

MINUTES OF THE REGULAR MEETING  
OF THE  
ADMINISTRATIVE RULES REVIEW COMMITTEE

Time of Meeting: Tuesday and Wednesday, February 12 and 13, 1985.

Place of Meeting: Committee rooms 17 and 116, State Capitol,  
Des Moines, Iowa.

Members Present: Senator Berl E. Priebe, Chair; Representative James D. O'Kane, Vice Chair; Senators Donald V. Doyle and Dale L. Tieden; Representatives Edward G. Parker and Betty Jean Clark. Also present: Joseph Royce, Committee Counsel; Kathryn Hove, Governor's Coordinator; Phyllis Barry, Deputy Code Editor, and Vivian Haag, Executive Administrator.

Meeting Convened Chairman Priebe convened the meeting at 7:40 a.m. in room 17.

HEALTH DEPARTMENT  
Radiation Priebe recognized Barry who informed the Committee that the Health Department had proposed massive rules governing radiation emitting equipment, being chapters 38 to 41. Department officials had assured her that virtually all interested persons had seen the rules and no opposition was anticipated. The ARRC concurred that Barry should exercise her authority under Code §17A.6(3) and publish only a summary of the rule in the Iowa Administrative Bulletin. Full text of the adopted rules would appear in the Iowa Administrative Code.

COMMERCE  
COMMISSION

The following was reviewed by Dennis Downing:

I-SAVE, America's vital energy. 27.1. 27.2(3) to 27.2(6), 27.2(7), 27.4, 27.5(1)"b," 27.5(2)"b," "c," and "g." 27.9, 27.11, 27.13, 27.14(2), 27.14(3) ARC 5277 ..... *N* ..... 1/30/85  
Gas and electric utilities, late payment. 19.4(11), 20.4(12) — special review ..... IAC  
Gas utilities, pipeline residential customer refund. 19.10(5)"a" and "b" ARC 5278 ..... *F* ..... 1/30/85

Also representing the Commerce Commission were Ray Vawter, Edmund Schlak, Cindy Dilley and Gordon Dunn. Also present: John Lewis and Jack Clark, Iowa Utility Association; Dennis Hogan, Association of Sheet Metal Contractors.

I-SAVE

Downing stated that the I-SAVE Program conformed to federal legislation and removed a January 1, 1985, termination date for program announcements where notice is required to be given within sixty days of becoming a new customer.

Hogan, speaking for sheet metal contractors and others including plumbing, air conditioning wholesalers and contractors, Iowa Well Association, electrical contractors and insulators, supported the goal to sell energy efficiency. However, according to Hogan, a problem has developed for small businesses with competition from utilities which are selling energy conservation services. He

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COMMERCE  
COMMISSION  
Continued

referenced a study of this issue by the U. S. Small Business Administration initiated last spring, copy of which was presented to Royce. Hogan said he had filed a request for hearing on the matter. He urged that small businesses be protected from having to compete against the large monopoly.

In response to Tieden, Lewis cautioned that the matter must be kept in perspective. With respect to the federal study, Lewis suspected it was nationwide and that "we are mainly concerned with Iowa." He contended there was just a misunderstanding. He mentioned an insurance plan which was offered by one company for \$5 a month--less than 3 percent of customers signed up for that program. Lewis indicated that 60 percent of the energy audits are performed by outside contractors. In discussing energy audits, Lewis estimated only 4 to 5 percent were made per year.

19.10

Parker reported that his questions on 19.4(11) and 20.4(12) had been resolved. No questions re 19.10(5)a and b.

AGING  
COMMISSION

Thom D. Freyer represented Commission on Aging for the following:

Duties, revision, reporting requirements, 2.5(4)"u," 6.9(2), 9.22(2), filed emergency	ARC 5256	1/30/85
Long-term care ombudsman program, 4.2(1), 4.2(2)"b," 4.2(3), 4.2(4)"a" to "d," "f" and "g," 4.2(5), 4.2(5)"e,"		
4.2(6), 4.2(7)"g," 4.2(8) to 4.2(16)	ARC 5252	1/16/85

Also present: B. L. Donaldson, Alta; Jerold Dykstra, Akron.

No questions re 2.5(4)u, 6.9(2), 9.22(2).

4.2(1)  
et al

Discussion of 4.2(1) et al intended to implement 1983 Iowa Acts, chapter 73. Written comments were received and a hearing was held February 11, 1985, and some changes are anticipated.

From information received by Priebe, he could foresee a difficulty in finding people willing to serve on the Volunteer Care Review Committee because of the voluminous responsibilities being mandated. Freyer did not deny that this was a very real concern. He continued that the rules set out expectations for care review members which have been past practice but never set out in writing. He added that facility evaluation was one area where duties could be removed without violating the statute.

Donaldson predicted that some very capable care review committee members would resign because of the broad scope of the rules. He mentioned duplicatory facets of the rules and the fact that the Care Review Committee in his area has voted to resign in the event the rules are adopted. It was noted that the Department of Health investigates complaints under Code chapter 135C. Clark was told that Health Department rules would be rescinded when the Commission on Aging rules are in effect. It was pointed out that duplicative functions appear in the state law.

AGING  
COMMISSION  
Continued

Freyer said that the Commission maintains it was legislative intent for the Care Review Committee to investigate less technical complaints. The rules were designed to provide consistency in the Care Review Committee operation. Priebe urged a compromise among the factions.

Donaldson voiced strong opposition to allowing the Ombudsman access to personal and medical records of long-term care facility residents--4.2(5) [Code §249B.33] In his opinion, several areas need perusal.

Freyer informed Tieden that facility evaluation was not statutory but it has been a traditional function. Many Care Review Committee members urged retention of the aspect. Tieden expressed concern about the duplication factor. Freyer discussed the difference between Care Review Committee review and the Health Department's obligation which is quite professional. He pointed out that the lay person would view a facility with a different perspective.

Donaldson reasoned that paid staff for care review was inevitable and he opposed growth of government. There was discussion of the economic impact of the rules with Freyer contending there would be none. It was the Department's intention to implment the rules without additional staff or costs. He recalled confusion over the Ombudsman program and their budget request for 16 FTE positions in Area Education Agency offices. The ARRC decided to defer decision on the economic impact statement until tomorrow. [See p. 3068]

WATER, AIR  
& WASTE  
MANAGEMENT

Michael Murphy appeared for review of:

Wastewater construction and operation permits, 64.1(5), 64.1(6), 64.3(1), 64.3(2), 64.3(5)"b," 64.6(5)"f"	ARC 5240	1/16/85
Certification of operators of water and wastewater systems, 81.9(1), 81.9(8), 81.10(6)	ARC 5241	1/16/85
Compliance actions, ch 10	ARC 5242	1/16/85
Wastewater construction and operation permits, 64.2(9)"b"	ARC 5243	1/16/85

ch 64

Discussion of amendments to chapter 64. Murphy advised Tieden that "water of the state" was defined by law.

81.9, 81.10

Murphy stated that amendments to chapter 81 were discussed in some depth at the Notice stage. He recalled that the ARRC had been concerned that the Department had not implemented the statute as intended. However, the Board interpreted use of "may" [in §2 of the 84 Acts, ch 1099] to allow discretion in setting criteria. Murphy said one public comment was to that effect and various associations also supported the amendments as drafted. Clark observed a dichotomy in the new language of the Act.

Royce spoke of his problem with subrule 81.9(8) which, in his judgment, essentially undoes the statute by including additional criteria. He argued that the statute was very clear that small water systems, where only filtering is done, and where only 250 people are served, would not need fully trained operators.

WATER, AIR  
AND WASTE  
MANAGEMENT  
Motion to  
Object

Tieden moved an objection to amendments to 81.9(1), 81.9(8) and 81.10(6) on the grounds that the Department exceeded its statutory authority. He further moved that the rules be referred to the State Government Committee of the Senate and House. Motion carried unanimously.

ch 10

According to Murphy, chapter 10 describes all of their enforcement policies--how they determine the seriousness of violations. Murphy said that no one attended the public hearing but written comments were forthcoming from the Iowa Association of Municipalities. In addition, the Attorney General suspects the rules are "too open" which may create problems for his office.

10.4(1)

Tieden noted reference to "legal services division" in 10.4(1) and learned that it is located within the Department. Clark thought the last sentence of 10.4(4) would allow for cover up by the Department. Murphy explained that the sentence referred only to decisions to refer to court but he was willing to review the language.

64.2

Murphy concurred with Doyle that 10.3(1)e was quite broad but said they were trying to be descriptive without "tying their hands." No questions re 64.2(9)b.

HEALTH  
DEPARTMENT

Health Department was represented by Mark Wheeler, Hearing Officer, Mike Guely, Irene Howard, Professional Licensure; James H. Krusor, Board of Medical Examiners; Harriett Miller and Ronald Masters, Iowa Board of Chiropractic Examiners. The following agenda was considered:

Sexual assault examination and reimbursement, ch 8	ARC 5250	.....	1/16/85
Hospitals, uniform billing, price information, 51.5(3), 51.5(4)	ARC 5251	.....	1/16/85
Chiropractic examiners, 141.26(1), 141.38, 141.39	ARC 5232	.....	1/16/85
Special supplemental food program for women, infants and children, 73.7, 73.7(2)"b" and "e," 73.12(1), 73.12(2), 73.12(5), filed emergency after notice	ARC 5262	.....	1/30/85
Advanced EMT-D temporary pilot study program, 132.12(8), filed emergency	ARC 5231	.....	1/16/85
Physical and occupational therapists, 138.204(1)	ARC 5255	.....	1/30/85

No questions re chapter 8, subrules 51.5(3) and 51.5(4).

ch 141

Clark referred to 141.38 and asked if other groups had insurance consultants. Masters emphasized that the rule was intended to apply only to licensed chiropractors holding themselves out as specialists in the field of consultation. The Board felt a definition was needed and in order to qualify, the standards set out in 141.38 must be met. It was pointed out that any large company could have personnel who purport to be chiropractic consultants for that company. Doyle thought 141.38(1) could be misunderstood by the public and he preferred clarification. He was told that Doctors of Osteopathy could hold themselves out to be chiropractic consultants and would be unaffected by this rule. Hove interpreted the first sentence of 141.38(1) to preclude anyone other than a chiropractor from acting as a consultant. Tieden failed to understand the need for the rule.

Doyle recommended the following language: "A licensed chiropractor shall not hold themselves out as a chiropractic insurance consultant unless they meet the following."  
- 3067 -

HEALTH DEPARTMENT Tieden asked why "adjunctive procedures" were just now being defined--141.39. Masters explained that the Board believes it was legislative intent for the licensees to be educated in particular procedures in order to arrive at particular diagnosis.

73.7 O'Kane suggested that when the WIC rules are amended in the future, they should be clarified. He cited an example in 73.7(2)b, "...without prior approval from the state."

132.12 No questions re 132.12(8). Howard explained amendment to 138.204(1). 138.204(1). No recommendations were offered.

NURSING HOME ADMINISTRATORS No questions were raised re requirement for licensure, 2.6(2)c, filed, IAB 1/30/85.

Minutes Doyle moved approval of the January minutes. Motion carried.

Next Meeting March meeting dates were tentatively set for the 12th and 13th. [Later changed to March 11 and 12].

No Agency Representatives The following agencies were not requested to appear before the ARRC for review of their rules:

- AGRICULTURE DEPARTMENT[30]  
Fertilizer and soil conditioners. 8.5, 8.21 to 8.24, 8.6 ARC 5278 .....F..... 1/30/85
- ARTS COUNCIL[100]  
Policies and procedures. forms. 2.3, 2.3(9), 3.2. filed emergency ARC 5281 ..... 1/30/85
- EXECUTIVE COUNCIL[420]  
Health maintenance organizations. ch 6 ARC 5257 .N..... 1/30/85
- IOWA DEVELOPMENT COMMISSION[520]  
Speculative building loans. 4.2(1), 4.2(7), 4.3(3), 4.3(4), 4.4(7) ARC 5228 ..F..... 1/16/85
- HUMAN SERVICES DEPARTMENT[498]  
Granting assistance, unemployed parent workfare program. 41.4(1)"g," 41.7(2)"b"(2), 59.3 ARC 5272 .N..... 1/30/85
- MERIT EMPLOYMENT DEPARTMENT[670]  
Grievances, appeals. 12.1, 12.1(1)"d," 12.2(6), 12.2(7) ARC 5253 .N..... 1/16/85

AGING COMMISSION Tieden reiterated his dissatisfaction with the long-term care ombudsman rules of the Aging Commission. General discussion.

Motion - Economic Impact Doyle moved that the ARRC request an economic impact statement on chapter 4 amendments, 1/16/85 IAB. Motion carried.

EMPLOYMENT SECURITY (Job Service) Jim Hunsaker, Joseph Bervid, Paul Moran and Dennis Jacobs appeared to review:

- Administration, voter registration. 1.7 ARC 5274 .....F..... 1/30/85
- Employer's contribution and charges, claims and benefits. 3.2(1) to 3.2(3), 3.6(1) to 3.6(4), 4.2(1)"e," 4.16(2), 4.16(3), 4.17(1) ARC 5280 ..F..... 1/30/85
- Employer's contribution and charges, claims and benefits. 3.6(1), 3.6(2), 3.7(2), 3.40(2), 3.61, 4.13(2)"c," 4.28(5) ARC 5275 ....F..... 1/30/85
- Employer's contribution and charges. 3.17(10), 3.17(14)"a" ARC 5279 .F..... 1/30/85
- IPERS. 8.13(9) ARC 5276 .F..... 1/30/85

O'Kane was provided a copy of the judge's order relative to 1.7. In re 3.2(1) et al, Bervid said the language was rewritten for clarity. He gave a brief overview of the items contained in ARC 5280 and ARC 5275.

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EMPLOYMENT  
SECURITY  
(Job Service)

In re 3.66(3), Doyle inquired if cash bond payment were made, would the individual receive interest and Bervid answered in the negative. Responding to Doyle and Tieden, Hunsaker said no comments were received on 3.66(4).

3.17

Priebe thought a loophole was created in use of "or be based on an experience rating system approved by the Department" in 3.17(14)a. Bervid said there were two group accounts in the state and the system they designated has been approved. The Department saw no need for spelling out criteria. Bervid was amenable to Hove's suggestion for a time frame, "...ratings system approved by Department more than thirty days ago..."

CONSERVATION  
COMMISSION

The following agenda was before the Committee:

Special water activity rules, ch 26: artificial lakes—horsepower limit, 30.5; motor regulations, ch 40	ARC 5268	1/30/85
State parks, recreation areas, and preserves, ch 45	ARC 5269	1/30/85
After closing hour fishing areas, ch 51	ARC 5270	1/30/85
Land and water conservation fund grants-in-aid for local entities, 72.2, 72.5(2)	ARC 5271	1/30/85

The Conservation Commission was represented by Stan Kuhn, Administration, Richard McGeough, Superintendent of Enforcement, and Jim Scheffler, Assistant Superintendent of Parks.

ch 40

McGeough said the Commission was attempting to accommodate large numbers of bass boats statewide. Under the present system, boat owners are required to purchase additional smaller motors which is becoming cost prohibitive. Revised rules will permit use of the larger boats at no-wake speed on lakes over 100 acres in size.

Tieden questioned reason for lifting the restriction for marshes--290--40.3. According to McGeough, a study revealed that the wake does not erode the bank or reduce quality of water in those areas. Boats in these areas will plow rather than plane which will help keep marshes open.

ch 45

Scheffler reviewed revised chapter 45 which sets up ground rules for every type of recreation in parks. Clark found the various fees for parks around the state to be confusing. Scheffler said basic fees are the same but rental for lodges depends on the size and accommodation. Clark was told that rock climbing and rappelling had damaged sandstone in the Ledges--rappelling was prohibited in all state parks. Scheffler agreed to make a grammatical correction in 45.5(8)--"reasonable prudent person."

Doyle recommended that scooters be added to the exclusions in 45.5(7)d. Priebe discussed three-wheelers. He was of the opinion a legislative change might be necessary concerning the vehicles.

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CONSERVATION  
COMMISSION  
Continued

Under proposed chapter 51, some state parks will be open for fishing after the normal 10:30 p.m. closing. Thirteen lakes will have designated areas. Clark preferred use of signs to designate the approved parking spaces rather than including them in the rules. Hove concurred that Clark made a good point. Scheffler thought most of it would be accomplished by signs.

There was discussion of parks along the Missouri River which are not under state control. O'Kane was hopeful that all likely fishing areas were covered. No recommendations were offered for 72.2 and 72.5(2).

INSURANCE  
DEPARTMENT  
ch 10

Tony Schrader, Attorney, reviewed administrative hearings of contested cases, licensing, amendments to chapter 10, 3.11, ARC 5266, Notice, IAB 1/30/85. The change will speed up the process for examinations and reduce work for the Department. Test will be taken at the computer terminal and the insurance agent candidate will learn the results when finished--the Department will receive results the next day. Although the process will be more costly, very little negative comment had been received.

ch 3

Chapter 3 changes will allow the Department to be more liberal when taking administrative action against an agent.

In re 10.2, Doyle suggested addition of "or territory or district" after "state." Schrader was amenable to the suggestion. Tieden was told that the definition of "resident" had been in the Code as standard language.

LAW ENFORCE-  
MENT ACADEMY

Ben Yarrington, William J. Callaghan and Ralph Ager were present for Law Enforcement Academy to review:

LAW ENFORCEMENT ACADEMY[550]  
Requirements for law enforcement officers. 1.1(13) ARC 5234. also filed emergency ARC 5233 ~~ARC 5233~~ 1/16/85

Also present: David L. Seaquist, Drake University, and LEA task force member.

Yarrington called attention to the fact that the Legislature had amended chapter 80B to require mental fitness tests for all law enforcement applicants. A panel was created from various law enforcement agencies to determine which characteristics should be tested. A volunteer task force provided quick expertise to aid LEA in meeting the January 1 deadline.

The Committee was provided copies of detailed rules which will be presented to the LEA Council as a substitute for the emergency amendment. Yarrington briefly reviewed the four tests which will be utilized. A public hearing had been held and most suggestions had been incorporated into the document.

O'Kane questioned the need for the emergency filing since the legislation became effective April 1984.

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LAW ENFORCE-  
MENT ACADEMY

Yarrington defended the Agency and explained the importance of developing a workable program. He continued that the LEA decided to file an emergency general rule and make additions later rather than include provisions which had not been negotiated or solidified.

Sequist told the Committee that the tests selected have been in fairly wide-spread use. Applicants at the entry level will take the test which will be administered twice monthly by the Academy at no charge. Tieden was concerned about impact on smaller communities. Yarrington said that a letter of instruction would be mailed soon and wondered if the fact that rules were not in final form would impact on that mailing. Priebe saw no problem.

Royce brought up the matter of confidentiality and security with respect to test results. Yarrington said this had been considered and a release form was being developed. Royce and Yarrington were directed to work together in drafting rules concerning release and confidentiality. Hove preferred that the issue be addressed by statute. No action taken.

ENGINEERING &  
LAND SURVEYING  
EXAMINERS

Otto Tennant, Chairman of the Board, and Patricia Peters, Executive Secretary, appeared on behalf of the Board. The following agenda was before ARRC:

- Administration, discipline and professional conduct of registrants, 1.1, 1.2, 1.2(1) to 1.2(3), 1.2(6), 1.7(1), 1.9, 1.10 to 1.12, 4.4(1), 4.4(4), 4.6 ARC 5230 . F..... 1/16/85
- Board fees and service charges effective July 1, 1984, 1.13 ARC 5229 .....X..... 1/16/85

Tennant presented a brief history of the rules which incorporated ARRC previous requests. Tieden was told that, previously, engineers in college were required to study land surveying. Under a law change, land surveying has now become a separate profession.

ATTORNEY  
GENERAL

Richard Cleland, Linda Lowe and Earl Willits appeared for the office of Attorney General to discuss permissible additional charges for involuntary unemployment insurance premiums, ARC 5249, Notice, IAB 1/16/85.

Cleland reminded ARRC that the proposal was submitted by the American Bankers Insurance Company of Miami, Florida in a petition for rulemaking. The AG's office desired to make an additional factual record as to desirability of this rule and as to what types of procedural safeguards could be necessary if such a rule were adopted. The office made the decision to initiate rulemaking. Cleland said the office has no opinion as to whether this is a beneficial rule or if it should be adopted at this time.

Cleland continued that the general belief is that any time consumer credit transactions are "mixed" with

ATTORNEY GENERAL Continued loans, there is potential for abuse. They are contemplating methods to protect consumers in consumer credit transactions. Cleland had not reviewed the written comments, two of which were from the consumer standpoint, but not completely against the insurance. Other comments from insurance companies obviously favor the rules.

Priebe was told there would probably be no extensive changes. Doyle was interested in the position taken by the Insurance Commissioner on the matter. Lowe admitted it was a confusing situation--even to some companies. The Commissioner has jurisdiction over all types of insurance, including credit insurance. Lowe learned that, as long ago as 1977, the Insurance Commissioner approved products for sale and, on several occasions, has approved rates for various companies. In response to Doyle, Lowe indicated it would not be necessary for the Insurance Department to adopt rules on the subject, but American Bankers would need to have their rates approved. No action taken.

ENERGY POLICY COUNCIL

James E. Smith, Director, Energy Assistance, and Sue Downey, Energy Assistance Coordinator, were present for low income home energy assistance program, chapter 14, ARC 5236, Notice and filed emergency, ARC 5235, IAB 1/16/85.

Downey explained the emergency filing was to implement legislation passed by Congress October 9, signed by the President October 30 and the first draft was received by the Department November 25.

The broad federal guidelines were followed--interdisconnect change was mandated by the moratorium in order to expedite the entire process of review and determination of eligibility. Nineteen community action agencies statewide have cooperated with the Department. No other questions.

Recess

Recessed at 10:41 a.m. to be reconvened Tuesday, February 13, 1985.

Reconvened Tuesday Feb. 13 TRANSPORTATION DEPT.

Chairman Priebe reconvened the Committee at 7:30 a.m. in Committee Room 116. All members and staff present.

The following Department of Transportation agenda was before the Committee:

- Financial responsibility, abandoned vehicles, motor vehicle inspection, (07.C) 14.4(6)\*b," (07.D) 2.2, 2.2(5)\*d," (07.E) ch 21 ARC 5258 ..... 1/30/85
- Vehicle registration and certificate of title, (07.D) 11.1(3), 11.1(8), 11.2(8), 11.3(12)\*e," 11.5(3), 11.6(18)\*a," 11.6(19), 11.10, 11.11, 11.12, 11.13(4)\*c" and "f," 11.16(2)\*d"(6), 11.17(4)\*d," 11.19, 11.21(3)\*a" and "b," 11.27(4)\*c," 11.27(5), 11.26, 11.30, 11.42(2), 11.46(2) ARC 5259 ..... 1/30/85
- Safety standards for motor vehicle equipment, (07.E) 1.1 ARC 5260 ..... 1/30/85
- Interstate motor vehicle fuel permits, (07.F) 7.1(7), 7.3(4)\*a," 7.3(8), 7.4(8)\*a," 7.4(9), 7.5(6)\*b"(3), 7.5(6)\*c," 7.7 ARC 5261 ..... 1/30/85
- Organization, (01.A) ch 1 ARC 5237 ..... N
- Administrative rules and declaratory rulings, (01.B) ch 1 ARC 5238 ..... N
- Co-ordination of public transit services, (09.A) ch 2 ARC 5239 ..... N

SELECTIVE REVIEW

Drivers License Revocation [07,D]ch 13

Ruth Skluzacek, Dennis Ehlert, Carol Padgett, Al Chrystal, Norris Davis, Cande Bakke, Julie Fitzgerald and Ann Nostwich were present for DOT

TRANSPORTATION  
DEPARTMENT  
Continued

[01,B]ch1

Skruzacek and Chrystal summarized amendments to chapters 07D, E and F. No questions. According to Fitzgerald, their rules on organization were rewritten to reflect current policy. She advised that a hearing on proposed revision of [01B]chapter 1 would be held March 5. The Department revised their format for petitions to agree with the style and form guide in the Iowa Administrative Code. Fitzgerald was cognizant of the new freedom of information Act and rules will be forthcoming. The size of their Records Management Manual will also increase as a result of the Act.

[09,A]ch 2

Bakke explained [09,A]chapter 2 dealing with coordination of transit services in Iowa. The rules will implement 1984 Acts, chapter 200. There was discussion of pilot projects required by legislation. Bakke agreed to provide specifics to Tieden.

Special  
Review  
[07,C]ch 13

A selective review of chapter 13 relative to driver's license revocation was prompted when the Committee learned of a Britt case where DOT exercised both criminal and administrative power.

Chrystal explained that the person in the case had his license revoked for OWI and then followed administrative appeal procedures. The hearing officer handed down a decision that the peace officer failed to administer the breath test properly, which resulted in withdrawal of the administrative revocation. Later on, the same person was convicted of OWI in District Court. Chrystal pointed out that under §321.209, the Department is required to revoke the license of a person who has been convicted under §321.281 and has not had a revocation under 321B. The period of revocation is one year without a work permit.

Priebe had knowledge of the situation and there was discussion. Chrystal declared the irony of it was that if the individual had not won the administrative appeal, the revocation would have been for only 180 days and a work permit would have been possible. An AG opinion had been requested on the matter, although it was consensus of the Committee that legislative action was needed. Consensus was to refer this matter to the attention of legislative committees, also.

Mutilated  
driver's  
licenses

O'Kane quoted from Code §321.216 which defines unlawful use of a driver's license and contended that the key words were "fraudulently altered." He took the position that subrule [07,C]13.13(11) exceeded the law in use of "modified, mutilated, marked upon, tampered with, or changed in any manner from its original state..." He was aware of an instance where a person had sought a replacement for a "beat-up" license and was required to go through a hearing. It was his understanding that the hearing officer refused to do

TRANSPORTATION DEPARTMENT

anything. O'Kane reasoned there should be flexibility in the rule. Chrystal was willing to request revision of 13.3(11) to remove objectionable verbiage. He cited a problem in Iowa City where 10 percent of the licenses are duplicates. He viewed the hearing process, in this instance, as a safeguard in the program.

REVENUE DEPARTMENT

Carl Castelda, Ben Brown, Gene Eich, and John Christensen represented Revenue for the following:

Taxable sales, sales and use tax on services, 16.51, 26.17, 26.39, 26.48	ARC 5264	1/30/85	
Sales and use tax on services, 26.18	ARC 5247	1/16/85	
Inheritance tax, special use valuation, 86.8(3), 86.8(4), 86.8(7)"d."	ARC 5248	1/16/85	
Inheritance tax, 86.9(5), 86.2(10) to 86.2(16), 86.2(18), 86.3(3), 86.3(5), 86.5(7), 86.12(5)"b"	ARC 5265	1/30/84	
Tax-corporations, franchise, 51.1(1), 51.2(1)"f.", 51.6(1), 51.7, 51.9, 52.1(1)"c."	52.1(4), 52.1(5), 52.2(1), 52.4(3), 52.4(6), 55.1, 55.3(1), 55.3(3), 57.1(1), 57.2(1)"f.", 57.5(1), 57.6, 57.8, 58.2(1), 58.3(2), 58.4(4), 60.1, 60.3(1), 60.3(3)	ARC 5246	1/16/85
Tax-corporation, franchise, 52.1(2)"l" and "m.", 52.1(3)"l" and "y.", 54.9, 56.3(1), 56.5(2)"a"(2), 61.3(1), 61.5(2)"a"(2)	ARC 5263	1/30/85	
Agricultural realty valuation-productivity, 71.12(1)"a."	notice ARC 4732 terminated	ARC 5244	1/16/85
Agricultural realty valuation-productivity, 71.12(1)"a"	ARC 5245	1/16/85	

Also present: Randy Ewing, lawyer, representing taxpayers, and Richard Bailiff, Adams County Assessor, Ted Yanacek, Farm Bureau.

16.15 et al  
26.18

Castelda gave brief overview of 16.51 et al. No questions. He continued that 26.18 implements 1984 Acts, chapter 1305. The somewhat controversial rule is basically unchanged from the Notice. The Department used the Iowa Supreme Court definition of tangible personal property. Castelda indicated legislation would be needed before the Department would change its position.

chs 51 et al

According to Castelda, the Department is currently updating all of its rules following their reorganization where classifications were changed.

Productivity  
71.12

Eich presented a substitute agricultural realty valuation-productivity. The June 20, 1984, Notice was terminated. He explained that a major change is that the productivity formula will be utilized on a county-by-county basis rather than the statewide basis used from 1979 to 1983. Revenue plans to obtain expense data from Iowa State, e.g., expense item for interest on production expenses which will be utilized in the 1985 equalization. The Department will use one-half of the tillable pasture expense as an expense against non-tillable--use half of the income, and also, half of the expense. Another change will be the amount of deduction utilized for the dwelling.

In these rules, Revenue used 10.6 percent of the total income attributable to dwellings. In addition, there will be a fertilizer adjustment as the production of the corn in a particular county varies from the state average. Multipliers and constants will no longer be used--production in individual counties will be utilized. Further, liability insurance was determined to be a legitimate landlord expense. The Department was unsure about their source for data but will probably contact the Insurance Department. Eich anticipated uniformity throughout the state.

2/13/85

REVENUE  
DEPARTMENT

Yanacek thanked ARRC for requesting the statewide hearings on the productivity rules. He was basically pleased with the revised rule but was of the opinion that additional legitimate landlord expenses could be considered. Priebe recognized progress but recommended that the Department continue to work with the Farm Bureau. Eich could not respond to Tieden's question as to impact of rules in northeast Iowa where certain exceptions had been given previously. No action taken.

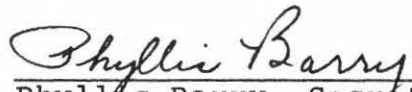
WATER, AIR  
& WASTE  
MANAGEMENT

It was Committee consensus that amendments to chapter 81 of DWAWM be referred to the Natural Resources and State Government Committees. [See also p. 3067]

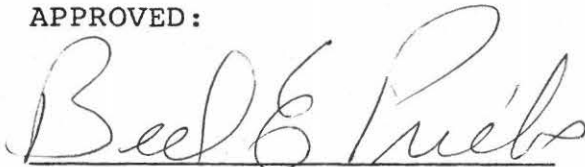
Adjourned

Chairman Priebe adjourned the meeting at 8:45 a.m. Next regular meeting was scheduled for Monday and Tuesday, March 11 and 12, beginning at 7:30 a.m.

Respectfully submitted,

  
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Phyllis Barry, Secretary  
Assisted by Vivian Haag

APPROVED:

  
\_\_\_\_\_  
CHAIR