

**MINUTES OF THE NOVEMBER 2007 MEETING
OF THE
ADMINISTRATIVE RULES REVIEW COMMITTEE**

- Date of meeting:** The regular, statutory meeting of the Administrative Rules Review Committee (ARRC) was held Tuesday, November 13, 2007, in Room 22, State Capitol, Des Moines, Iowa.
- Members present:** Senator Michael Connolly, Chair, and Representative Philip Wise, Vice Chair; Senators Jeff Angelo, Thomas Courtney, and John P. Kibbie; Representatives Marcella Frevert, David Heaton, David Jacoby, and Linda Upmeyer. Senator James Seymour was not present.
- Also present:** Joseph A. Royce and Michael Duster, Legal Counsel; Kathleen K. West, Administrative Code Editor; Deborah Svec-Carstens, associate counsel in the office of Administrative Rules Coordinator; fiscal staff, caucus staff and other interested parties.
- Convened** Sen. Connolly convened the meeting at 9:02 a.m.
- Fiscal report** Sue Lerdal presented the LSA fiscal report.
- EDUCATION DEPARTMENT** Carol Greta, Su McCurdy, and Thomas Mayes represented the department. Marianne Mickelson of the department of administrative services was also present.
- ARC 6293B** No action on proposed amendments to ch 12 pertaining to school nurses, guidance counselors, and school counseling programs. Ms. Greta confirmed that school districts can share nurses and guidance counselors and agreed to provide the committee with additional information about the distribution of funds that were appropriated to implement the legislation. Ms. Greta acknowledged the work of Janice Kuhl.
- ARC 6291B** No questions on proposed amendments to accreditation standards.
- ARC 6292B** No action on termination of the notice regarding core content areas, which will be renoticed to include graduation requirements. Ms. Greta indicated that Iowa standards for curriculum and core content have been approved by the federal Department of Education and must be embedded in student assessments for grades three to eleven. Discussion related to physical education and local school district options within the statewide standards. Rep. Wise asked that the department and the governor's office advise the committee regarding the governor's position on Iowa's standards.
- ARC 6289B** Ch 16 pertains to the voluntary statewide preschool program. Ms. Greta highlighted changes from the notice and reported that a total of 64 districts were funded in the first year and that all districts will be included within four years. Rep. Frevert commented that school administrators have indicated some confusion regarding empowerment scholarships and funding for staff development. Sen. Connolly noted a need for clarification of grant application instructions.
- ARC 6288B** No action on ch 41, special education. In response to a comment made in opposition to the state's prohibition of the "severe discrepancy" model, Mr. Mayes explained that "response to intervention" allows for services to be provided sooner. Ms. Mickelson was advised that 12 percent of the students in Iowa are in special education classes.
- ARC 6294B** No questions on amendments to ch 79 concerning practitioner preparation programs. Ms. Greta clarified that a human relations course may be provided separately, or human relations components may be infused throughout the preparation program.
- ARC 6290B** No action on proposed amendments to ch 97 regarding supplementary weighting. Ms. Greta outlined changes from the notice. Rep. Upmeyer inquired about the appeals process and commented that the intent of the legislation was to be more expansive in regard to transportation. Ms. Greta agreed to refer the transportation comment to Jeff Berger and to E-mail a response regarding the appeal process. Sen. Kibbie commented on the importance of this legislation and the need to educate the public and communicate with school districts about opportunities to share costs. Sen. Connolly requested a report on the effect of this program.
- ADMINISTRATIVE SERVICES DEPARTMENT** Marianne Mickelson and Ken Paulson represented the department.
- ARC 6336B** No questions on 100.3 concerning use of tobacco products on the capitol complex.
- ARC 6299B** No questions on proposed 105.12(4), which implements HF 849 in regard to tied bids.
- AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT** Margaret Thomson represented the department.
- ARC 6330B** No questions on proposed amendments to ch 64 pertaining to low pathogenic avian influenza.
- ARC 6302B** No questions on ch 77, dangerous wild animals.

- ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF** Melanie Johnson, Nancy Landess, Mary Klemesrud, and Alaina Santizo represented the department.
- ARC 6311B No action on ch 38, regional sports authority districts. Ms. Landess reported certification of ten communities and outlined the variety of activities included.
- ARC 6312B No questions on amendments to ch 44, COG assistance, which reflect a 17-way split in funding.
- ARC 6313B No questions on amendments to chs 54 and 55 pertaining to the targeted small business procurement program and financial assistance program.
- ARC 6314B No action on chs 101 to 104: targeted industries division, information technology joint venture fund, information technology training program, and targeted industries internship program.
- ARC 6309B No questions on chs 106 to 109 concerning targeted industries networking, student competition, and career awareness funds and community college equipment and training fund.
- ARC 6365B No questions on ch 400, organization and procedures for the generation Iowa commission.
- INSURANCE DIVISION** Susan Voss, Craig Goettsch, and Dennis Britson represented the division.
- ARC 6361B No questions on amendments to chs 10 and 11 relative to insurance producer licensing and continuing education.
- ARC 6363B No questions on ch 25, military sales practices.
- ARC 6308B No action on proposed amendments to ch 50, securities.
- ARC 6366B No action on ch 55, licensing of public adjusters.
- ARC 6333B Mr. Britson reported that the amendment to rescind ch 19 and adopt chs 100 to 106 concerning sales of cemetery merchandise, funeral merchandise, and funeral services was placed under notice of intended action and adopted and filed emergency. Commenters voiced concern about the emergency adoption, particularly in regard to continuing education requirements, background checks, and date of applicability. Sen. Kibbie concurred with the division's decision not to implement the emergency rules and asked that copies of comments be provided to the committee. Mr. Royce offered to advise the division regarding the procedure by which to reinstate the rescinded ch 19.
- ARC 6205B Subrule 39.15(4) concerning long-term care producer training requirements is under delay. Commissioner Voss reported that tentative agreement has been reached with the independent insurance agents. In addition, Commissioner Voss reported that seniors will be signing up for Medicare Part D this week. Because of changes in the plans, the commissioner encouraged seniors to contact the division for assistance, because approximately 80 percent of seniors will pay less under another plan. Sen. Connolly suggested that the governor's office also be involved in alerting Iowans about the changes in Medicare Part D plans, and Sen. Wise asked that Iowa's Congressional delegation be advised as well.
- PUBLIC HEALTH DEPARTMENT** Barb Nervig represented the department.
- ARC 6283B No questions on proposed amendments to ch 1 concerning area quarantines.
- ARC 6284B No questions on proposed ch 2, hepatitis programs.
- ARC 6285B No questions on amendments to ch 4 regarding congenital and inherited disorders.
- ARC 6286B No questions on ch 130, EMS advisory council.
- ARC 6287B No questions on data dictionary for reportable patient data.
- INSPECTIONS AND APPEALS DEPARTMENT** Steve Mandernach represented the department.
- ARC 6356B No action on amendments to chs 104 and 105 pertaining to amusement devices. Mr. Mandernach explained that these amendments add special class C liquor licenses pursuant to SF 510; define the revocation, suspension, denial and appeals processes; and reduce frequency of reporting.
- REVENUE DEPARTMENT** David Casey and Jim McNulty represented the department.
- ARC 6359B No questions on amendments pertaining to withdrawals from the Iowa educational savings plan trust; exclusions for certain victim compensation payments and for Vietnam Conflict veterans bonus; research activities credit; and checkoffs.
- ARC 6360B No action on amendments pertaining to the film qualified expenditure tax credit and the film investment tax credit.
- ARC 6358B No action on amendments to motor fuel rules regarding method of payment of taxes and filing of reports.
- Committee business** The minutes of the October meeting were approved (motion by Sen. Kibbie; seconded by Rep. Frevort).
The next meeting will be held Tuesday, December 11, 2007.

- MEDICINE BOARD** Amy Van Maanen and Heather Palmer represented the board.
- ARC 6297B No action on proposed amendments to chs 8 to 10 to increase fees. Ms. Van Maanen distributed a summary to justify the fee increases.
- ARC 6298B Proposed amendments to ch 24 pertain to complaints and investigations. Ms. Van Maanen noted that the various medical societies in the state have expressed concern about sharing complaint information with other states.
- HUMAN SERVICES DEPARTMENT** Nancy Freudenberg represented the department.
- ARC 6332B No questions on proposed amendments to ch 25, risk pool assistance for counties.
- ARC 6331B No questions on emergency amendments to ch 25, risk pool assistance for counties.
- ARC 6269B No questions on amendments to the calculation of countable income for FIP, FMAP and CMAP eligibility.
- ARC 6270B No questions on amendments to the standard utility allowance for the food assistance program.
- ARC 6271B No questions on exemptions to the federal requirements for verifying citizenship and identity for receipt of Medicaid.
- ARC 6301B No action on proposed amendments to ch 78 to expand Medicaid coverage for dental services. Discussion related to the statewide shortage of dentists who accept Medicaid patients.
- ARC 6305B No questions on proposed amendments to Medicaid reimbursement methodology.
- ARC 6272B No action on 78.13 concerning Medicaid reimbursement for nonemergency transportation.
- ARC 6276B No action on 79.15, education about false claim recovery, which is applicable to all providers that receive \$5 million or more from the Medicaid program in any federal fiscal year. Ms. Freudenberg noted a revision made in response to the Iowa Medical Society.
- ARC 6277B No action on amendments to ch 92, IowaCare.
- ARC 6278B No questions on amendments to require fingerprint checks for foster and adoptive parents and adult members of their households.
- ARC 6279B No questions on amendments to implement a 3 percent increase in provider rates.
- ARC 6280B No action on 170.3(5) concerning review and redetermination of eligibility for child care services.
- ARC 6281B No questions on amendments to 170.4 to allow an alternative claim form for child care assistance.
- ENVIRONMENTAL PROTECTION COMMISSION** Jim McGraw, Christine Paulson, Chuck Corell, Ed Tormey, David Wornson, Paul Nelson, and Brian Tormey represented the commission. Other interested parties included Emily Piper on behalf of the Iowa Rural Water Association, Jessica Harder on behalf of the Iowa League of Cities, and Lynn Laws of the Iowa Environmental Council (IEC).
- ARC 6350B No questions on ch 7, which adopts by reference the department's rules of practice in contested cases.
- ARC 6354B No questions on amendments to chs 22 and 33 pertaining to air quality and regulation of ethanol production facilities.
- ARC 6353B No action on amendments to ch 34 requested by EPA concerning CAIR and CAMR.
- ARC 6352B Subrule 61.3(3) establishes criteria for chemical constituents. Mr. Corell reported that potentially affected entities were notified by letter, and six public hearings were held across the state. Discussion related to the statutory role of the technical advisory committee (TAC) and the commission's decision, subsequent to meeting with the TAC, to change the criteria without further consultation with the TAC. Ms. Harder requested stability in the standards that cities must meet and expressed concern about the potential economic impact. Ms. Piper expressed disappointment that the commission did not follow the prescribed procedure of seeking the advice of the TAC. Ms. Laws expressed support for the criteria as adopted.
- ARC 6351B Proposed 61.3(5) incorporates Iowa's surface water classification for 292 stream segments based on field assessments conducted in 2006 and involvement of the public, local entities, county conservation boards, the League of Cities, and the Rural Water Association. Mr. Corell stated that the intent is to protect water quality and ensure that discharge limits are not more stringent than necessary. Mr. Corell noted that this list represents approximately one-third of the streams and indicated that no further designations will be proposed until these are approved. Six public hearings are scheduled in November to receive comment on these proposed designations. Discussion related to the assessment protocol used in making the designations. This protocol has been in use for over a year and is currently being adopted into rule. Rep. Wise asked that additional review be scheduled for the December or January meeting.

Environmental Protection Commission (continued)

- Ms. Piper and Ms. Harder pointed out that permit changes cannot be made until designations have been completed and noted that there is a need to mitigate the economic impact on disadvantaged communities. Ms. Laws commented that DNR is working hard to complete the legislative time line and stated that IEC is especially concerned about streams in park and recreation areas.
- ARC 6349B No action on amendments to ch 135 pertaining to underground storage tanks. The amendments allow for "red tagging" of UST sites to prohibit delivery of fuel to sites that are in violation.
- ARC 6355B No questions on proposed amendments to ch 213 in regard to heavy metal content in packaging materials that exceeds environmental standards.
- ARC 5999B Sen. Courtney proposed that the department and concerned parties meet with Sen. Gronstal and resolve remaining differences in regard to sanitary landfills for municipal solid waste. Members generally concurred.
- Adjourned The meeting was adjourned at 3:08 p.m.

Respectfully submitted,

Kathleen K West
Kathleen K. West

APPROVED:

Michael W. Connolly
Chair Michael Connolly

Philip Wise
Vice Chair Philip Wise