

MINUTES OF THE SPECIAL MEETING
OF THE
ADMINISTRATIVE RULES REVIEW COMMITTEE

Time of Meeting

The special meeting of the Administrative Rules Review Committee was held Wednesday and Thursday, February 10 and 11, 1988, State Capitol, Des Moines, Iowa, in lieu of statutory date.

Members Present

Senator Berl E. Priebe, Chairman; Representative Edward G. Parker, Vice Chairman; Senators Donald V. Doyle and Dale L. Tieden; Representatives David M. Tabor and Betty Jean Clark. Staff present: Joseph A. Royce, Legal Counsel; Phyllis Barry, Deputy Code Editor; Vivian Haag, Executive Administrator. Also present: Barbara Brooker Burnett, Governor's Administrative Rules Coordinator.

Convened

Vice Chairman Parker convened the Committee at 7:35 a.m., February 10, with a quorum present.

INSURANCE DIVISION

The following agenda was reviewed by Kevin Howe, Fred Haskins, Dennis Britson, and Craig A. Goettsch:

COMMERCE DEPARTMENT (181) "umbrella"		
Types and classifications of licenses, 10.7	ARC 8339 ..F.....	1/27/88
Agents' licensing rules, 10.8(2)	ARC 8340 ..F.....	1/27/88
Motor vehicle service contracts, ch 23	ARC 8320 ..F.....	1/13/88
Registration and operation of broker-dealers, 50.55	ARC 8321 ..F.....	1/13/88
Residential service contracts, ch 54	ARC 8323 ..F.....	1/13/88
Organization and procedures — public information and inspection of records, 1.3	ARC 8315 ..N.....	1/13/88
Long-term care insurance, ch 39	ARC 8314 ..N.....	1/13/88
Iowa loan brokers Act, ch 63	ARC 8322 ..N.....	1/13/88
Workers' compensation group self-insurance, 56.3(2)1, 56.4	ARC 8341 ..N.....	1.27/88

No questions re 10.7 or 10.8.

Ch 23

Goettsch explained changes in Chapter 23 following the Notice which included the annual filing date--from September 1 to August 1.

50.55

Goettsch said that new rule 50.55 establishes uniform and standard disclosure warnings commonly placed on the front page of a Prospectus used for sale of securities.

Goettsch advised Tieden that use of federal language would be an example of "good cause"--50.55(1). In response to Doyle, Goettsch said that "foregoing" in 50.55(2)a refers to federal authorities and state agencies. They will not be listed. Goettsch cited misrepresentation of facts affecting the offer or sale of securities as a "criminal offense." He added that under Iowa Code, it could be a Class D felony. He was not sure anyone had ever been prosecuted.

Ch 54

Goettsch described changes from the Notice on Chapter 54 which included deletion of the notice of refusal to perform services requirement. This would have had to be filed with the Insurance Division and the industry viewed it as a "nightmare to accomplish."

INSURANCE
DIVISION

Goettsch continued that in lieu of the bond requirement, some wanted to have the authority to deposit funds in a trust but that would require statutory change. One disadvantage of surety bonds was the annual cost.

Parker wonder why the service contract regulation was under the Securities Bureau. Goettsch said they have qualified staff and this was more in the nature of a straight contract or security rather than an indemnity. There was discussion of the fine line between security and insurance. Goettsch cited case law which held that these contracts are not considered as insurance.

In response to Doyle, Goettsch said that appliance service contracts would not be covered. Goettsch informed Doyle that a \$5 fee is charged for forms. The statute allows the Insurance Division to charge for all forms on at-cost basis.

1.3(22)

Haskins told the Committee that rule 1.3(22) was taken from the proposed rules of the Governor's Task Force. No recommendations.

According to Howe, proposed Chapter 39 was based on model language drafted by the National Association of Insurance Commissioners. Positive comments have been received on the rule making.

Ch 53

Britson gave brief overview of proposed Chapter 53. Tieden was interested in the impact of the rules on "large economy firms." Britson said that information from the Caucus Staff indicated there were no problems with the rules--any problem would be with the statute.

Doyle noted that the Attorney General has an active role in the complaint process and he wondered if that office would need rules on the subject, also. Royce was unsure. Britson reasoned that the Securities Division is responsible for filings and they work with the AG in the enforcement area. He added that the AG has greater ability to do investigative work. Violation of the Iowa loan brokers Act would also be a violation of Code section 714.16--consumer frauds. Goettsch said that the AG would have rules under chapter 714 and he thought that any enforcement case would be a matter of "discretionary use of discretionary authority." Doyle reiterated that complaints are filed with the AG, not the Securities Division and he took the position that rules of the AG should reflect this. Goettsch said, that as a matter of practice, all complaints are filed with the AG. Parker suggested inclusion of a provision stating that the AG is responsible for enforcement. No formal action taken.

56.3

Haskins gave brief explanation of amendments to 56.3. No action.

INSURANCE
DIVISION
Continued

Division officials advised the Committee that the Commissioner had decided to terminate proposed subrule 15.20(2), 12-2-87 IAB, intended to regulate sale of insurance by "celebrities."

REVENUE &
FINANCE
DEPARTMENT

Carl Castelda explained the following rules:

Taxable and exempt sales determined by method of transaction or usage, 18.28(1) to 18.28(3) ARC 8333 .F.....	1/27/88
Taxable and exempt sales determined by method of transaction or usage, sales and use tax on services, 18.31(1), 18.47, 26.7, 26.8, 26.70 ARC 8296 .F.....	1/13/88
Sales tax exemption, 20.1, 20.1(1)"b" to "d," 20.1(3), 20.1(3)"a" and "b," 20.2 ARC 8335 .F.....	1/27/88
Filing return and payment of tax, determination of taxable income, adjustments to computed tax, 39.5(8)"a" and "c," 41.5(5), 42.2(8) ARC 8293 .F.....	1/13/88
Determination of net income, 40.2, 53.5 ARC 8336 .F.....	1/27/88
Practice and procedure before the department of revenue and finance, 7.8, 7.14(2) ARC 8294 .N.....	1/13/88
Taxable and exempt sales determined by method of transaction or usage, sales tax exemption, 18.24, 20.9(1), 20.9(2), 20.9(3)"a," "c," "d," "e," 20.9(5) ARC 8337 .N.....	1/27/88
Sales and use tax on construction activities, receipts exempt from use tax, 19.5, 32.8 ARC 8334 .N.....	1/27/88
Sales and use tax on services, 26.11 ARC 8355 .N.....	1/27/88
Amendments to bring Iowa's income tax into conformity with federal tax law, 38.10(6) to 38.10(8), 39.1(1), 39.1(2)"b," 39.1(3)"b," 39.1(5), 39.1(7), 39.5(8), 39.5(9), 39.6(2), 39.6(2)"a," "f," 39.6(3), 39.7(1), 39.9, 40.1, 40.10(3), 40.11, 40.28 to 40.32, 41.4, 41.5(3)"a," 42.2(u), 43.3(10), 43.3(11), 43.7, 49.6 ARC 8298, also filed	
emergency ARC 8297 .N .F.F.....	1/13/88
Withholding, 46.4(1)"a" to "c" ARC 8342 .N.....	1/27/88
Inheritance tax, 86.5(10)"d," and "f" ARC 8295 .N.....	1/13/88

No questions re amendments to 18.28, 18.31(1) et al., 20.1 et al., 39.5(8) et al., 46.4(1), or 86.5(10).

40.2
53.5

In review of 40.2 and 53.5, Castelda advised that the Congressional Act which created an instrument will indicate whether or not there is an exemption. He added that a list of all federal securities is not readily available. Revenue has done research in this area. Tabor was told that tax on "Ginnie Maes" would be prospective from the time of the court decision.

Chs 18 & 20

No recommendations re 7.8 and 7.14(2). With respect to amendments to Chapters 18 and 20, Castelda recalled disagreement within organizations as to what medical devices would qualify as prosthetic, orthotic, or orthopedic for purposes of sales tax exemption. Therefore, the Department has prepared an all inclusive list for guidelines. If the statute is amended, the Department plans to publish the list in pamphlet form.

Tieden wondered if the legislature had "artificial teeth and prescription eyeglasses" in mind when addressing prosthetic devices. Castelda recalled that the Committee had requested the addition of eyeglasses a few years ago.

19.5
32.8

Castelda anticipated revision of 19.5 and 32.8 as a result of comments received.

26.11

According to Castelda, rule 26.11 will be revised to clarify that a car wash does not include truck wash. The rule is consistent with the declaratory ruling which was issued on the subject. Discussion of income tax amendments in 38.10(6) et al. No recommendations.

38.10(6)

HUMAN
SERVICES
DEPARTMENT

Clark in the Chair. Mary Ann Walker, Cynthia Tracy, Ruth Schlesinger, Dan McKeever, David Segerstrom, Don Kearney, Nancy Haigh, Dan Gilbert, Don Herman, and Roger Herr were present for the Department.

HUMAN SERVICES DEPARTMENT Continued

Also present: Jim West, IMS; Dana Phelps, Iowa Commission for the Blind; Leila Carlson and Lyle Krewson, NASW; Liz Stufflebeem, Donald Borgeson, Iowa Lutheran Hospital; Linda Goeldner, and Jeanine Freeman, Iowa Hospital Association; Judy Dierenfeld, CMHC Association of Iowa; Pat Hofmaster and James Blessman, M.D., Mercy Hospital.

The following agenda was considered:

State community mental health and mental retardation services fund, 32.3(1)"b" and "c" ARC 8312 ..N.....	1/13/88
Granting assistance, 41.6(4), 41.6(8), 41.7(6)"t" ARC 8332 ..N.....	1/27/88
Refugee cash assistance, conditions of eligibility, 60.7, 60.7(1), 75.1(11)"f," 75.1(21)"e" ARC 8331 ..N.....	1/27/88
Conditions of eligibility — residency requirement, coverage for aliens, Medicaid not available to persons in jails and penal institutions, 75.10 to 75.12 ARC 8305 ..N.....	1/13/88
Application and investigation, 76.5(1) ARC 8302 ..N.....	1/13/88
Copayments by Medicaid recipients, 79.1(13)"a" to "e," "k," and "m" ARC 8348 ..N.....	1/27/88
Health maintenance organizations, 88.1, 88.2(1)"a" and "b," 88.2(2)"b"(8), 88.2(3), 88.2(3)"a," 88.2(4)"a," 88.3(2) to 88.3(6), 88.4(1), 88.4(2), 88.4(3)"a," 88.4(4)"b" and "d," 88.5(1), 88.5(4), 88.5(5), 88.6(1) to 88.6(3), 88.7(1), 88.7(2)"a" and "d," 88.7(6)"a," 88.8(1), 88.8(1)"c," 88.9(1), 88.9(2), 88.9(3)"a," "b," "d," 88.10(1), 88.10(2), 88.10(4), 88.11(3), 88.12(1), 88.12(2), 88.12(4) ARC 8354 ..N.....	1/27/88
Cash bonus program, ch 92 ARC 8304 ..N.....	1/13/88
General provisions — case plan for children's services, 130.6(2), 130.7, 130.7(1), 130.7(2)"a" and "b," 130.7(3), 130.7(4) ARC 8301 ..N.....	1/13/88
Family planning services, 173.1, 173.2, 173.3(2), 173.4 to 173.7 ARC 8303 ..N.....	1/13/88
<i>70-DAY DELAY —</i>	
Types of outpatient services covered by Medicaid, 78.3, 78.30, 79.1(2), 79.1(5)"t" ARC 8246 ..N.....	12/30/87

In re 32.3(1), Tieden was told that letters of intent were received before application so clients are aware of needs to be submitted. No questions re 41.6(4) et al. or 60.7 et al. Parker resumed the Chair.

Ch 75

Discussion of new rules 75.10 to 75.12. It was noted that federal law precludes Medicaid benefits to incarcerated persons. Medical needs must be provided by the jail or penal institution. Clark was interested in developing a better system and Royce suggested the Legislative Fiscal Bureau as the appropriate source for research in this area. No questions re 76.5(1).

79.1

Walker explained that the proposed copayments by Medicaid recipients has been controversial--79.1(13). Hearings were being held and much comment had been received.

Parker recognized Goeldner, who expressed opposition to the rule. She contended that the state had already determined these individuals to be categorically indigent and, therefore, in need of state support. Costs for collection would be high and Goeldner suspected that the burden would be shifted to the providers, not the patients. Walker estimated an annual savings of \$867,000. Parker asked Walker to provide fiscal information to the ARRC. Tabor mentioned a possible economic impact statement but Doyle recommended waiting until after the hearings. Walker briefed ARRC with respect to amendments to Chapter 88. Clark favored simplification of the time frame for issuing HMO identification cards--88.3(5).

88.3(5)

Schlesinger assured Tieden that the Department works with the Insurance Division on HMO matters.

HUMAN
SERVICES
DEPARTMENT
Continued

Goeldner said that consensus of the Medical Assistance Advisory Council was to oppose HMO enrollment because of the violation of freedom of choice. She referred to a 1986 study which revealed that HMOs in general are likely to underserve low-income recipients. Goeldner concluded that costs to the state may increase. Parker asked if any fiscal analysis had been done.

Herman responded that method of payment is patterned after Medicare. However, the program was too new to have long-term results. Schlesinger advised Parker that a Scott County study estimated there would be \$67,000 savings in the first fourteen months. She agreed to supply additional information.

Walker said that clients have a choice of three HMOs. Schlesinger emphasized that clients who do not make a choice will be placed in an HMO but retain rights. A client satisfaction study revealed that 96 per cent intend to remain in the HMOs. Parker asked that any compiled research be sent to Committee members.

Clark was pleased to know that the rules provide a choice, but she was unhappy to learn of the planned mandatory pilot project in Polk County starting in July.

Ch 92

Discussion of Chapter 92. Herr responded to question by Parker that division of the bonus was somewhat arbitrary. Two major reasons for giving more to the employers were that they are at risk and employment services under \$500 would be an unattractive cash incentive. Herr said that \$264,236 was available for this program and there would be no additional cost for administration. ARRC was advised that the Department follows ADC policy on county resources. Herr thought it would be highly unlikely for a family on ADC to be close to the \$1,000 cash resource limitation. Parker recommended that Department officials confer and include a provision to exclude the bonus from any income guidelines. No other comments.

Chs 130
173

Walker summarized amendments to Chapters 130 and 173. There were no questions.

78.3 et al.

Discussion of amendments to rules pertaining to outpatient services covered by Medicaid which were delayed 70 days at the January meeting. Hermann commented that DHS had met with the Iowa Hospital Association and with the Iowa Psychological Association, and agreed in principle to modify the rules. He urged ARRC to continue the 70-day delay to permit these modifications.

Freeman commented that the main debate deals with the program service area. Her group wanted on-going reimbursement for clinically based outpatient services.

HUMAN
SERVICES
DEPARTMENT
Continued

They had no problem with the Department establishing criteria for the program.

Phelps pointed out that 35 per cent of the clients are blind from diabetes and they will be affected by the rule.

Discussion of the law and the fact that the Council on Human Services decided against including these services in the DHS budget for next year. The Council favored a Medicaid program providing for the basics.

Committee consensus was that the 70-day delay on ARC 8246, 12/30/87 IAB would stand. [See January minutes, p. 3803] Priebe resumed the Chair.

EDUCATION
DEPARTMENT

David Bechtel and Leland Tack represented the Department of Education for the following:

Economic Impact Statement, Standards for accredited schools and school districts, ch 4.....1298

Also present: Art Small, former state senator, representing small schools.

Tieden asked for clarification of the minimum school year. Bechtel said that current standards require 180 days of instruction, but allow a district to operate one hour a day and dismiss for in-service teacher training, etc., and receive credit for a day of school. The proposed rules will not permit that. By requiring a minimum of five and one-half hours, the Department intends to increase instructional time for students. Bechtel continued that the calendar year would represent an additional 20 days involved for other educational purposes, e.g., in-service training.

Shared time for principals was discussed and Bechtel said the rules were an attempt to strengthen the role of principals as a "building person dealing with improvement of instruction."

Doyle and Bechtel discussed the long-standing differences between the Department and the General Assembly as to whether physical education credit should be allowed for sports activities. Bechtel said that the Board takes the position that PE and extra curricular activities are entirely different. Discussion of conflict between Code sections 256.11 and 256.17 and the rules.

Small expressed opposition to the rules for 80 rural school districts of Iowa. He emphasized the importance of per district basis evaluation since the impact of the standards varies. One profound difference for small districts would be the superintendent-principal standards. Additional principals will be needed. Small continued that pupil/teacher ratio was 20 to 1 while day care standards require 10 to 1.

EDUCATION DEPARTMENT Concluded

He thought that teacher aides would be an additional cost which was not reflected in the rules. Small referred to estimated costs for library and audio visual equipment and declared that it had never been demonstrated to be all that effective. He urged that the standards should be reviewed by the entire General Assembly. Parker saw no advantage to a GA review. Clark thought that possible statutory changes should be addressed. Parker saw the issue as the word "notwithstanding" in Code section 256.17.

Recess Committee was in recess at 10:05 a.m.

Reconvened Thursday February 11 Chairman Priebe reconvened the Committee, Thursday, February 11, 1988, 8:05 a.m., Room 24, State Capitol, Des Moines, Iowa.

AGRICULTURE & LAND STEWARDSHIP

Arlo Hullinger, Donna Gwinn, Dennis Plummer, Jake Wakefield, Linda Hullinger and Walter Felker represented the Department for the following:

Registration of Iowa-fonled horses and Iowa-whelped dogs, 14.1, 14.3(2), 14.41, 14.41(1), 14.43	ARC 8326	✓	1/27/88
Dairy, milk room and bulk tanks for manufacturing milk, standards for dairy products, chs 30, 31, and 34	ARC 8307	✓	1/13/88
Contracts for dairy inspections services, ch 32	ARC 8306	✓	1/13/88
Bonded warehouses — license for temporary storage facilities, 60.27(1), 60.27(2)*b, 60.27(2)*b**2, 60.27(B)	ARC 8319	✓	1/13/88

Also present: Dale R. Cooper, Marshall Inman, Iowa Dairy Products Association; Stephen Moline, Assistant Attorney General.

Chs 30, 31, 34 Amendments to Chapter 14 were deferred. Chapters 30, 31 and 34 were explained by Arlo Hullinger. Doyle suggested inclusion of "the" before "person" in the parenthetical portion of 30.18(1).

Ch 32 Hullinger advised Tieden that conflicts of interest had been resolved. Discussion of Chapter 32 which was drafted by the AG's office. Hullinger did not anticipate extra expenses. Iowa State University will provide expertise in cleanliness fields, bacteria, milk, etc., and the legal aspects will be covered by the AG.

32.9 et al. Clark and Doyle favored use of "when" for "if" in 32.9 to 32.11, 32.14 and 32.21.

Ch 60 Moline reviewed amendments to Chapter 60 pertaining to temporary grain storage facilities. Clark and Doyle recommended elimination of double negatives in 60.27(8).

Priebe voiced opposition to the fact that the director could grant only one 90-day extension to the temporary storage facility. He favored additional criteria in the rule. It was noted that temporary storage facilities are not addressed in the Code.

AGRICULTURE
DEPARTMENT
Continued

The rule was developed during a time of emergency and Moline admitted that the industry was confused as to what was meant by "temporary facilities." The industry believes that "temporary" refers to the structure involved and the Department believes it refers to length of time grain is stored in a facility. Priebe thought "temporary" referred to the building or facility.

Moline said that very few second extensions had been granted under the previous rule. Discussion of proposal to provide for additional extensions if the quality of grain has not deteriorated and meets quality standards. Moline stated that their intent was to eliminate allowing offset of "quality deterioration in a temporary facility by some obligation for lesser grade grain." He cited high cost and difficulty of physically examining huge outdoor grain piles. Also, he wondered about the possibility of legislation to authorize passing this cost to the licensees.

Tieden wanted assurance that the quality of Iowa grain would not deteriorate and if the singular 90-day extension would accomplish that, he was supportive. No formal action.

No recommendations re 14.2 et al.

AGRICULTURAL
DEVELOPMENT
AUTHORITY

William Greiner represented the Authority for the following:

Beginning farmer loan program, 2.1, 2.3, 2.9, 2.11, 2.12, 2.14, 2.16, 2.19 ARC 8287 ..F..... 1/13/88

There were no recommendations.

CORRECTIONS
DEPARTMENT

Fred Scaletta, Jeanette Bucklew, Paul Muller represented the Department. Also present: Curt Campbell, Eighth Judicial District; William Westendorf, Bremer County Sheriff. The following rules were considered:

Community-based corrections administration, 40.4(11) ARC 8282 ...F..... 1/13/88
Jail facilities, amendments to ch 50 ARC 8343N..... 1/27/88
Temporary holding facilities, 51.9(2)"b"(5), 51.11(2)"a"(4) ARC 8344 ..N..... 1/27/88

40.4(11)

Bucklew provided history on 40.4(11) relative to policy on carrying of weapons by judicial district employees while on official duty. She emphasized that the Board of Corrections does have authority to set policy for community-based corrections and after much debate, the Department adopted 40.4(11). The Department recognized the complexity of the issue, however.

Campbell reiterated the position taken by the Eighth District. They want to provide protection to the officers who must be out at night checking on "felons."

Bucklew pointed out that a majority of the districts do not support carrying of firearms.

CORRECTIONS
DEPARTMENT
Continued
Motion to
Delay
40.4(11)

Tabor moved to delay the effective date of 40.4(11) for 70 days. After discussion, motion carried with four ayes; Doyle passed; Parker not present.

50.7

Scaletta said that Chapter 50 was being updated to meet current jail management and operating practices. Clark suggested rephrasing of 50.7 for clarity. Priebe inquired as to the method used to determine the 50 square feet requirement for cells--50.7(4). He was told the Department was attempting to seek an average of the four different categories previously used. There had been no opposition to the dimension requirements. ARRC members wanted assurance that the requirement would not create problems for existing jails. Westendorf did not foresee problems. It was noted that waivers were available.

50.9(3)

Clark called attention to "relevant" portions in 50.9(3) and asked who would make that decision. Department officials agreed that it was a poor choice of words and they would clarify. Doyle was informed that approximately 35 city jails are regulated under Chapter 51 of the Corrections rules.

50.6(9)

Doyle questioned new language "intent upon" entering... in 50.6(9) and suggested that it was quite strong. He also suggested rewording of 50.13(1)d relative to physical separation of inmates. Doyle referred to rule 50.15 on medical services and suggested possible inclusion of treatment for electric shock. Doyle referred to the definition of "minister" in 50.1 and pointed out that some Indian groups do not have "ordained or licensed" persons.

50.15

50.1

Muller explained that the requirement for exercise equipment was deleted from 50.18(1)b since jails are not obligated to furnish it.

50.18

50.13

Westendorf voiced opposition to the addition of provision in 50.13(2)a(4) to require a security check at least every half hour for those arrested for intoxication. He commented that a majority of county arrests are for intoxication and counties will be forced to hire full-time jailers at great expense for small number of prisoners. Department officials cited danger of suicide for first-time incarcerations and mentioned legislative mandate to care for jail inmates. Jailers need to be aware of a pattern of injuries. General discussion. Sheriffs have taken the position that safety in the jails should be their responsibility.

Ch 51

No recommendations re amendments to Chapter 51.

Priebe announced that several agenda items could not be considered today because of time restraints.

ECONOMIC
DEVELOPMENT
DEPARTMENT

Melanie Johnson, Diane L. Foss, Diane Oak Goode, Sharon Dreyer, Jude Conway and Douglas Getter were present for the following:

Self-employment loan program, 8.2, 8.3(5) to 8.3(7), 8.4(3), 8.7, filed emergency after notice. ARC 8280 ..F.E.A.N.....	1/13/88
Targeted small business loan and equity grant program, ch 27 ARC 8289.....F.....	1/13/88
Business incubator center program, 52.2, 52.7, 52.7(1)"a" ARC 8281 ..P.....	1/13/88
Iowa industrial new jobs training program, 5.6(1) ARC 8277.....N.....	1/13/88
Labor-management cooperation program, ch 10 ARC 8278, also filed emergency ARC 8279 ..N.x.F.E.....	1/13/88
Youth affairs, 14.1 to 14.7 ARC 8276 ..N.....	1/13/88
Economic and research and development grants, 53.2, 53.3(1), 53.3(3), 53.5, 53.6, 53.7(2), 53.8, 53.9(10), 53.11, 53.12 ARC 8316 ..N.....	1/13/88
Small business innovation research grant assistance program, ch 59 ARC 8317, also filed emergency ARC 8318.....N.x.F.E.....	1/13/88

No questions re 8.2 et al., Chapter 27, 52.2 et al, or 5.6(1).

Ch 10

In re Chapter 10, Johnson reported that comments from Representative Parker concerning degree of specificity or lack thereof in Chapter 10 would be addressed by the Labor Management Cooperation Council. Royce commented on the statutory authority which, in his opinion, was nebulous. No questions re amendments to Chapter 53.

Ch 14

In review of amendments to Chapter 14, Clark questioned meaning of "spike camp" and Getter agreed to provide an answer.

Ch 59

Getter summarized new Chapter 59. No questions.

ELDER
AFFAIRS

Ron Beane represented the Department for review of proposed amendments to Chapter 9 pertaining to care review committees, published in 1/27/88 as ARC 8349. No committee action.

NATURAL
RESOURCES
DEPARTMENT

Victor Kennedy appeared on behalf of the Natural Resources Department for adopted amendment to 9.2(1) with respect to groundwater hazard documentation, 1/13/88 IAB, ARC 8289. No questions.

CIVIL RIGHTS
COMMISSION

Inga Bumbarly-Langston, Teresa Baustian and Rick Artry were present for the following:

Rescind 240—chs 1 to 7 and 9 to 11, adopt 161—chs 1 to 4, 6, 8, 10, 15 ARC 8275..F..... 1/13/88 .

Also present: Donald G. Hauser, representing the Iowa Association of Business and Industry.

Bumbarly-Langston noted that rules had been renumbered, minor changes had been made, and the final rules would become effective February 17.

Chairman Priebe recognized Hauser who voiced opposition to the fact that objections voted in 1979 to the former rules were not carried forward with the revised version, i. e., 2.1(8) defining "injury" and 8.27(6(a)(2) and b, providing for "reasonable accommodation."

Royce recalled the question in 1979 involved what was required in terms of helping the handicapped--what

CIVIL RIGHTS
COMMISSION
Continued

sort of affirmative action or reasonable accommodation should be used. He continued that the issue was that concept of reasonable accommodation does not appear in the Iowa statute but rather it was a matter of case law. The ARRC imposed the objections in 1979, with the position that reasonable accommodation provisions should be added to the statute.

Bumbary-Langston said when the rules were revised and renumbered to conform with state government reorganization, no substantive changes were made. She referenced Iowa Supreme Court [case] law and felt comfortable that reasonable accommodation is required by employers at a certain point in time when they have a qualified, disabled applicant who needs reasonable accommodation.

Baustian recalled the court decision had been made in 1981 and that time had altered the situation of ARRC concerns in 1979.

Hauser and Bumbary-Langston discussed Hauser's misunderstanding that the objections would remain in place. Hauser pointed out that the statute had not changed.

Barry explained that past practice has been to editorially delete objections when the rules are amended or rescinded. This editorial function has been performed with ARRC concurrence. Royce advised that new objections could be imposed. Hauser wanted time to review possible legal ramifications.

After some discussion, a suggestion was made that a delay should be voted. Doyle saw no need to delay all of the rules. He noted the absence of litigation on the objectionable rules. Hauser commented that the rules in question had not been enforced.

Motion -
70-day
delay

There was Committee concurrence that a 70-day delay would be in order. Doyle moved that 2.1(8) and 8.27 ^{was originally} (6)a (2) and b be delayed for 70 days and that the objectionable rules be scheduled for special review at the May meeting or before the 70 days elapse. Carried.

Minutes

Doyle moved approval of the minutes of the January meeting as submitted. Motion carried.

LOTTERY
DIVISION

Nichola K. Schissel and Sheri Barnett, Assistant Attorney General, appeared for:

REVENUE AND FINANCE DEPARTMENT [701] "umbrella"
Licensing, operation of the lottery - base retailer compensation and sales incentives, 3.19, 4.18 ARC 8352, N. 1/27/88
Lotto America, ch 12 ARC 8351, also filed emergency ARC 8350 N.P.A. 1/27/88

Schissel discussed percentages paid for winnings and distribution and taxation for a group which has purchased a winning ticket. Schissel also informed the ARRC that Lottery officials had no success in obtain-

LOTTERY
DIVISION
Concluded

ing workable bids for video lottery. They will continue to search for good, solid companies with the necessary technology.

UTILITIES
BOARD

Ray Vawter, Diane Munns, Wes Bridgeman were present for the following:

COMMERCE DEPARTMENT[181]"umbrella"		
Meter standards, 19.1(3), 19.6, 20.6, amended notice	ARC 8311	AN
Out-of-state travel reporting requirements, 19.2(5)k, 20.2(5)j, 22.2(6)l	ARC 8308	N
Intrastate access service tariffs, 22.1(3), 22.1(6), 22.14(1), 22.14(2)a to d, 22.14(3), 22.14(4)a,		
22.14(5) ARC 8309		N
Adjacent exchange service tariffs, 22.3(15) ARC 8310		N
		1/13/88
		1/13/88
		1/13/88
		1/13/88

Priebe questioned the statutory authority for inclusion of "entertainment expenses" in 19.2(5)k(5) and he wondered how determination would be made as to what is "allowable." Priebe recommended clarifying language.

AUDITOR
OF STATE

Warren Jenkins and Andy Nielsen appeared to answer questions concerning administration of Iowa Code chapter 446-- costs of tax sale publications.

It was Priebe's understanding that some county treasurers had collected \$10 per parcel of land and he questioned final disposition of those collections. According to Jenkins, an AG opinion [1-19-88] advised "A ten dollar fee for tax sale publication costs should be charged per assessment roll, regardless of the amount of property included in that assessment roll." He assured Priebe there was no intent to retain funds which should not have been collected--the treasurers would be required to refund.

NO AGENCY
REPS

No agency representatives were requested to appear for the following:

BLIND. DIVISION FOR THE[423]		
HUMAN RIGHTS DEPARTMENT[421]"umbrella"		
Vocational rehabilitation services, independent living rehabilitation services, 10.6(2), 10.7 to 10.10, ch		
11 ARC 8288		F
		1/13/88
CULTURAL AFFAIRS DEPARTMENT[221]		
Organization, arts division, chs 1, 6, 10 to 12	ARC 8283	F
		1/13/88
FOSTER CARE REVIEW BOARD[489]		
INSPECTIONS AND APPEALS DEPARTMENT[481]"umbrella"		
Transfer 446--chs 1 to 8 to 489--chs 1 to 3	ARC 8347	N
		1/27/88
GENERAL SERVICES DEPARTMENT[450]		
Special rules for the acquisition of data processing equipment or software, amendments to ch 4	ARC 8325	N
		1/27/88
INSPECTIONS AND APPEALS DEPARTMENT[481]		
Real estate broker trust account audits, health care facility audits, chs 21 and 22	ARC 8328	F
		1/27/88
Field survey administration, 30.2	ARC 8346	F
		1/27/88
Food establishment inspections, 31.2; 30--33.1 to 33.4 and 30--34.1 to 34.4 transferred to inspections and appeals		
department and rescinded	ARC 8345	F
		1/27/88
Field survey administration -- farmers markets, 30.2, 30.3(4)	ARC 8329	N
		1/27/88
JOB SERVICE DIVISION[345]		
EMPLOYMENT SERVICES DEPARTMENT[341]"umbrella"		
Claims and benefits, placement, forms, 4.2(1)c(2), 7.2(19), 10.7(2)	ARC 8338	F
		1/27/88
NURSING BOARD[655]		
PUBLIC HEALTH DEPARTMENT[611]"umbrella"		
Examination of public records, ch 11	ARC 8292	N
		1/13/88
PERSONNEL DEPARTMENT[581]		
Amendments to correct and clarify rules, 4.4(1), 4.5(1)e, "i," 4.5(2)b(1), 4.5(7)a(3), 4.5(8)e(1), 4.5(9),		
4.5(9)e(1), 4.5(17)b, "d," "e," "f," 5.1(2), 5.2(1), 5.2(4)a, 5.2(4)b(6), 7.11, 8.6, 11.3(1)a, "b," 11.3(2)d,"		
11.3(5)a, 12.1(1)a, "b," "c," 12.2(1)a, "b," 12.2(2), 12.2(4), 14.3(4), 14.3(12), 14.17, 15.1(1), 15.1(3), 15.2 to		
15.4, 15.6(2), 19.1, 19.1(1), 19.1(1)b, 19.4, 21.1	ARC 8284	N
		1/13/88
PHARMACY EXAMINERS BOARD[620]		
Minimum standards for evaluating practical experience, ch 3	ARC 8286	F
		1/13/88
Minimum standards for the practice of pharmacy, 8.14(2)a(5)	ARC 8324	N
		1/27/88
PUBLIC HEALTH DEPARTMENT[641]		
Fair information practices Act regulations, ch 175	ARC 8353	N
		1/27/88

NO AGENCY
REPS
Continued

ENERGY AND GEOLOGICAL RESOURCES DIVISION[565]
 NATURAL RESOURCES DEPARTMENT[561]"umbrella"
 Energy audits grants programs, 7.1(2), 8.6(4)"b," "c," and "d" ARC 8290 1/13/88
 Grants to nonprofit and local government housing organizations, ch 19 ARC 8300 1/13/88
 ENVIRONMENTAL PROTECTION COMMISSION[567]
 NATURAL RESOURCES DEPARTMENT[561]"umbrella"
 Private water well construction permits, ch 38 ARC 8291 1/13/88
 REGENTS BOARD[720]
 Personnel administration, 3.39(14), 3.56(5), 3.67, 3.67(2), 3.67(4), 3.69, 3.69(1), 3.70, 3.101 ARC 8327 1/27/88
 TRANSPORTATION DEPARTMENT[761]
 Vehicle registration and certificate of title; mobile home dealers, manufacturers and distributors, 400.5(1)"a,"
 400.6(19), 400.21, 400.22(2)"a" and "b," 421.4(1), 421.6(1), 421.6(2) ARC 8330 1/27/88

Meeting
Adjourned

Chairman Priebe adjourned the meeting at 10:25 a.m.

Special
Meeting
Friday
February 12

At a special meeting held February 12, 1988, the Administrative Rules Review Committee approved a committee bill to clarify rule-making authority of the Departments of Inspections and Appeals and Public Health [SF 2156]. Six members voted "aye."

March
Meeting

The March meeting was scheduled for statutory dates of March 8 and 9, 1988.

Respectfully submitted,

Phyllis Barry
 Phyllis Barry, Secretary
 Assisted by Vivian Haag

APPROVED:

Beed E. Priebe
 CHAIRMAN