

JAN 27 2004
STATE GOVERNMENT

HOUSE FILE 2089
BY LUKAN

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the approval of administrative rules by the
2 administrative rules review committee and setting standards
3 for that approval.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 2089

1 Section 1. Section 17A.5, subsection 2, Code 2003, is
2 amended to read as follows:

3 2. A rule ~~adopted after July 17, 1975~~, is effective thirty-
4 five days after filing, as required in this section, and
5 indexing, and publication in the Iowa administrative bulletin,
6 and approval by the administrative rules review committee
7 except that:

8 a. If a later date is required by statute or specified in
9 the rule, the later date is the effective date.

10 b. Subject to applicable constitutional or statutory
11 provisions, a rule becomes effective immediately upon filing
12 with the administrative rules coordinator and approval by the
13 administrative rules review committee, or at a subsequent
14 stated date prior to indexing and publication, or at a stated
15 date less than thirty-five days after filing, indexing, and
16 publication, if the agency finds one or more of the following:

17 (1) That a statute so provides; or

18 (2) That the rule confers a benefit or removes a
19 restriction on the public or some segment thereof; or

20 (3) That this effective date is necessary because of
21 imminent peril to the public health, safety or welfare. In
22 any subsequent action contesting the effective date of a rule
23 promulgated under this paragraph "b", the burden of proof
24 shall be on the agency to justify its finding. The agency's
25 finding and a brief statement of the reasons therefor shall be
26 filed with and made a part of the rule. Prior to indexing and
27 publication, the agency shall make reasonable efforts to make
28 known to the persons who may be affected by it a rule made
29 effective under the terms of this paragraph "b".

30 Sec. 2. Section 17A.8, subsection 9, Code Supplement 2003,
31 is amended by striking the subsection and inserting the
32 following:

33 9. The administrative rules review committee must approve
34 each adopted rule prior to its becoming effective. The
35 committee shall not approve a rule if the committee finds that

1 all or some portion of the rule is unreasonable, arbitrary,
2 capricious, beyond the authority delegated to the agency, or
3 beyond the legislative intent of the legislation being
4 implemented by the rule. If the committee declines to approve
5 all or some portion of a rule pursuant to this subsection, the
6 committee shall notify the agency in writing of its findings
7 and the underlying reasons which support those findings. The
8 committee shall also file a certified copy of such an action
9 in the office of the administrative code editor and a notice
10 of that action shall be published in the Iowa administrative
11 bulletin. Upon receipt of a certified copy of the committee
12 action, the administrative code editor shall remove the rule
13 from the Iowa administrative code.

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EXPLANATION

15 This bill requires the administrative rules review
16 committee to approve all administrative rules, by majority
17 vote, before they can go into effect. The committee must
18 approve a rule before it becomes effective. The committee is
19 not authorized to approve a rule if the committee finds that
20 the rule is arbitrary, capricious, unreasonable, beyond the
21 authority of the agency, or beyond the legislative intent of
22 the legislation being implemented.

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