



## GOVERNMENT AFFAIRS

# Report

August 20th, 2021

## This Week in Illinois

### **JCAR Suspends Department of Revenue Emergency Amendments to the Leveling the Playing Field Rules**

At its meeting on Wednesday, the Illinois General Assembly's bipartisan Joint Committee on Administrative Rules objected to, and suspended, the emergency rules recently filed by the Illinois Department of Revenue amending the "Leveling the Playing Field for Illinois Retail Act" rules. The amendments were published in the July 30 edition of the [Illinois Register](#).

The objections and the suspension of the emergency rules was on a unanimous vote of the committee. In explaining the reasons articulated for the objections and the suspension, the committee adopted the reasoning set forth in a public comment letter submitted to the Department, the JCAR staff and the committee members by Keith Staats, Executive Director of the Chamber's Tax Institute.

The [emergency rules](#) amend the current regulations to provide that the Metropolitan Pier and Exposition Authority Retailers' Occupation Tax

("MPEA") and the Chicago Home Rule Municipal Soft Drink Tax ("Soft Drink Tax") are required to be collected and remitted by food delivery services that are considered marketplace facilitators meeting a tax remittance threshold.

A suspension of the emergency rulemaking means the Department may not enforce the amendments contained in the rulemaking.

In Staats comment letter, he raised the following objections to the emergency rules:

*I. The Department has not articulated a valid reason for use of Emergency Rulemaking.*

*II. The Department lacks the statutory authority to arbitrarily reverse a valid existing rule by emergency rulemaking.*

*III. The Department lacks the statutory authority to mandate "origin sourcing" in the case of the MPEA tax*

*IV. The use of emergency rulemaking required affected retailers to make immediate changes to their tax systems without sufficient notice of the changes.*

*V. The emergency rulemaking contains amendments included in legislation that has not been signed by the Governor and enacted into law.*

*VI. The emergency rulemaking is not limited to those matters that are required to meet an emergency situation*

Read the full comment letter [here](#).

For more information on this matter, or membership in the Illinois Chamber Tax Institute, contact Executive Director Keith Staats at [kstaats@ilchamber.org](mailto:kstaats@ilchamber.org).

## **Session Update**

The House and Senate will return to Springfield on Tuesday, August 31st for a special session. Changes to the legislative redistricting plan are to be addressed. Additional special session dates have not been announced at this time.

Senate President Harmon and House Speaker Welch said that open hearings will be held before the legislature returns to deal with redistricting.

Both Chambers will also be in session October 19th-21st and October 26th-28th for veto session.

Masks are mandated in all secretary of state facilities as well as the Illinois State Capitol Building for both visitors and employees.

## **Illinois GOP Says New Census Data Makes Redistricting Maps Invalid**

Earlier this week, Illinois GOP legislative leaders [said](#) that the release of new census data makes the political maps signed into law by Governor Pritzker invalid.

Senate Republican Leader Dan McConchie called the maps "widely inaccurate" while House Republican Leader Jim Durkin said the maps were "unusable and unlawful."

The [Illinois constitution](#) says that "legislative districts shall be compact, contiguous and substantially equal in population." However, under the aforementioned maps, House district populations range from 92,390 residents to 124, 836. [According](#) to a test imposed by the US Supreme Court, such populations differences would not be acceptable.

In early June, Governor Pritzker signed [HB 2777](#) into law. This is the legislative remap bill. Readers can access the interactive House map [here](#). The Senate map can be accessed [here](#).

These legislative and appellate court districts are currently being [challenged](#) in the courts by the Senate Republican Leader Dan McConchie and House Republican Leader Jim Durkin as well as the Mexican American Legal and Defense Educational Fund.

## **Chamber Signs GoRail Group Letter**

This week, Illinois Chamber Vice President of Government Affairs Clark Kaericher signed onto a GoRail letter to Transportation Secretary Buttigieg. This is to ensure that as federal policy makers implement a transportation bill they keep in mind the importance of a healthy freight rail system. Freight demand is expected to rise 40% by 2045. The Chamber was pleased the letter was cosigned by eight members of the Illinois General Assembly, including Speaker Welch.

You can read the letter [here](#).

## **Bills of Interest Signed into Law**

[HB 165](#), **Carbon Capture** was signed into law. This bill, as amended, provides that subject to appropriation, the Prairie Research Institute at the

University of Illinois at Urbana-Champaign, in consultation with an intergovernmental advisory committee, must file a report on potential for carbon capture, utilization, and storage as a climate mitigation technology throughout Illinois with the Governor and General Assembly no later than December 31, 2022. provides that the report on the potential for carbon capture, utilization, and storage shall provide an assessment of Illinois subsurface storage resources, a description of existing and selected subsurface storage projects, and best practices for carbon storage. Provides that additionally, the report shall provide recommendations for policy and regulatory needs at the State level based on its findings. Provides that in developing the report, the Prairie Research Institute shall form an advisory committee and provides for membership of the committee. Provides that the Prairie Research Institute shall also engage with interested stakeholders throughout the State to gain insights into socio-economic perspectives from environmental justice organizations, environmental non-governmental organizations, industry, landowners, farm bureaus, manufacturing, labor unions, and others.

[HB 645](#) (Evans) **Future of Work Taskforce** was signed into law. This bill creates the Illinois Future of Work Task Force to study the future of work and submit a final report to the Governor and the General Assembly no later than May 1, 2022. We flagged this task force as we believe it will study critical issues such as the importance of the “gig economy.”

[HB 711](#), **Prior Authorization** was signed into law. This bill, as amended does the following: in the Prior Authorization Reform Act, deletes a Section concerning obligations with respect to prior authorization concerning emergency health care services, and makes changes in provisions governing applicability; definitions; disclosure and review of prior authorization requirements; obligations with respect to prior authorizations; personnel qualified to make adverse determinations of a prior authorization request; adverse determinations; review of appeals; denials; length of prior authorization approval; continuity of care; effect of failure to comply with the Act; and administration and enforcement. Makes further changes in the Illinois Insurance Code in a Section concerning obligations under the Managed Care Reform and Patient Rights Act. Deletes changes made to the Managed Care Reform and Patient Rights Act in a Section concerning emergency services prior to stabilization. Read the full public act [here](#).

[HB 1755](#), **DCEO Port Districts** was signed into law. This bill provides that the Department of Commerce and Economic Opportunity shall evaluate eligibility of special districts for State and federal programs, grants, and subsidies based on eligibility requirements set forth in their statutory charters. Amends the Kaskaskia Regional Port District Act. Provides that the Port District has power to apply for and accept grants, loans, or appropriations from

the federal and State government (currently, only federal government) or any agency or instrumentality thereof, to be used for any of the purposes of the District and to enter into agreements with the federal and State government (currently, only federal government) in relation to such grants, loans or appropriations.

[HB 1916](#), **IDOT Construction Notification** was signed into law. This bill provides that the Department of Transportation shall update its policy for providing notification of construction projects to the public. Provides that the policy shall include a requirement that the Department contact the highway commissioner located in each Department district that will be impacted by a proposed construction project.

[SB 672](#), **Covenant Not To Compete** was signed into law. This bill Provides that a covenant not to compete shall not be valid or enforceable unless the employee's actual or expected annualized rate of earnings exceeds \$75,000 per year on the effective date of the amendatory Act, \$80,000 per year beginning on January 1, 2027, \$85,000 per year beginning on January 1, 2032, or \$90,000 per year beginning on January 1, 2037 (rather than no employer shall enter into a covenant not to compete with any low-wage employee of the employer). Provides that a covenant not to solicit shall not be valid or enforceable unless the employee's actual or expected annualized rate of earnings exceeds \$45,000 per year and increasing in steps to \$52,500 per year in 2037. Provides that a covenant not to compete is void and illegal for any employee who an employer terminates or furloughs or lays off as the result of business circumstances or governmental orders related to the COVID-19 pandemic, or under circumstances that are similar to the COVID-19 pandemic, unless enforcement of the covenant not to compete includes compensation equivalent to the employee's base salary at the time of termination for the period of enforcement minus compensation earned through subsequent employment during the period of enforcement. Provides that a covenant not to compete is void and illegal for individuals covered by a collective bargaining agreement under the Illinois Public Labor Relations Act or the Illinois Educational Labor Relations Act. Establishes exclusions for management professional personnel engaged in the construction industry. Provides a procedure for enforcement by the Attorney General. Contains provisions concerning the enforceability of a covenant not to compete or a covenant not to solicit; notice requirements for employers under a covenant not to compete or a covenant not to solicit; remedies for employees who prevail against an employer's civil action to enforce a covenant not to compete or a covenant not to solicit; and certain factors a court may consider when determining whether to reform a covenant not to compete or a covenant not to solicit.

[SB 1970](#), **Mental Health Info** was signed into law. This bill amends the Mental Health and Developmental Disabilities Confidentiality Act. Provides for

the limited disclosure of protected mental health information of a recipient who is an inpatient of a mental health facility related to an individual's involvement with the recipient's mental health care or payment related to the recipient's mental health care. Provides eligibility factors for an individual seeking the disclosure of the information. Provides that whenever the disclosure of information is made without consent, the recipient shall be provided with written disclosure and afforded an opportunity to designate an agent or an attorney-in-fact, and documentation of the disclosure or use shall be noted in the recipient's record. Provides that once the recipient regains the capacity for informed consent, the provisions no longer apply and any allowance for the exchange of information between individuals and the medical personnel is terminated. Restricts an individual who receives information from redisclosing the information except under limited circumstances. Provides that any person who knowingly and willfully violates the provisions is guilty of a Class A misdemeanor. Provides that nothing in the new provisions shall be interpreted to allow a disclosure that is otherwise prohibited under any other State law or any federal law concerning informed consent.

### **Reopening Status of Illinois Businesses: IL Chamber COVID-19 Survey**

The Illinois Chamber has compiled a series of questions for members of the Illinois business community. This questionnaire is a consideration of your current COVID-19 policies in the workplace. The survey consists of multiple choice answers and can be completed in less than 5 minutes.

Please take a moment to share your thoughts on these crucial questions. Your answers will help the Chamber shape pro-business policy across the state.

**[Take the survey here.](#)**

### **Illinois Chamber's Tax Institute To Host Quarterly Meeting**

On Wednesday, September 8th the Illinois Chamber Tax Institute will host its quarterly meeting. The meeting will feature a discussion of unclaimed property issues with Allen Mayer, Chief of Staff for the Illinois Treasurer, Jennifer Waryjas of Jones Day and Troy Wangen of True Partners. The Illinois Chamber's Tax Institute Quarterly meeting is available to registrants to either attend in person or virtually.

Registration information can be found [here](#).



## Save the Date: Illinois Chamber to Host Annual Meeting

On Thursday, September 30th the Illinois Chamber will host its Annual Meeting at the Palmer House in Chicago. The event will take place between 11am-1:30 pm and feature keynote speaker Holly Sullivan, Vice President of Worldwide Economic Development for Amazon. The theme for this year's event is Global Growth Opportunities. [Register today!](#)

For more information contact Laurie Silvey at [lsilvey@ilchamber.org](mailto:lsilvey@ilchamber.org).

### Key Legislation

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*If you have questions about the Government Affairs Report, contact Clark Kaericher at [ckaericher@ilchamber.org](mailto:ckaericher@ilchamber.org). Do not reply to this email.*

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