

MINUTES OF THE REGULAR MEETING
OF THE
ADMINISTRATIVE RULES REVIEW COMMITTEE

Time of Meeting: Tuesday, Wednesday and Thursday, July 10, 11 and 12, 1984.

Place of Meeting: Senate Committee Rooms 22 and 116, State Capitol, Des Moines, Iowa.

Members Present: Senator Berl Priebe, Chairman; Representative Laverne Schroeder, Vice Chairman; Senator Donald Doyle; Representatives Ned Chiodo and James D. O'Kane. Senator Tieden, excused.
Also present: Joseph Royce, Committee Counsel; Phyllis Barry, Deputy Code Editor, and Vivian Haag, Administrative Assistant.

Meeting Convened Chairman Priebe convened the meeting in Room 24 at 10:15 a.m. [room 22 was not available], Tuesday, July 10, 1984.

Drainage Meetings Before review of agenda items, there was brief discussion of an issue involving Boards of Supervisors and Conservation Commission. It was Priebe's understanding that Supervisors were being asked to notify the Conservation Commission, by certified mail, of all hearings relative to drainage. This could be costly since some counties hold 50 to 100 such meetings annually. General discussion.

INSURANCE DEPT. Joint amendment of the Insurance and Health Departments was before the Committee--subrule 40.5(9),
HEALTH DEPT. published in 6/6/84 IAB as ARC 4697.

40.5(9) Representing the Departments were Kim O'Hara, Attorney, Insurance Department, and John Buckley, Health Department. Buckley reviewed the history of the rule which initially required physical screening exams for HMO enrollees. Under the new language, HMO's will be obligated to provide continuous programs of general health education.

Schroeder inquired as to how HMO membership could be required to provide classroom instruction, etc. Buckley responded that different options were available to each HMO to meet the education requirements. Schroeder envisioned the copayment requirement to be a vehicle for "easy dollars." Doyle opined the use of "periodically" was nebulous [second paragraph of the subrule] and he suggested inclusion of a specific time frame.

Discussion moved to chapter 56--Workers' Compensation Group Self-Insurance, published in 6/6/84 IAB as ARC 4696.

INSURANCE &
HEALTH
Cont'd

O'Hara pointed out changes since the rules were Noticed. She indicated the Department had worked with groups throughout the state but did not concur with a request to lower the aggregate excess insurance requirement to \$1 million because of concern for the safety of an injured worker. All other suggestions were included in the rules.

56.2(4) According to O'Hara, 56.2(4) was modified with respect to definition of "same bona fide business or professional association..."

56.3(2)d 56.3(2)d requires a security deposit, a surety bond, and a financial security endorsement will be allowed for flexibility. In re 56.4(1)g, the amount of surety bond required of service companies was lessened from 20 to 5 percent of outstanding losses. No recommendations by the Committee.

AUDITOR OF
STATE

Warren Jenkins, Deputy Auditor, Gregg Barcus, Executive Assistant, and Bill Hawthorne, Acting Director of Financial Institutions Division, appeared on behalf of the Auditor to review:

AUDITOR OF STATE[130]

Conversion from mutual to capital stock ownership, 6.10, 6.5	ARC 4694	.....	F.....	5/6/84
County audits conducted by certified public accountants, ch 20	ARC 4751	FILED. EMERGENCY	.....	FE...7/1/84
Investment of guaranty corporation funds, 1.28(6)	ARC 4691	.....	N.....	6/6/84
Adjustable mortgage loans, ch 11 rescinded	ARC 4692	.....	N.....	6/6/84
Industrial loans, 1.15(5), 1.21, filed emergency after notice	ARC 4693	.....	FEAN.....	6/6/84

ch 20

Department officials said that Iowa CPAs and the State Association of Counties were involved in developing chapter 20 rules. No comments were received on the Notice so a scheduled public hearing was not held. Barcus noted the rules implement 1984 Iowa Acts, HF 48, which authorizes counties to employ CPAs to conduct their annual audits. Formerly, those audits were the sole responsibility of the State Auditor. Guidelines for hiring a CPA firm are set out in the rules.

O'Kane was told that the request for proposal (RFP) required in 20.4 was not provided for in HF 48. Barcus explained the RFP was intended to aid counties in selecting a CPA firm. O'Kane viewed the rules as excessive implementation and indicated he would scrutinize the legislation. Barcus defended the Department's action.

O'Kane inquired as to whether the City Finance Committee had rules on the subject. According to Jenkins, there was no statute mandating cities to utilize an RFP.

Committee consensus was that discrepancies would not be detected as easily by a CPA. Priebe cited drainage problems in his district where bids were not taken on cleaning drainage ditches when the cost exceeded \$2500. Barcus concurred that the Auditor would be more likely to note that because of extensive experience in county audits.

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AUDITOR OF
STATE
Cont'd

Jenkins readily admitted that the 2-day professional education requirement in 20.8 would "barely touch the surface." Barcus said the Auditor's office would distribute a manual at the continuing education course and CPA firms would be encouraged to have a copy of the Code of Iowa when performing county audits. General discussion.

O'Kane recalled the Auditor's opposition to the concept of House File 48. According to Barcus, complexity of county audits and the lack of experience by CPAs had been a concern. The rules were drafted to assist counties and no complaints have been received. No formal action taken.

Hawthorne briefly reviewed the remaining rules on the agenda.

No recommendations for 6.10, 6.5, 1.28(6) or chapter 11. 11.15(5), 1.21.

CONSERVATION
COMMISSION

Richard Bishop, Wildlife Superintendent, was present for Conservation Commission to review:

CONSERVATION COMMISSION[299]
State parks and preserve wildlife refuges, 46.1 ARC 4759 F. 7/10/84
Deer hunting regulations, ch 106, (first emergency after notice) ARC 4764 FEAN/1/84

Priebe briefed Bishop with respect to the drainage hearing matter. Although Bishop was unfamiliar with the matter, he was willing to investigate and report to Priebe.

46.1

No recommendation re 46.1. Responding to questions by the Committee, Bishop said that the Department did not plant areas for wildlife refuge--there are cooperative agreements for a variety of reasons. Signs designate state refuges.

ch 106

In re chapter 106, Bishop reported on four changes made since Notice, one being an additional season for deer on December 15 and 16 at the Iowa Army Ammunition Plant in Burlington. Priebe wondered if an unfilled Zone 6 license could be used on December 15 and 16. Bishop explained this would be possible after going through the screening procedures at the plant.

Priebe and Schroeder opined that Zone 6 hunters have an unfair advantage. They favored an equitable opportunity for all zones by "luck of the draw" for the 100,000 licenses issued. Priebe suggested a separate zone for the plant.

Bishop understood Committee concerns but referenced the screening procedures required 3 months prior to the season. Only those who anticipate hunting there go through the screening process. No formal action taken.

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FAIR BOARD

Jerry Coughlon appeared for the following:

FAIR BOARD[430]

Pets on the fairgrounds, 2.9 ARC 4703 N 6/6/84

In reviewing the rule, the Committee was concerned that guide dogs would not be allowed in state fair buildings. It was Priebe's opinion that any guide dog that passes a "clean test" should be eligible. He suggested that the Department work with Dr. Lang for clarification of the rule.

Doyle inquired if the Commission for the Blind should be consulted in the matter. Coughlon thought "an exception for guide dogs" could be inserted.

Priebe also preferred allowing the clean test to be conducted locally. No other questions.

ATHLETIC
COMMISSIONER

Walter H. Johnson and Eric S. Erdmann represented the Bureau of Labor for consideration of professional boxing, general requirements, 2.21, filed emergency, ARC 4736, IAB 6/20/84.

Johnson explained the emergency adoption was necessary because of need to publish a handbook containing all of the rules. No questions.

EMPLOYMENT
SECURITY
(Job Service)

Joseph Bervid, Paul Moran and Jim Hunsaker III were in attendance to review the following:

EMPLOYMENT SECURITY[370]

Employer's contribution and charges, claims and benefits, appeals procedure, 3.32(1), 3.33(2), 3.48, 4.7(2), 4.12, 6.7(1), 6.7(2), 6.7(3) ARC 4749 N 6/20/84
Employer's contribution and charges, claims and benefits, 3.40(5), 3.40(6), 3.40(8), 3.40(9), 4.22(1)"k," 4.23(4)"a," 4.24(5) F 6/20/84
filed emergency ARC 4748 F 6/20/84

Bervid advised ARRC that amendments in chapters 3, 4 and 6 were "housekeeping" in nature to comply with recent legislation. He briefly reviewed changes in additional amendments to chapters 3 and 4 [ARC 4748] to implement 1984 Iowa Acts, HF 2433. No questions.

CAMPAIGN
FINANCE

Kay Williams, Executive Director, appeared on behalf of the Commission for the following:

CAMPAIGN FINANCE DISCLOSURE COMMISSION[190]

Election campaign fund, 2.1(6) ARC 4748 F 6/20/84
Campaign contributions to state officeholders and candidates for state office, ch 7 ARC 4747 N 6/20/84

2.1(6)

No questions re 2.1(6) which permits voluntary contribution to the income tax checkoff fund.

ch 7

Williams briefed the Committee with respect to chapter 7 which was intended to implement 1984 Iowa Acts, HF 2521. State officeholders and candidates for state office must file reports within 14 days of receiving contributions from PACs or registered lobbyists, if the contribution is received while the Legislature is in session. The Commission decided those contributions would be rare and, therefore, could be reported by letter. This information could be included in a subsequent report.

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CAMPAIGN
FINANCE
DISCLOSURE
Concluded

Discussion of the definition of "registered lobbyist" with question being raised--would the rule govern those out in the field who do not come to the capitol to lobby? It was Williams' understanding that any individual who lobbys a bill would be required to register. General discussion. Doyle referenced the Legislative Handbook as a possible source of information on the issue.

Williams was directed to consult with Royce for possible revision in the definition of registered lobbyist. Williams reported that Campaign Finance Disclosure Commissioners were hopeful the definition could be addressed by statute.

Refer to GA

Chiodo moved that the Speaker of the House and the Lieutenant Governor be asked to notify respective committees of this rule--chapter 7. Motion carried.

REAL ESTATE
COMMISSION

Kenneth Smith, Acting Director, and Lisa Marron were present for the following:

REAL ESTATE COMMISSION[700]
Part-time broker or broker-associate, 1.21, filed without notice ARC 4773 *FWON* 7/1/84

Also present: Pat Jung and Budd Ewell, Iowa Association of Realtors.

Smith gave a brief history of the rule. No comments.

Recess

Chairman Priebe recessed the Committee for lunch at 11:30 a.m. to be reconvened at 1:30 p.m.

CIVIL RIGHTS
COMMISSION

Ta-Yu Yang and Louis Mark appeared on behalf of Civil Rights Commission for the following:

CIVIL RIGHTS COMMISSION[240]
Rules of practice, 1.1(6) and 1.1(6)"c" ARC 4715 *F* 6/20/84
Affirmative action, ch 20 ARC 4716 *F* 6/20/84

Yang commented that 1.1(6) clarifies the right for judicial review of Commission actions. Discussion of "satisfactorily adjusted" which was revised to require respondent's signature on a case which has been closed as satisfactorily adjusted.

No recommendations were offered for chapter 20.

PHARMACY
EXAMINERS

Norman Johnson, Executive Secretary, reviewed the following:

PHARMACY EXAMINERS, BOARD OF[620]
Prescription information and transfer, 2.5 ARC 4744 *F* 6/20/84

Rule 2.5 will allow transfer of prescription information from one pharmacy to another. Problems with abuse of controlled substances generated the rule which is an attempt to prohibit drugs being obtained from many different sources.

No action taken.

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RACING
COMMISSION

Jack Ketterer was present for consideration of the following:

RACING COMMISSION, STATE[693]

Organization and operation, rulemaking, declaratory rulings, chs 1 to 3 ARC 4710

Criteria for granting licenses and determining race dates, ch 6 ARC 4711

F..... 6/6/84
F..... 6/6/84

1.2(4)

Ketterer pointed out changes from the Noticed rules. Schroeder referred to 1.2(4) and expressed concern that anti-racing groups would request great numbers of copies since there was no charge. He preferred an amount be included in the subrule. Ketterer assured the ARRC that charges were made for voluminous reports. General concurrence with Schroeder's suggestion.

ch 6

Chiodo was interested in the system to be followed by the Commission to ensure that all criteria in chapter 6 would be considered. Ketterer reasoned it would be difficult to weight each item and answer for each Commissioner's thought process. Chiodo preferred a report stating that each item had been considered. Ketterer had apprised the Commissioners to be cognizant of these rules when reviewing applications.

Priebe inquired as to how his county fairs would manage under this rule. Ketterer indicated they should observe attendance at nonpari-mutuel meets this summer and then, look at some other states for anticipated per capita wager. Costs of additional facilities and capital improvements would be a factor in a decision to hold a pari-mutuel meet. Priebe opined that the rules would preclude county fairs from operating with a portable tote board on week-ends. General discussion. Schroeder mentioned the 60-day petition process as an option to county fair groups.

There was brief discussion of "pick six" and "twin trifecta" races.

BOARD OF
NURSING

Ann Mowery, Executive Secretary to the Board, appeared for review of advanced registered nurse practitioners, 7.1, 7.2(1)g, ARC 4717, Notice, IAB 6/20/84.

Psychiatric
Nurse

Mowery did not envision problems with amendments which set out education requirements for a psychiatric nurse. No action taken.

Royce
Salary

Barry brought up the fact that the Step for Royce's salary increase did not correspond with the legislative pay plan.

Motion

Schroeder moved that Royce be classified as Grade 32, Step 3, biweekly salary of \$1104.00 and that the minutes reflect this correction. Motion carried.

Recess
Reconvened

Chairman Priebe announced a ten-minute recess at 2:40 p.m. Reconvened at 2:50 p.m.

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BOARD OF
MEDICAL
EXAMINERS

Dr. Tom Bennett, newly appointed State Medical Examiner, appeared before the Committee for chapter 1 pertaining to autopsy reimbursement for sudden infant death syndrome--Notice, IAB 6/6/84 as ARC 4706.

1.1

Bennett explained that costs for autopsies, under the medical examiner system, are borne by the counties. In cases of mandatory autopsies under Iowa Code §331.7, the Health Department will reimburse the county. Bennett described the process and discussed the variation in costs. It was his opinion that \$400 was fair. Counties have the option of paying more to local pathologists. No questions.

LAW ENFORCE-
MENT ACADEMY

Ben Yarrington, William J. Callaghan and Ralph Ager appeared on behalf of the Iowa Law Enforcement Academy for:

LAW ENFORCEMENT ACADEMY[550]

Standards, certification, organization, 1.1(8), 2.1, 2.9, 3.3(2), 3.3(3), 3.4(2), amendments to ch 6, filed emergency after notice ARC 4705 *FLAN* 6/6/84

Yarrington gave a brief overview of housekeeping amendments to standards, certification and organization rules. The emergency filing was utilized to meet the July 1, 1984, deadline for officers who needed to be certified before that date. No questions.

PUBLIC
SAFETY
DEPARTMENT

Connie White, Carroll Bidler and Wilbur Johnson, Fire Marshal, were present for the Department of Public Safety. The following agenda was before the ARRC:

PUBLIC SAFETY DEPARTMENT[1080]

Crime victim reparation, 17.3(2), 17.3(7), 17.8, 17.8(5), 17.10, 17.13 ARC 4769 filed emergency *FL* 7/4 81
Weapons, 4.2(9) to 4.2(12), 4.4 ARC 4771 *F* 7/6 81
Fire marshal, 5.850, 5.23(45) ARC 4772 *F* 7/4 81

ch 17

Discussion of chapter 17 amendments intended to implement 1984 Iowa Acts, HF 2486. Crime reparation victim benefits will be expanded to include violations of Code §321.281, driving while under the influence.

17.10(1)a

In response to Priebe's question re disqualification by "provocation" in 17.10(1)a, Bidler said this would be determined from the law enforcement investigative report. They also rely upon the County Attorney.

ch 4

Permanent weapon permits to peace officers will be allowed under amendments to chapter 4. In addition, application procedures for residents and nonresidents were set out. General discussion.

Fire Marshal

Johnson explained that 5.850 would be amended by emergency rule to delete chapter 2 of pamphlet No. 495 which conflicts with the Code--the law does not require a test for a blaster's permit. However, it was noted that training is required for blasters in mining operations.

Doyle commented that volunteer firemen had requested legislation to require marking of buildings contain-

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PUBLIC
SAFETY

ing legal fireworks, such as sparklers. Johnson pointed out that the fire law was completely separate and not under his jurisdiction.

Doyle asked him to investigate whether or not he could promulgate rules for warning signs to identify a building containing explosives and recommend legislation.

DEPARTMENT
OF
CORRECTIONS

The Department was represented by Broxann Keigley and Gordon Allen, Assistant Attorney General. Board of parole interviews, 20.13, ARC 4753, filed emergency, IAB 7/4/84 was before the Committee.

Also present: Richard George, Board of Parole, Ray Cornell and Clarence Key, Jr., Citizens Aide Office, and Joseph Thornton, Attorney, Des Moines Register and Tribune.

20.13

Keigley reminded ARRC that rule 20.13(217A) was drafted in conjunction with the Board of Parole hearings to comply with the open meetings law. It was her understanding that Board of Parole rules would govern conduct at the hearings. Corrections rules address security considerations since hearings will be held inside the correctional institutions.

Keigley learned only today of major concerns with the rules which were patterned after their visitation guidelines following advice of Allen.

Schroeder was of the opinion that a joint set of rules to meet the criteria would have been preferable. He could foresee possible conflict. Keigley stated that it was her understanding because of a consent decree, Corrections had to file rules immediately. Allen offered background on the issue. For some years, litigation ensued between Des Moines Register and Tribune and the Iowa Board of Parole--vis-a-vis whether the meetings should be open. The consent decree which came out of Polk County District Court, ordering the Board of Parole to hold open meetings, occurred twelve days prior to a scheduled Board interview at the penitentiary.

Allen continued that he and McGrane, Assistant Attorney General, who advises and counsels the Board of Parole, had reviewed the respective rules of each agency and they concurred that no conflict exists. Allen disagreed with Royce's statement that "two agencies are trying to regulate the same exact thing."

Royce opined that Corrections has the responsibility of the inmate and control of access to the facility whereas the Board of Parole has charge of the meetings. He wondered if one rule with one authority to approve or disapprove would be possible.

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DEPT. OF
CORRECTIONS
Continued

Allen's response was in the negative. He stressed that once the Board of Parole meeting is gaveled to order, the Department of Corrections has little jurisdiction. The rules then govern the visiting public--they deal only with ingress and egress at the institution. Discussion of ramifications if meetings were held outside the "walls." Allen cited security of the public and of the inmates as two concerns.

Cornell, prison ombudsman, spoke to the issue of two sets of rules and the fact that two agencies are impacting on the operations of each other. He noted that chapter 28E agreements were nonexistent. Cornell referenced a draft of rules by the Board wherein there are "cross mandates." Annual interview progress reports will be required from the institution four weeks prior to the Board session. Institution officials are doubtful they can comply with the response time on the progress reports.

The ombudsman agreed with the philosophy that went into the consent decree--public access to these meetings. However, other areas should be addressed by the General Assembly, e.g., inmate safety issues. The media and board members as well, may be in personal jeopardy. Cornell declared that certain types of offenses would be "chilled by this process"--fair consideration would be difficult. There is no apparent mechanism for the inmate to request a private hearing with the Board of Parole. Cornell urged safety balanced with the public's right to know.

20.13(1)

He noted that 20.13(1) contains no provision for a blanket approval--for example, members of the press. Also, the fifteen-day requirement seemed excessive. Cornell wondered who would be allowed under 20.13(2)g. He recalled that the Board of Parole has a liaison officer, who is an ex-felon, but there is no exclusion for him. Also, "none for yours truly who also happens to be an ex-felon." Cornell suggested that the "comprehensive proposals for searches" of the public could include members of the media.

Cornell questioned whether the open meetings law allowed for mandate to form press pools. The rules were written from the philosophical base of media coverage in court. Cornell reiterated his interest in referring the issue to the General Assembly.

Responding to Doyle's concern, George did not believe there was a conflict between the rules. He discussed the fifteen-day notice which is necessary because tentative agenda must be published with names of inmates reviewed or interviewed by the Board. The provision was voted upon by the Board--there was a 3-3 tie on motion to modify to seven days.

DEPT. OF
CORRECTIONS
Concluded

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Doyle observed the fact that the rules lack exceptions, such as a legislator, state employee, or BCI agent, for attendance at a meeting.

Keigley agreed to follow up on the matter.

Doyle and George discussed background checks and possible consideration of chapter 28E agreements. O'Kane viewed both groups as regulating prison populations and thought 28E was permissive.

Royce voiced that "we are not talking about the power of parole--the power exercised here is the conduct of a meeting." He stressed the importance of a balance between 28A and security aspect of the meetings. Allen reasoned that the interview sessions were analogous to the legislature meeting in the statehouse which is protected by rules and regulations. There is no 28E agreement with capitol security but security needs are met.

Allen informed Doyle that the consent decree provided "Board of Parole meetings are subject to the open meetings law." Corrections officials concurred with Schroeder that each Board member was liable for violations.

Chiodo favored clearly defined exclusions from the investigation and background checks. He opposed the potential implications of "subject to" in 20.13(1). Consensus was that additional language should address the procedure for removing someone, who is not maintaining demeanor, from a meeting.

Discussion of Committee options with agreement that rules of the Parole Board and Corrections Departments should be considered at the August meeting.

Thornton was critical of the Corrections' emergency adoption although he admitted it was necessary for response to the consent decree. It was his understanding that background checks are not made as a matter of course. Therefore, Des Moines Register questions the necessity for the fifteen-days' notice. Thornton spoke of problems dealing with adequate notice to family, friends and press who may be prohibited from attending the meetings because of the "mechanics" involved. Keigley declared that not everyone entering the prison is searched and identified.

Chiodo agreed some prior notice was essential but thought fifteen days was excessive. Thornton referred to 20.13(4) and disadvantages of press pooling. He preferred first come, first served basis. No formal action taken.

Meetings

Chairman Priebe announced a three-day meeting for August--8/14 to 8/16. Revenue productivity rules were scheduled for the morning of August 16.

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MEETINGS

It was also agreed that the Revenue Department should schedule informational hearings around the state, Notice of which would be published in the Iowa Administrative Bulletin.

Dates for
Forthcoming
Meetings

Forthcoming meetings were agreed upon as follows:
September 11, 12 and 13, 1984, and October 9, 10 and 11, 1984.

Recess

Chairman Priebe recessed the meeting at 4:15 p.m.

RECONVENED
WEDNESDAY
July 11

The meeting was reconvened at 9:20 a.m. in Room 22 by Chairman Priebe. A quorum was present.

BEER & LIQUOR
CONTROL DEPT.

The Beer & Liquor Control Department was represented by William Armstrong. Liquor license-beer permits, 4.18(2), ARC 4725, Notice, IAB 6/20/84 was before the Committee.

4.18(2)

Armstrong reported that subrule 4.18(2) had been modified as recommended by the ARRC--licenses now may be transferred unlimited number of times if approved by local authority.

Doyle and O'Kane asked the Department to notify Malcolm, Iowa officials of the rule. Armstrong was amenable.

COMMERCE
COMMISSION

David Lynch, Diane Munns, Ray Vawter, Jr., Bill Haas, Shane Bock, Christine Hansen and Andrew Varley represented Commerce Commission for the following:

COMMERCE COMMISSION[250]

Gas utilities, refunds, 19.10(5)"a"(7), first unnumbered paragraph	ARC 4803	FE	7/1/84
Gas and electric utilities, late payment charge, 19.4(11), third unnumbered paragraph, and 20.4(12), third unnumbered paragraph	ARC 4650 (Delay, published IAB 6/20/84)	F	5/4/84
Complaint procedures, ch 6	ARC 4713	F	5/4/84
Civil penalties, ch 8	ARC 4738	F	6/24/84
Telephone directories, 22.3(2)"d"	ARC 4739	F	6/24/84
Gas and electric utilities, records and reports, 19.2(4)"c"(10), 19.2(5)"l" and "m," 20.2(4)"x," 20.2(5)"k,"		FE	6/20/84
Filed emergency	ARC 4740	N	6/6/84
Electric energy adjustment clause, 20.9(4)	ARC 4712		

Also present: Ben Stead, Office of Consumer Advocate; J. Kent Jerome, Iowa Telephone Association; John Lewis, Iowa Utility Association; Don Williams, Northwestern Bell Telephone and Don Heidebrecht, United Telephone.

Chairman Priebe excused. Vice Chairman Schroeder in the chair.

19.10(5)

Haas said that 19.10(5)a(7) was amended to include language inadvertently deleted from the subrule when rulemaking was made under Docket RMU 83-26. Haas was willing to pursue question raised by Schroeder re complaints from customers about the amount of heat obtained from therms of gas consumed. Munns interjected that air is not blended with the gas--the quality is at an all-time high.

COMMERCE
COMMISSION
Continued

7/11/84

Hansen advised O'Kane that Methane was a much lower Btu content.

19.4 (11)
20.4 (12)

Discussion centered on the question of interest charged for gas and electric utilities. A 70-day delay had been imposed on 19.4 (11), third unnumbered paragraph, and 20.4 (12), at the June meeting. Varley stated that when the bill is received by the customer, it is due, but if the customer does not pay until the last date before the bill would be overdue--interest would be forgiven--an incentive to pay early. If interest were charged on a daily basis after the twenty days, the bill would have to be recalculated every day. Schroeder contended the customer should receive credit for early payment. He thought there was a violation of the law, when on the twenty-first day, thirty days' interest is added. That generated lengthy discussion among Chiodo, Schroeder and Varley. Chiodo used the chalkboard for explaining his understanding of the late charge.

Chiodo insisted that on the twenty-first day, the utility was charging $1\frac{1}{2}$ percent interest, and that the arbitrary date was advantageous to the utility. Varley interpreted the law as "making low interest loans available at the expense of people who pay their bills." To suggest that customers who pay early should not have some benefit over those who pay late was a mistake, in his opinion. Committee members were concerned that interest paid by the customer would exceed the $1\frac{1}{2}$ percent limit established by 1983 Iowa Acts, chapter 127, section 37.

Varley asked and received permission to send copies of a Wisconsin study conducted on late payments--largest class was those who clearly had money to pay their bills but manipulated the system.

Chiodo had no problem with allowing the delay to expire, but wanted the companies and the Commission to be aware of a potential problem.

ch 6

Discussion of revised chapter 6. Stead, on behalf of the OCA, distributed copies of an amendment which he had presented to the Commission. A new subsection 6.2(3) would provide a procedure for staying utility action. Both staff and Commission had declined Stead's proposal. The final rules provide no relief pending disposition of a disconnection complaint. Stead continued that, in many instances, OCA has found that the stay of the disconnection is a remedy prior to any final resolution by the Commission.

In response to Schroeder, Stead said the new rules allow twenty days for a response and OCA has no problem with that. Schroeder wanted to know if the forty-five days would extend service to what would be called the "deadbeat" pay. Stead responded in the negative and added that the OCA proposal should answer that concern.

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COMMERCE
COMMISSION
Continued

Schroeder recalled safeguards were in place now on dis-connects especially November through May so was not certain Stead's proposal was needed. Varley said it was the Commission's position that whether a stay should be granted or not was a question of fact to be addressed for each case--their rules provide that. He declared that Stead's proposal would give everyone an additional delay, which would serve no useful purpose.

Stead challenged Varley to cite any rule that provides for the Commission to review on a case-by-case basis that factual determination in order to postpone a pending disconnection while complaint is being processed. Stead agreed there were very specific rules and laws--but the point being "absent the adoption of amendment as proposed by OCA creates an irrebutable presumption while complaint is pending before the Commission that the utility acted properly and Commission's own records reflect that they (utilities) don't act properly."

Chiodo wondered if a compromise were possible. Varley reiterated it was the Commission's judgment that the language was unnecessary. There was further discussion of disconnection of service and formal and informal complaints. Varley indicated a telephone call as opposed to a letter would be "informal." Munns said the law contemplates the process. Schroeder suspected that OCA's suggestion would "load the docket."

In closing, Stead read from OCA's request for a concise statement. He stressed that the "Commission is there to protect the public, not utilities, and in ratemaking, to balance the interest of the investors and consumers."

Motion to
Delay
Ch 6

O'Kane moved that a 70-day delay be placed on chapter 6 for further study. Chiodo saw legitimate points on both sides. Motion carried.

ch 8

Haas said that chapter 8, civil penalties, was intended to implement HF 312 [1983 Acts, ch 127] and some procedural mechanisms have been added since the Notice.

No questions re chapter 8 or 22.3(2)d. Priebe took the chair.

chs 19, 20

Bock briefed the ARRC re amendments to chapters 19 and 20. O'Kane concurred with the substance of the rule but questioned emergency filing. The Commission did not anticipate public comment on the amendments. No recommendations for 20.9(4).

Recess

Committee was in recess from 10:20 a.m. to 10:30 a.m.

HEALTH
DATA
COMMISSION

Steve Braun and Clark McDonald were present for Health Data Commission rules as follows:

HEALTH DATA COMMISSION(406)

Submission of data, description, 8.3(6) ARC 4726N... 6:20/84
Posting and submission of hospital price information, ch 8 ARC 4727N... 6:20/84

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HEALTH
DATA
COMMISSION
Continued

Braun stated that under 6.3(5) third-party payers will be required to retain insurance group numbers with other information submitted to Health Data Commission--for statistical purposes only. Braun maintained that none of this would apply to physician's services--only to hospitals. New numbers have not been created.

Schroeder suggested that federal numbers be considered when setting up the physician's services numbers during the next year.

In response to Doyle, Health Data officials indicated the new admissions form to which he alluded was not one of their requirements.

8.2(1)

Schroeder questioned the time frame in 8.2(1) and Braun indicated the August 1 date would be changed to a date in October, at the earliest.

INSURANCE
DEPARTMENT

The following Insurance rules were before the Committee:

INSURANCE DEPARTMENT[510]

Workers' compensation self-insurance for individual employers, ch 57 ARC 4743 *Defer until 11/84* F..... 6/2/84
Gender-blended minimum nonforfeiture standards for life insurance, ch 42 ARC 4812 F..... 7/1/81
Nonprofit health service corporations, 34.7(2), 34.7(3)"d" and "e," 34.7(4) to 34.7(6), 34.2 ARC 4810 F.E. 7/1/81

Kim O'Hara represented the Department. Also in attendance were Brice Oakley, Blue Cross/Blue Shield; John Buckley Health Department; and Cynthia Winker, representing HMO's--Quad City Health Plan, Davenport, SHARE and Cedar Valley, Waterloo.

HMO
40.5(9)

Because of confusion in scheduling HMO subrule 40.5(9), Winker had not been present when the subrule was reviewed on July 10. Priebe apologized and offered Winker an opportunity to address the Committee. Winker expressed her clients' concern with subrule 40.5(9), in particular, "...each HMO shall provide a continuous program of health education...without additional cost to the enrollee..." and also to the copayment provisions.

Committee members recalled incongruities in the rule--in one instance, there would be no additional cost to the enrollee and, in the next, "it may be subject to a copayment requirement."

Winker spoke of their educational programs and distributed pamphlets pertaining to their health education. She referred to various lecture programs conducted by the HMO's.

Buckley contended that educational programs of general nature, such as newsletters, or spot radio and TV announcements, would be without cost, but a copayment would be allowed for specific health education seminars. The Health Department wanted to ensure there would be no additional charge since employers, at this time, are providing coverage as a fringe benefit.

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INSURANCE
DEPARTMENT
HMO's
continued

Winker indicated Quad City employers were willing to make the investment required for health education.

Oakley recommended the rule be rewritten to describe "additional cost" with respect to copayment.

Although the rules were effective yesterday, Buckley said he would refer the matter to the Department. He referenced a memo that had been sent to every HMO apprising them of yesterday's meeting.

ch 57

O'Hara summarized chapter 57 and identified changes since the Notice. She noted the rules were similar to group workers comp (ch 56) discussed yesterday--they provide general guidelines for certified qualified employers. Schroeder wondered if the rules would apply to DOT and Regents. He suspected that they were already self-insured. O'Hara was uncertain.

O'Hara indicated that 57.3 and 57.4 were rewritten after additional meetings with the Committee selected by the Industrial Commissioner to work with the Insurance Department. Surety bond for service companies was reduced from 20 to 5 percent of outstanding losses in 57.6(1)g. According to O'Hara, experts who were actuaries and examiners felt the ratios were adequate to protect injured workers.

Schroeder referred to 57.2(3) which defines "employer" as set forth in Code §85.61. He reiterated his concern that DOT and Regents would be affected. O'Kane mentioned a statute on re-insurance passed last year, which was in conflict with this rule.

O'Hara cited 57.13 as a possible remedy since it allows for waiver. She offered to provide an answer to ARRC concerns on Thursday. No action taken.

ch 42

O'Hara discussed changes since chapter 42 was Noticed. Actuaries had asked that additional tables be included (developed and revised by actuaries and adopted by NAIC) which could be used as basis for gender-blended mortality tables. No recommendations.

ch 34

O'Hara remarked that no public comment had been received on the Noticed chapter 34. Oakley reminded ARRC that Blue Cross/Blue Shield had opposed emergency implementation of the amendments. He will supply the Committee with information relative to nomination of subscriber directors. The five boards created under Code Chapter 514 were scheduled to hold a plenary meeting. Results will be shared.

PLANNING &
PROGRAMMING

A. Thomas Walker, Jr. was present for the following:

PLANNING AND PROGRAMMING(630)

Iowa intergovernmental review system, ch 11 ARC 4766E.....7/1 91

(Iowa community cultural grants program, 18.3, 18.6"8," 18.6, 18.7, 18.9 to 18.12 ARC 4695N.....6/6/84

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PLANNING & According to Walker, minor corrections had been made
PROGRAMMING since chapter 11 was under Notice. Schroeder observed
Continued there were too many "notification" requirements which
would be costly. Walker said that information is sent
to sixteen areawide clearinghouses. O'Kane opined the
rules were unduly lengthy.

Walker was willing to contact the HUD office for Doyle
in an attempt to resolve a problem involving Monona
Services who hired a firm to assist in obtaining a grant
for housing mentally retarded. No other questions.

Amendments to chapter 18 were deferred until afternoon
when an agency representative could be present.

WATER, AIR Mike Murphy and Morris Preston appeared on behalf of
& WASTE Water, Air and Waste Management, wastewater construction
MANAGE- and operation permits, 64.2(9)b, ARC 4720, Filed IAB
MENT 6/20/84.

Murphy said that three chapters of the Wastewater Facility
Design Manual were being adopted as chapter 64 of the rules.
Because of the highly technical nature of the manuals, it
was not included in the Notice verbatim. He was unaware
of any controversy. Murphy assured Schroeder that no
previous rules were being reinstated.

There was brief discussion of Priebe's constituent's prob-
lem which resulted from hired help. The constituent was
reported to DWAWM for alleged violations of improper dis-
posal of waste from a lagoon. Murphy had knowledge of
the matter and reported that the individual had not con-
tacted DWAWM as yet. Priebe was hopeful of an equitable
resolution.

Recess Committee was recessed at 11:40 a.m. to be reconvened at
1:30 p.m.

HEALTH The following agenda was before the Committee:
DEPARTMENT

HEALTH DEPARTMENT(s470)
Chiropractors, license renewal, discipline, 141.15, 141.24(2)a(5), 141.24(28) ARC 4728 F..... 6/11/84
Hearing aid dealers, continuing education, 145.8(2) ARC 4700 F..... 7/5/84
Optometry examiners, 144.1(1) to 144.1(3), 144.1(6) ARC 4776 F..... 7/1/84
Birth defects institute, 4.2 to 4.4 ARC 4698, also filed emergency ARC 4690 F.E. + N. 6/6/84
Public spas, ch 14 ARC 4741 F..... 6/20/84
Vital records, fees, 96.4, filed emergency ARC 4699 F.E. N. 6/6/84
Vital records, fees, 96.4 ARC 4712 F..... 6/20/84
Podiatric examiners, fees, 139.3(1) ARC 4702, also filed emergency ARC 4701 F.E. + N. 6/6/84
Chiropractic examiners, 141.11(1), 141.11(2), 141.11(3)a, 141.13(5) ARC 4686 F..... 6/6/84
Chiropractic examiners, 141.12(3), 141.70(2)b, 141.37, 141.64(1), 141.64(2) ARC 4775 F..... 7/1/84

Department representatives present were Peter Fox, Mark
Wheeler, Paul Carlson, John Eure, Ken Choquette, Carson
E. Whitlow, Roger Chapman, T. V. Scurletis, M.D., and
I. G. Howard. Also present: Anne Hawkins, KCCI TV and
B. L. Donaldson, Storm Lake.

No recommendations were offered for amendments to chapter
141, 144, 145 and 4.2 to 4.4.

HEALTH
DEPARTMENT
Continued

Discussion centered on chapter 14 which governs the construction and operation of public spas. Choquette cited a major problem was proper cleanliness and maintenance.

Responding to O'Kane, Eure said ear and skin infections, not normally communicable, can be contacted. Schroeder wondered if spas connected with indoor pools would be adversely affected. With respect to depth, Choquette was unaware of spas that were deeper than four feet--national standards. These spas are routinely located at the shallow end adjacent to a swimming pool. Eure stressed the importance of maintaining clear pools. Schroeder could envision problems. According to Eure, the rules had been sent to every person or group associated with the operation of spas in Iowa and no response had been received.

14.6 In 14.6(3)d(3), Schroeder questioned the ten-hour duration for chlorination--twice a week would be preferable to once a week for ten hours. There was discussion of requirements for water analyses. Choquette said it is sent to the laboratory for analysis and results are returned to the cities and they know what has to be done. Also, cities are certified to do the samples.

14.7(2) Eure advised Schroeder that safety requirements in 14.7(2)a were from federal standards.

14.9 Doyle referred to 14.9 and pondered enforcement problems since under the law a rule violation would be a simple misdemeanor. Choquette responded that would be a judgment call in the field. Wheeler pointed out safeguards exist since the county attorney would have to prosecute.

The Committee was advised that swimming pools are inspected by local boards of health, which will enforce this rule, also. Three people attended the public hearing on the rules.

Royce spoke of the expense of bringing a spa up to standard and wondered about "grandfather" provisions. Choquette thought a variance was possible for an older facility. Eure said that before the rules are adopted that would probably include engineering plans.

In response to Chiodo's questions re notification, Choquette stated that, in addition to publication in the IAB, announcements were sent to fifteen different engineers and associations that represent hotels and motels.

14.5(3)a Schroeder was told that 14.5(3)a meets criteria set out by DWAWM. Schroeder wondered if there would be a problem for motels along interstates. Choquette anticipated none. Schroeder was informed that the ten-minute limitation on the agitation system was a safety measure. Donaldson urged the Department to consider modification in some areas. He did not class them as spas.

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HEALTH
DEPARTMENT
Continued
Vital
Records

Wheeler stated that fees for search or copying of vital records were increased to comply with the comptroller's request that administrative costs include both direct and indirect costs. The fee was changed from \$4 to \$6. Public hearing was held and the Iowa Funeral Directors Association did not object to the \$6 fee for first copy but took the position that subsequent copies should be less. Priebe referenced the letter and submitted comments to the ARRC.

139.3

No questions re 139.3 or chapter 141 amendments.

Recess

Chairman Priebe recessed the Committee at 2:40 p.m. and the meeting was reconvened in Room 22 at 2:50 p.m.

NURSING
HOME AD-
MINISTRA-
TORS

The following rules were before the Committee:

NURSING HOME ADMINISTRATORS, BOARD OF EXAMINERS[600]

Application for licensure, 2.3(1) ARC 4687	F.....	6/6/84
Hearings, 2.6(8)a" ARC 4688	N.....	6/6/84
Licensure, equivalency, 2.7(1)d" ARC 4689	N.....	6/6/84

Irene Howard was present for the Board. Also present: Blaine Donaldson, Storm Lake.

Howard said that, in the past, the deadline in 2.3(1) did not allow adequate time to process the applications. In re 2.6(8)a, the requirement to issue a decision within thirty days following a hearing, was eliminated. Royce thought there should be a time period of perhaps sixty days. According to Howard, this was a result of the hearing and no thought had been given to inclusion of a time limit but she would defer to the Board.

2.7(1)d

Howard said 2.7(1)d was corrected to add "administration" in the seventh paragraph between "health care" or "long-term health care." Donaldson spoke of the difference between health care administration and long-term health care administration and said that his organization was recommending, from the national level, that six hours of business law, and three hours of health care law be required instead of ten semester hours of business management, etc. Howard said the curriculum was developed from a common course list from area community colleges and has been in use for two years. Donaldson contended that the lowest area of scoring on the national exam was in management and law. Health care law is offered at Buena Vista, the School of Osteopathic Medicine, in their masters programs, and wherever associate arts degree is required. Howard would take the comments to the Board.

PLANNING &
PROGRAMMING

Joanne Callison appeared for review of chapter 18 amendments and apologized for not being present at the morning meeting. The rules pertain to the Iowa Community Cultural Grants, commonly known as "Iowa Jobs." Because of a decrease in funding from \$900,000 to \$300,000 this year, changes were made for grants as well as for those who are requesting continuing grants.

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PLANNING & PROGRAMMING
Concluded Callison admitted that there was no statutory authority for changing the rating system. Because this is a second year funding, the Jobs Commission felt there should be a built-in penalty for those who continue to seek grants. This would allow opportunity for new applicants.

18.6 O'Kane questioned increase in 18.6, second paragraph, subparagraph 4, in the point system. Callison answered that more weight should be granted to jobs. O'Kane agreed.

No Agency Reps No agency representatives were requested to appear for the following:

CITIZENS' AIDE[210]
Method of contacting citizens' aide/ombudsman. 1.2(2) ARC 4745.....N... 6/20/84

COLLEGE AID COMMISSION[215]
Organization and operation. 12.2(3) "c" ARC 4768.....F..... 7/4/84

REGENTS, BOARD OF[720]
Personnel administration, suspension of merit increases. 3.3(5) ARC 4800.....F..... 7/1/84
Purchasing, bid security. 8.6(2). filed emergency ARC 4707.....FE..... 6/6/84

There was brief discussion of Board of Regents subrule 8.6(2). Royce explained the change allows acceptance of cashier's checks as bid security.

Minutes Schroeder moved that the minutes of the June meeting be approved as corrected. Motion carried.

Recess Committee in recess at 3:00 p.m. to be reconvened at 9:00 a.m., Thursday, July 12, 1984.

THURSDAY July 12 The meeting was convened at 9:10 a.m. in Room 22 with quorum present.

AGRICULTURE DEPARTMENT Thatcher Johnson, Deputy, was present to review:

AGRICULTURE DEPARTMENT[30]
Multiflora rose eradication program for cost reimbursement. ch 4 ARC 4719, also filed emergency ARC 4718. FE+M. 6/20/84

Applications are to be received by July 15 and, thus far, there are twenty. Recommendations will be made by the Iowa Multiflora Rose Technical Committee. The Department was eager for a successful program. Thatcher referenced the bipartisan support and he was hopeful that the next legislature would appropriate additional funds.

There was discussion of sprays that would effectively eradicate the multiflora rose. Two counties had made \$30,000 available for the program on cost-share funds. No recommendations.

TRANSPORTATION DEPARTMENT The Transportation Department was represented by the following: Dennis Ehlert, Tom McElherne, Craig Gregersen, Bob Pratt, Carol Padgett, John Kelly, Pat Schnoor, Ruth Skluzacek, Jane Phillips, Randall Nyberg. Also present: Jerry Donvin, Iowa Farm Bureau.

TRANSPORTATION The agenda was as follows:
DEPARTMENT
Continued

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TRANSPORTATION, DEPARTMENT OF [820]

Motorcycle converted from off-road use to road use, registration fee, (07,D) 11.38, special review

Motor carriers, annual reports, (07, F) 4.8, special review

General requirements for highway construction, (06,G) 1.1 ARC 4704

F IAC

F IAC

11/6/84

Selective review--special permits for movement of oversize vehicles (07,F) ch 2

Special
Review

[07,D] 11.38

Skluzacek distributed a handout pertaining to conversion of a motorcycle from off-road use to road use and the registration fee. Inspections are being performed by DOT inspectors on headlights, taillights, stoplights, tires and turn signals. Restricted titles are being issued following the procedure. Full title is not issued since NHTSA has advised that only a manufacturer may affix a safety label. Self-conversions would not be eligible for a label.

Phillips said there was no mechanism to register unless they use a restricted title because of the repeal of Iowa's motor vehicle inspection law. The procedure being used will suffice until legislation can be enacted. Motorcycle Dealers Association and dealers have been contacted for comments.

Skluzacek said there had been no major complaints and no backlog--so she did not envision problems.

Discussion of procedure for "red titled" vehicles. A rule in process would require vehicles to be checked to ensure they are road safe. Schroeder questioned how that could be justified. He could foresee harassment for owners of "red title" vehicles. He declared that, effective July 1, red titles were nonexistent.

DOT officials defended their position and argued that they have a responsibility to keep unsafe vehicles off the road. Ehlert emphasized the safety factor and reminded ARRC that the Code prohibits registration of "unsafe vehicles." Schroeder, Chiodo and DOT officials disagreed about the requirement for vehicles to meet certain standards in order to be titled. Schroeder pondered liability of DOT in the matter.

Mention was made of possible request for a fiscal note. Chiodo envisioned this would be difficult to calculate in such a complex matter. Priebe was doubtful the public was aware of the impact. Skluzacek said that DOT is currently registering vehicles but withholding the plates. Both Priebe and Schroeder expressed strong opposition to that practice declaring it was unlawful. Skluzacek said if the citizen appeals or objects, the plates are released and an officer is sent to the vehicle to perform the safety inspection at no charge.

Priebe, for the record, felt DOT should not withhold the registration plates. Schroeder suggested a statement be signed that the vehicle is roadworthy on a red title situation, without inspection, with the

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TRANSPORTATION
DEPARTMENT
Continued

owner being made aware that the vehicle would be subject to spot inspection. Skluzacek said DOT did consider "self-certification" of a vehicle, but concluded that it was not workable. Skluzacek enumerated situations which will be addressed in emergency rules in process: 1--Off-road vehicles to be converted to road use; 2--Red title vehicles which DOT has reason to believe are unsafe; and 3--Salvage vehicles requiring inspection before being registered. The Committee suggested that the rules be published under Notice, also.

Doyle wondered if there were sufficient DOT inspectors to accommodate rural people. According to Kelly, former inspection station supervisors will be responsible for inspections. Royce recommended a detailed analysis on the impact of the rules.

The DOT legal staff and the Attorney General are studying the question of liability. Doyle was curious as to why DOT chose to limit motorcycles "sunrise to sunset" whereas mopeds were not limited. Padgett was willing to review the provision.

Schroeder, in perusing the list Skluzacek distributed, called attention to several areas that he believed were not statutory. Chiodo hoped self-certification was not by-passed in favor of inspections for job security. He saw merit in self-certification approach.

Special
Review
Motor Carriers
[07,F]4.8

O'Kane referred to a letter of complaint re calendar year reporting for transport carriers from Arrow Stage Lines. Copies of the report forms were included in a letter to Royce in January 1984. Nyberg said that many carriers routinely submit information on DOT forms on a fiscal-year basis which is acceptable. He noted that Arrow Stage Lines had not requested permission to file on an FY basis. Phillips added that even though the cut-off date is March, they try to be flexible. DOT does not want to penalize carriers or terminate their authority. Information contained in the reports is used regularly by DOT as well as the Railway Finance Authority for statistical purposes. They were keenly aware of the burden placed on small carriers. O'Kane suspected the level of reporting was excessive.

Nyberg summarized the three basic areas of information and how they are utilized--(1) organization; (2) financial information, which is used in determining financial capability of applicants for rate-making purposes and for planning; (3) operating statistics. Phillips said that, for the most part, this type of information would be documented by the carrier. She was amenable to providing forms for O'Kane. Schroeder thought annual, taxable information would be acceptable. Nyberg said ICC had not abolished annual report requirements.

TRANSPORTATION
DEPARTMENT
Continued

Interstate Commerce Commission chose not to regulate passenger transportation as closely and are slowing down their operation. However, transportation in the state is still regulated by DOT.

O'Kane disagreed with Nyberg and Phillips with respect to whether or not Arrow Stage Lines should submit an annual report--he defended Arrow. Phillips suggested Arrow officials should communicate directly with DOT to avoid misunderstanding. O'Kane will review forms and pursue the issue at another time.

[06,G]1.1

McElherne, Specifications Engineer, said that amendment to [06,G]1.1 would adopt revised Standard Specification for Bridge construction. Most changes were statutory or required by the Federal Highway Administration.

Schroeder referred to explanation in the preamble pertaining to contracts in specified quantities. He interpreted the statement to preclude certain bidders from previous years, due to inflation factor. Priebe thought amounts listed should be increased.

McElherne emphasized that a restriction had been eased and he was willing to reword for clarity. Priebe wanted to ensure that contractors could continue to bid bigger projects if they had satisfactorily completed others. McElherne produced a manual containing language which was adopted by reference in the rule. Royce was asked to peruse the material and report to the Committee. McElherne pointed out that a July 31 letting was scheduled. Priebe reminded that a date certain should be included in the rule. Royce suggested that since the book was already printed, a letter of explanation or declaratory ruling would be acceptable. The Committee agreed to allow the July 31 letting but planned to review the issue again at a subsequent meeting.

Ehlert discussed special permits for oversize vehicles which are authorized in Code §321E.2. Permits are issued for primary road extensions in conjunction with movement in rural areas. Priebe cited inconvenience to the implement dealer who must obtain a permit from each county to move machinery. He contended the minute the mover leaves a primary road, a permit is required in each county.

Motion
to refer

Chairman Priebe asked for a motion to refer the topic to the Transportation Committees in the legislature. Schroeder so moved. O'Kane seconded. Motion carried.

Ehlert cautioned that load limits for county bridges must be considered.

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REVENUE Carl Castelda, Deputy, Michael Cox, John Christensen and
DEPARTMENT James Hamilton were present to review the following:

Individual income tax--cumulative inflation factor, civil service annuity exclusion, quarterly returns, 38.10(3) to 39.10(5), 40.4, 41.5(4)" 48.3(3)"a" 71) ARC 4729N. 6/20/84
Definition of small business, interest on refunds due to the carryback of a net operating loss or net capital loss, statute of limitations for claiming a refund from the carryback of losses, 40.21, 43.3(6), 44.4(3), 52.6(8), 53.11, 55.3(4), 58.6, 59.8, 60.3(4) ARC 4730N. 6/20/84
Motor fuel exemptions, 64.3 ARC 4731N. 6/20/84
Equalized valuation of agricultural realty, productivity, 71.12(1)"a" ARC 4732N. 6/20/84
Refund of property tax, correction of assessment errors, 71.22, 71.23 ARC 4709N. 6/6/84
Reimbursement to the elderly and disabled for property tax paid and rent constituting property tax paid, 73.30 ARC 4733N. 6/20/84
Property--military service tax exemption, 80.2(1)"a" ARC 4734N. 6/20/84
Industrial property tax exemption, 80.8 ARC 4735N. 6/20/84

Also present: Senator Edgar Holden.

Productivity Rules Priebe requested that the Revenue Department schedule informational hearings around the state on proposed 71.12(1)a re productivity and that they be held sometime before the August ARRC meeting. Doyle moved that at least one meeting be held in Ida Grove. Motion carried.

Senator Holden thought a meeting should be held in an area where there is wide disparity between productivity and market values, e.g., Linn or Johnson Counties.

It was agreed that Notice of the hearings would be published in the IAB.

Recess Recessed 10:30 a.m. to 10:45 a.m. Schroeder in the chair.

ch 38 Castelda explained that amendments to chapter 38 et al
et al were largely corrective in nature. The Department will maintain the cumulative figures for indexing of taxes. Responding to O'Kane, Castelda said 40.4--civil service annuity exclusion--was updated based on indexation factor.

Amendments to rule 40.21 et al reflect legislative changes in 1984 Acts, SF 2332 and SF 2318. The state has adopted federal standard re interest on capital loss--interest accumulates from the date claim is filed.

Rules 43.3, 55.3 and 60.3 reflect new statute of limitations for filing net operating loss carryback claims for refund for years ending on or before December 31, 1978, as provided in 1984 Acts, HF 2331. Castelda continued that rule 64.3 implements 1984 Acts, SF 2069 and SF 2342. Political subdivisions which use motor fuel may purchase blanket exemption certificates. He pointed out that reference to 64.13 was omitted from new language in 64.3(324) but it will be corrected in the adopted version. Rules relating to urban transit systems will include language similar to regional transit systems.

O'Kane questioned Castelda as to the reason definition of "regional transit system", 64.3(5)e, was expanded from the one found in recent legislation--1984 Acts, HF 2386 and SF 2342. Castelda said the definition was intended to describe the makeup of the system. The Department had worked with DOT in drafting the definition and Castelda did not believe there was conflict.

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REVENUE Cox announced that rules 71.22 and 71.23 had been with-
DEPARTMENT drawn because of problems with form and substance. The
continued Department projected an October review date for the new
revision.

73.30 According to Cox, rule 73.30 addresses situations where
Revenue disallows a property tax credit. The county treas-
urer is required to collect additional tax from the claim-
ant, but does not have to reimburse the Revenue Department
until tax is collected.

Responding to question by O'Kane, Cox said the first sen-
tence of 73.30(1) was new. Although the Department has
statutory authority to audit, this fact has not been ex-
plained in the rules. No questions re 80.2(1)a and 80.6.

In a matter not before the Committee, Doyle brought up
a matter pointed out by a CPA who contended the state
should not impose a penalty when there is a federal audit
on a tax return. Castelda said the Department had peti-
tioned the General Assembly for three years for legisla-
tion in this area. An Act, effective July 1 this year,
will reduce the penalty to five percent, except for sale
and withholding tax, which is ten percent. Subrule 44.3(2)
will be changed accordingly. Castelda added that technical
rules are being considered which affect every tax admin-
istered by the agency.

Doyle requested that the Department give consideration
to removing penalty when the under payment of tax is due
to efforts beyond the taxpayer's knowledge or control.
Currently, there is no waiver. Castelda agreed to provide
Doyle and Royce with copies of the draft when it is avail-
able.

HUMAN SERVICES

The following agenda was before the Committee:

HUMAN SERVICES DEPARTMENT(498)
Supplementary and medical assistance, 50.3(1), 76.5 ARC 4722 F 6/20/84
Food stamps, 65.25 ARC 4723 F 6/20/84
Nonassistance child support recovery program, 96.3, 96.6 ARC 4724 F 6/20/84
ADC, income, schedule of needs, 41.7(1)d(3), 41.7(2)d(2), 41.7(7)f(1), 41.7(8)b, 41.7(8)b(5), 41.7(9)c(2), 41.8(2)
ARC 4784 F 7/1/81
ADC, qualifying parent, 42.4(2)a, 42.4(4)a, (filed emergency after notice) ARC 4778 FEAN 7/1/81
Supplementary assistance, residential care, 62.1(3) ARC 4785 FE 7/1/81
Burial benefits, 50.1, 50.2(1) to 50.2(3), 50.3(3), 50.3(4), 50.4 ARC 4780 FE 7/1/81
Coordinated manpower services program, ch 58 rescinded; work incentive program (WIN/CMS), 90.1, 90.3(1), 90.4(1),
90.5, 90.6(1), 90.7, to 90.10, 90.12, 90.13, 90.16, 90.18, 90.21, 90.22 ARC 4787 FE 7/1/81
Food stamp program, 65.3, 65.19(1), 65.19(9), 65.19(14), 65.19(19) ARC 4788 FE 7/1/81
Federal surplus food program, income eligibility, 73.4(3) ARC 4789 FE 7/1/81
Medical assistance, pharmacy products, 78.2(2)a ARC 4790 FE 7/1/81
Providers of medical and health services, 79.1(2), 79.1(8), 79.1(9) ARC 4791 FE 7/1/81
Intermediate care facilities, reimbursement rate, 81.9(16)a to "d" ARC 4792 FE 7/1/81
General provisions, income eligible status, 130.3(1)d(2) ARC 4793 FE 7/1/81
Purchase of social services contract--agency providers, 150.3(5)p and "q" ARC 4794 FE 7/1/81
Social services block grant, 153.5(6), 153.7 ARC 4795 FE 7/1/81
Child care center financial assistance, 154.1 to 154.3 ARC 4799 FE 7/1/81
Payments for foster care, 156.6(1), 156.7(1), 156.9(1) ARC 4796 FE 7/1/81
Abuse of children, dependent adult abuse, 175.1, 175.8(4)q, 175.9(8), 175.11, 175.14, 176.1, 176.10, 176.13 ARC 4797 FE 7/1/81
In-home health related care, eligibility, 177.1(3), 177.4(7)f, 177.1(8)c ARC 4798 FE 7/1/81
Medical assistance, submission of claims, 80.2(2)h, "l," "s," and "u," (filed emergency after notice) ARC 4721 FEAN 6/20/84
Institutional food program, ch 74 ARC 4708 N 6/6/84
Application and investigation - medical assistance, 76.9(2) ARC 4737 N 6/20/84

Human Services Department was represented by Mary Ann
Walker, M. E. Imlau, Don Kearney, Dan McKeever, Betty
Murray, Kathe Kellen, Dan Gilbert, C. S. Ballinger,
Suzanne Boyde, Tim Barber-Lindstrom, Bob Lipman, Charles
Leist, Harold Poore, Robert Schoene, Jim Krogman and
Carl L. Meisel.

HUMAN
SERVICES
Continued

Walker briefed the Committee with respect to rules pertaining to 50.3(1), 76.5 and 65.25. Schroeder was told that about 2600 recipients will be affected by rule 50.3(1). There will be a one-month delay for qualification of Title XIX rest home care, etc, which will result in depletion of resources for clients. Walker said the Department has complained to Congress about the federal law change.

ch 65 Food stamps -- No questions re chapter 65 amendments.

93.3, New rules, 93.3 and 96.6, list reasons to terminate child
96.6 support recovery services to nonpublic assistance cases and provide setoff of unemployment benefits to nonassistance cases, respectively. Walker advised that "nonpayment" cases will be closed when effort to reach the responsible person seem futile.

Schroeder preferred that a lien or judgment be filed and left on the books in cases where the responsible person has moved to a foreign country. Walker indicated these people do not receive ADC and there would be nothing to attach.

Leist spoke of their limitations with respect to non-assistance cases--a lien could not be filed.

ch 41 Walker gave a brief overview of the amendments to chapter 41 which expand several areas. In re 41.7(7)1, Walker advised Doyle there was a pending rule pertaining to "job club." A client spends one week learning the techniques of job search.

O'Kane noted that the preamble to chapter 41 amendments showed retroactive application to December 1, 1984, but the date was not reflected in the rules. Walker responded this was a court order mandate. The Department had been advised to exclude the date from the rules. Discussion of legality of retroactive effective date under chapter 17A. Royce agreed to confer with Candy Morgan on the question.

42.4 Doyle took the position that eight face-to-face contacts per month exceeded Job Service requirement--42.4(4)a. McKeever thought the language was patterned from Job Service. She added that some latitude is allowed in the contacts depending on area--experience and education. Doyle reminded officials that the rule contains "shall." O'Kane asked McKeever to investigate the process for future reference and he was amenable.

52.1 No questions re 52.1(3).

ch 56 Walker explained that chapter 56 amendments remove the maximum for burials. The Department will be paying for more burials but amounts will be less. Ballinger estimated the cost of burial to be between \$2000 to \$3000 and the Department will pay \$400.

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HUMAN SERVICES Continued ch 58, 90 Walker continued that chapter 58 was rescinded and two programs were combined in chapter 90--work incentive demonstration program. No recommendations for emergency amendments to chapter 65.

73.4(3) Income exclusions for the surplus food program were removed as required by federal government--73.4(3). Meisel estimated five percent of the households now receiving these would no longer be eligible. The Department had unsuccessfully opposed the changes.

78.2 Amendment to 78.2(2)a removes the requirement for prior authorization for a brand name drug when a generic drug cannot be dispensed. Full cost will be paid by the state after physician certification; i.e., physician must note "Brand" name or "medicant necessary" in his or her handwriting on the prescription. Telephone calls would not suffice.

154.2(1) No recommendations re 79.1, 81.6(16), 130.3(1)d(2), 153.5, 153.7. In discussing 154.2(1), Schroeder wondered if there were cases where remodeling was more extensive than permitted by rule. Poore was unaware of any problems. The rules were intended to limit remodeling of the facility to the part where children are kept. Schroeder wondered if replacement or repair of a furnace would be included in the limitations. Poore did not believe so. Schroeder thought examples should be included in the rule.

No questions re 156.6, 156.7(1), 156.9(1) and chapters 175, 177, 80.2(2) and chapter 74.

76.9(2) 76.9(2) -- places a designation of primary physician form in rules, which will be used for lock-in program to designate providers.

O'Kane referred to Form MA-4068 in subrule 76.9(2) and suggested a date be added. Walker indicated a date would be included in the manual, as well as in the adopted rule. The ARRC favored a date certain on the form. Department officials agreed to review the matter. It was noted that the Department has many forms which do not contain dates.

INDUSTRIAL COMMIS- SIONER Robert Landess appeared for review of settlements and commutations, 6.2(1), ARC 4757, Filed, IAB 7/4/84.

Landess said that 6.2(1) reflects statutory amendment which eliminated "memorandum of agreement." He clarified that amendment does not impact at the district court level. He did not rule out need for possible legislation.

Landess discussed a hypothetical case where workers compensation settlement is requested by the district court. The court may not want to accept the settlement at that level because of specific statutory reference requiring approval by the Industrial Commissioner.

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INDUSTRIAL
COMMISSIONER
Concluded

Landess had always taken the position that once a case had gone to the judicial process, he had no jurisdiction.

No formal action..

Recess
Reconvened

The Committee was in recess at 12:20 p.m.
Reconvened at 1:30 p.m.

INSURANCE
DEPARTMENT

Kim O'Hara returned with clarifying language for 57.1. The rule will not be applicable to state or political subdivisions.

August
Meeting

The next regular meeting was scheduled for August 14, 15 and 16.

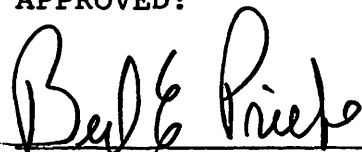
There being no further business, the meeting was adjourned at 1:45 p.m.

Respectfully submitted,



Phyllis Barry, Secretary
Assisted by Vivian Haag

APPROVED:



CHAIRMAN