneficiary. Also, no penalty shall be assessed on a distribution from an account of a designated beneficiary that is deposited within 60 days after the distribution into the original account or an account of another designated beneficiary that is a member of the family of the preceding designated beneficiary. "Member of family" is defined in section 529(e) of the Code.~~

- b) Funds contained in an account in the Pool may be rolled over into other eligible Illinois programs, including an eligible ABLE account (see 15 ILCS 505/16.6), to the extent permitted by section 529 of the Code.~~The Treasurer shall implement practices and procedures to identify whether a distribution is a qualified withdrawal under section 529 of the Code and notify appropriate State and federal agencies if the distribution is non-qualified. These practices and procedures shall meet the safe harbor requirements under section 529 of the Code and the regulations promulgated under that statute.~~
- c) The Treasurer shall comply with all reporting requirements regarding distributions under section 529 of the Code.

(Source: Amended at 45 Ill. Reg. _____, effective _____)

Section 2500.80 Administrative Fees, Costs, and Expenses

- a) Administrative fees, costs, and expenses shall be paid from the Pool's assets to cover the costs of administration, recordkeeping, and investment management, and payments to third parties. The administrative fees, costs, and expenses shall be imposed on accounts.~~Administrative expenses shall be paid from earnings and shall be allocated among the pool's underlying investment portfolios in an equitable manner determined by the Treasurer. Investment earnings in excess of the administrative expenses of the pool, after the payment of expenses, shall be credited or paid monthly to participants in the pool in a manner that equitably reflects the differing amounts of their respective investments in the pool and the differing periods of time for which those amounts were in the custody of the pool, and shall be allocated among the pool's underlying investment portfolios in a manner equitably determined by the Treasurer.~~

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- b) The Treasurer must use his or her best efforts to keep these fees as low as possible and consistent with administration of high quality competitive college savings programs. [15 ILCS 505/16.5(e)]~~In the event that the Treasurer is obligated to pay administrative expenses of the pool, but the pool has insufficient earnings to make that payment, the obligation to pay the administrative expenses may accrue, but the Treasurer shall not pay the administrative expenses until the pool has sufficient earnings to support the payment.~~
- c) Administrative fees, costs, and expenses shall include sufficient reserve funds in line with industry standards for government operated funds.
- d) The Treasurer may permit a third-party service provider to provide compensation to participating financial institutions or other financial services providers that promote the Pool~~pool~~ to their customers, provided that the cost of the compensation is not passed on to account owners~~participants~~ without their consent.

(Source: Amended at 45 Ill. Reg. _____, effective _____)

Section 2500.90 Account Limits

- a) The Treasurer shall limit the contributions that may be made to the Pool on behalf of a designated beneficiary to prevent contributions in excess of those necessary to provide for the qualified expenses of the designated beneficiary.~~As provided in subsection (b), the Treasurer shall limit the contributions that may be made on behalf of a designated beneficiary.~~ The account balance limit will be reflected on the Treasurer's website or in another form that provides adequate notice to account owners. ~~The account balance limit shall be the same for all accounts of designated beneficiaries with the same expected year of enrollment and may be the same for all accounts in the pool.~~ No donor~~participant~~ may make a contribution to an account for a designated beneficiary if that contribution would cause the aggregate balance of all accounts for the designated beneficiary in State of Illinois section 529 programs to exceed the account balance limit established by the Treasurer. For purposes of the account balance limit, the aggregate balance shall be comprised of all accounts under all section 529 ~~of the Code~~ qualified tuition programs in the State of Illinois for a particular designated beneficiary. An account may only exceed the account balance limit in the event that investment earnings~~or interest~~ accrue after the last permitted contribution.

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The Treasurer may, ~~from time to time,~~ adjust the ~~account balance~~~~contribution~~ limit ~~annually and will provide reasonable notice to the account owners in advance of any adjustment.~~

b) Account Balance Limit Calculation

When adjusting the account balance limit, the Treasurer will consider the following:

1) ~~Estimates~~~~When adjusting the account balance limit, the Treasurer will use~~ estimates of tuition, fees, books, supplies, equipment, and room and board as set forth in the cost of attendance for an undergraduate, graduate and professional degree from at least 12 eligible educational institutions, including at least two public and two private eligible educational institutions ~~of higher education~~ reasonably believed to ~~have~~be the highest cost qualified expenses in:

A) Illinois;

B) the Midwest; and

C) nationally.

2) The guidance available from the United States Treasury and the Internal Revenue Service on how an account balance limit may be determined to provide adequate safeguards to prevent contributions on behalf of a designated beneficiary in excess of those necessary to provide for the qualified expenses of the designated beneficiary. ~~Thus, the Treasurer will utilize the estimated costs from no less than 12 institutions of higher education.~~

(Source: Amended at 45 Ill. Reg. _____, effective _____)

Section 2500.100 Debt

a) The ~~Pool~~~~pool~~ may not incur any indebtedness. The interests of the account owners~~participants~~ and the designated beneficiaries shall not be treated as indebtedness under this Section.

b) No interest in the Pool, or any portion of the Pool, may be used as security for a

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loan.

(Source: Amended at 45 Ill. Reg. _____, effective _____)

Section 2500.110 Program Documents

In order to establish and administer the Pool~~pool~~, the Treasurer may enter into all necessary agreements, documents and instruments with terms and provisions that shall not be inconsistent with the Act, section 529 of the Code and any~~the~~ regulations promulgated under the Code, or this Part.

(Source: Amended at 45 Ill. Reg. _____, effective _____)

Section 2500.120 Private Contractors (Repealed)

~~The Treasurer may select one or more entities to assist the Treasurer in managing the pool. However, the Treasurer shall set all terms and conditions of the pool. The Treasurer shall be responsible for selecting, supervising, monitoring, auditing and terminating any private contractor that provides services under the pool. The Treasurer shall hold any such private contractors to the same standards and requirements that apply when private contractors handle funds that belong to the State.~~

(Source: Repealed at 45 Ill. Reg. _____, effective _____)

Section 2500.130 Amendment of Rules (Repealed)

~~Notice of any proposed amendments to the rules and regulations shall be provided to all participants prior to adoption. Amendments to rules and regulations shall apply only to contributions made after the adoption of the amendment. [15 ILCS 505/16.5]~~

(Source: Repealed at 45 Ill. Reg. _____, effective _____)

OFFICE OF THE SECRETARY OF STATE

NOTICE OF EMERGENCY AMENDMENT

- 1) Heading of the Part: Collection of Fees
- 2) Code Citation: 92 Ill. Adm. Code 1003
- 3) Section Number: 1003.20 Emergency Action: Amendment
- 4) Statutory Authority: Implementing Sections 2-124 and 3-824 and authorized by Sections 2-101 and 2-104 of the Illinois Vehicle Title & Registration Law [625 ILCS 5].
- 5) Effective Date of Rule: October 9, 2020
- 6) If this emergency rule will expire before the end of the 150-day period, please specify the date on which it is to expire: This emergency rule will expire at the end of 150 days or the date on which the permanent rule is adopted.
- 7) Date Filed with the Index Department: October 9, 2020
- 8) A copy of the emergency rule, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Reason for Emergency: The Office of the Secretary of State believes it is in the best interests of the customers that inadvertently overpaid that the refunds be made expeditiously, particularly in light of the ongoing COVID-19 pandemic. Unnecessary delay of processing owed refunds does not serve the best interests of the public.
- 10) A Complete Description of the Subject and Issues Involved: This amendment authorizes the Secretary of State to issue refund requests, from the 2019 and 2020 calendar years only, which have historically been referred to the Court of Claims if submitted after 6 months of payment.
- 11) Are there any rulemakings pending on this Part? None
- 12) Statement of Statewide Policy Objective: None
- 13) Information and questions regarding this emergency rule shall be directed to:

Amy Williams
Assistant General Counsel

OFFICE OF THE SECRETARY OF STATE

NOTICE OF EMERGENCY AMENDMENT

298 Howlett Building
Springfield IL 62756

217/785-3094
Awilliams3@ilsos.gov

The full text of the Emergency Amendment begins on the next page:

OFFICE OF THE SECRETARY OF STATE

NOTICE OF EMERGENCY AMENDMENT

TITLE 92: TRANSPORTATION
CHAPTER II: SECRETARY OF STATEPART 1003
COLLECTION OF FEES

Section

1003.10 Definitions
1003.20 Collection and Refund

EMERGENCY

1003.30 Collection of All Motor Vehicle Fees
1003.40 Audits for Truck License Fees
1003.50 Use of State Comptroller's Offset Authority
1003.60 Bankruptcy Discharge of Fees
1003.70 Invalidity

AUTHORITY: Implementing Sections 2-124 and 3-824 and authorized by Sections 2-101 and 2-104 of the Illinois Vehicle Title & Registration Law [625 ILCS 5].

SOURCE: Adopted at 12 Ill. Reg. 14719, effective September 15, 1988; amended at 13 Ill. Reg. 7048, effective May 1, 1989; amended at 29 Ill. Reg. 1966, effective January 20, 2005; amended at 34 Ill. Reg. 10199, effective June 29, 2010; amended at 36 Ill. Reg. 17089, effective November 20, 2012; amended at 42 Ill. Reg. 203, effective December 19, 2017; emergency amendment at 44 Ill. Reg. 17031, effective October 9, 2020, for a maximum of 150 days.

Section 1003.20 Collection and RefundEMERGENCY

- a) The refund of registrant fees paid to the Secretary of State shall occur if the registration is cancelled, or a duplicate registration occurred or excess fees were paid.
- b) If cancelled registration meets any of the following criteria, a refund will be paid by the Secretary of State if the registration plate or sticker was not used on the vehicle and is returned to the Secretary. If the cancelled registration does not meet these criteria, then a refund will be denied.
 - 1) If the registrant is moving out of Illinois, a refund request or letter stating that fact is required prior to refund actions being initiated.

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- 2) If the registrant's vehicle was stolen and not recovered, a statement from the applicant is required stating the date the vehicle was stolen.
 - 3) If the registrant sells the vehicle and the unused registration is returned after the display date, a statement concerning the last operation date of the vehicle is required.
 - 4) If the registered vehicle is damaged or inoperable, a statement concerning the last operation date of the vehicle is required. This applies to requests on refunds applied for after the display date.
 - 5) If the registered vehicle will be stored and not operated for the entire registration year, a statement is required, along with the return of the sticker.
 - 6) If the registrant has died, then the executor or administrator of the estate must sign a statement and attach a copy of the death certificate, surrender the plates or the registration sticker, and comply with Section 3-824(c) of the Illinois Vehicle Code [625 ILCS 5/3-824(c)].
- c) If a registration is a duplicate, then to obtain a refund the duplicate sticker must be returned, with the registration and a photocopy of the retained registration. A written request for a refund must also be submitted.
- d) If an excess fee is paid and a refund sought, the registrant must request the refund in writing within 6 months after the date of payment. During calendar years 2019 and 2020 only, if an excess fee was paid and not refunded due to delay by the Secretary of State's office and no fault of the registrant, the refund may be paid more than six (6) months after the date of the payment.
- e) Applicable to all requests for refund are the requirements that:
- 1) The vehicle the refund is requested upon must have been registered in a prior registration year by the same owner.
 - 2) For plates returned after the display date, the applicant must submit a statement indicating the last operation date of the vehicle.

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- 3) Proof of payment must be submitted (cash receipts, cash tickets, a photocopy of the cancelled checks or electronic payment receipts, if the Secretary of State records do not show payment was made).
 - 4) After the registrant has applied for the registration plates or sticker, no refund can be requested or paid until after the registrant receives the plates or sticker.
 - 5) Refunds will not be granted for replacement plates unless the applicant specifically requests the same registration plate number. If the same number is not requested, the refund will be withheld to cover the costs of the transaction.
- f) Refunds will not be granted for any title-related transaction, unless a title application has not been processed by the Secretary of State.
 - g) All requests for refunds must be submitted in writing to the Department of Accounting Revenue, Refund Division, Room 222, Howlett Building, Springfield, Illinois 62756.

(Source: Amended by emergency rulemaking at 44 Ill. Reg. 17031, effective October 9, 2020, for a maximum of 150 days)

EXECUTIVE ORDER

2020-58

**EXECUTIVE ORDER IN RESPONSE TO COVID-19
(COVID-19 EXECUTIVE ORDER NO. 54)**

WHEREAS, Coronavirus Disease 2019 (COVID-19), a novel severe acute respiratory illness, has rapidly spread throughout Illinois and continues to necessitate updated and more stringent guidance from federal, state, and local public health officials and significant measures to respond to the increasing public health disaster; and,

WHEREAS, COVID-19 can spread among people through respiratory transmissions, asymptomatic people can transmit the virus, and there is currently no effective treatment or vaccine; and,

WHEREAS, for the preservation of public health and safety throughout the State of Illinois, and to ensure that our healthcare delivery system is capable of serving those who are sick, I have found it necessary to take additional measures consistent with public health guidance to slow and stop the spread of COVID-19; and,

WHEREAS, on September 18, 2020, considering the expected continuing spread of COVID-19 and the ongoing health and economic impacts that that will be felt over the coming month by people across the State, I again declared all counties in the State of Illinois as a disaster area; and,

WHEREAS, working with experts in the Department of Public Health, I put forward a deliberate plan that utilizes layers of mitigation steps to combat a resurgence of COVID-19 and prevent uncontrollable spread; and,

WHEREAS, that plan described two scenarios that would cause the State to institute more restrictive public health measures and impose additional mitigations in a region: first, a sustained increase in the 7-day rolling average (7 out of 10 days) in the positivity rate, coupled with either (a) a sustained 7-day increase in hospital admissions for a COVID-like illness, or (b) a reduction in hospital capacity threatening surge capabilities (ICU capacity or medical/surgical beds under 20%); or second, three consecutive days averaging greater than or equal to an 8% positivity rate (7 day rolling average); and,

WHEREAS, the spread of COVID-19 in Region 4, comprised of Bond, Clinton, Madison, Monroe, Randolph, St. Clair, and Washington Counties, previously triggered the second of these scenarios as the region previously averaged greater than or equal to an 8% COVID-19 positivity rate (7 day rolling average) for three consecutive days; and,

WHEREAS, on August 18, 2020, through Executive Order 2020-51, I instituted mitigation measures to slow the spread of the virus in Region 4; and,

EXECUTIVE ORDER

WHEREAS, on September 2, 2020, through Executive Order 2020-54, I instituted additional mitigation measures to slow the spread of the virus in Region 4; and,

WHEREAS, Region 4 has made significant progress – falling from a peak of over 10 percent positivity to a rate of just 5.8% today; and,

WHEREAS, Region 4 now has reached the threshold to lift mitigations following three consecutive days with a rolling positivity rate below 6.5%;

THEREFORE, by the powers vested in me as the Governor of the State of Illinois, and pursuant to Sections 7(1), 7(8), 7(9), and 7(12) of the Illinois Emergency Management Agency Act, 20 ILCS 3305, and consistent with the powers set forth in the State’s public health laws, I hereby order the following, effective October 9, 2020 at 5:00 pm:

Section 1. Executive Order 2020-51 and Executive Order 2020-54 are hereby rescinded. The Community Revitalization Order (Executive Order 2020-43) remains in effect.

Section 2. If any provision of this Executive Order or its application to any person or circumstance is held invalid by any court of competent jurisdiction, this invalidity does not affect any other provision or application of this Executive Order, which can be given effect without the invalid provision or application. To achieve this purpose, the provisions of this Executive Order are declared to be severable.

Issued by the Governor October 9, 2020

Filed by the Secretary of State October 9, 2020

ILLINOIS ADMINISTRATIVE CODE
Issue Index - With Effective Dates

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