

MINUTES OF THE REGULAR MEETING OF THE ADMINISTRATIVE RULES REVIEW COMMITTEE

Time of meeting The regular meeting of the Administrative Rules Review Committee (ARRC) was held on Tuesday and Wednesday, June 11 and 12, 1996, in Room 22, State Capitol, Des Moines, Iowa.

Members present: Senator Berl E. Priebe and Representative Janet Metcalf, Cochairs; Senators H. Kay Hedge, John P. Kibbie, William Palmer and Sheldon Rittmer; Representatives Horace Daggett, Minnette Doderer, Roger Halvorson, and Keith Weigel.

Also present: Joseph A. Royce, Legal Counsel; Kathleen Bates, Acting Administrative Code Editor; Cathy Kelly, Acting Secretary; and Kimberly McKnight, Administrative Assistant; Caucus staff and other interested persons.

Convened: Cochair Priebe convened the meeting at 10 a.m.

HUMAN SERVICES

Mary Ann Walker, Margaret Ward and Susan Bergwall represented the Department and Ann Thompson of the coalition for Family and Children was also present for the following:

HUMAN SERVICES DEPARTMENT[441]

FIP and PROMISE JOBS programs, 7.2, 7.5(6), 7.7(2)"a," 7.7(6), 7.9(1)"b," 7.22, 40.4(1), 40.7(4)"c," 40.24(1), 40.27(4)"c," 41.7(11), 41.21(1), 41.22(15) to 41.22(19), 41.24(2)"a" and "b," 41.24(3)"a" and "b," 41.27(2)"e," 41.27(7)"u," "y," and "af," 41.27(11), 46.1, 46.8, 46.21, 46.28, 60.16, 65.129(7), 93.10, 93.14(3), 93.14(12)"b," 93.19, 93.22, ch 93 division II preamble, 93.103, 93.109(2)"a"(1) and (2), 93.109(2)"b"(3), (4), and (5), 93.110, 93.111(1)"a," 93.111(1)"a"(2), 93.111(1)"b"(2), 93.111(3), 93.111(3)"d" and "e," 93.112(1)"f," 93.112(2)"c," 93.114(3), 93.114(12)"b," 93.114(14)"c" to "f," "h," and "i," 93.116, 93.118, 93.119, 93.122, 93.131(1), 93.132"13" and "14," 93.135(2)"e," 93.135(3), Notice ARC 6395A.....5/8/96

Nursing facility care — annual update of average statewide costs and charges, 75.15(2)"b," 75.24(3)"b," 75.24(3)"b"(1) to (6), Filed ARC 6386A5/8/96

Support enforcement services, license sanction, 98.101 to 98.107, Notice ARC 6394A5/8/96

Wrap-around funding program, ch 179 preamble, 179.1, 179.2(1), 179.2(2), 179.4(1)"c," 179.7, 179.11, 179.12(2)"b" and "d," 179.13(1)"a," 179.13(1)"a"(1), 179.13(2)"d," Filed ARC 6387A.....5/8/96

SENATE FILE 2442 "EMERGENCY" RULES

7.2, et al Walker enumerated the effects of changes on minor parents and stated the amendments to the Family Investment Program (FIP) and the PROMISE JOBS Program tentatively are scheduled to become effective October 1, 1996. Priebe asked if SSI payments could be attached for child support payments. Bergwall was uncertain and indicated she would obtain that information.

In response to Daggett, Walker replied that comments received at the hearings included the concerns that parenting classes might not be available and that minor parents were required to live with their parents.

DHS (Cont.)

Kibbie asked if a person not making an attempt to obtain a high school diploma was ineligible to receive FIP benefits. Walker indicated that was correct. Kibbie wondered if a qualified individual who was in the program might encounter a lack of funding in the child care program before training was completed. Walker stated this would not occur since one program was incumbent on the other. Individuals would not be added in one program if funding had been depleted in the other.

75.15, et al

No questions on 75.15, et al.

98.101 to 98.107

Walker pointed out that amendments to Chapter 98 implement the licensing sanctioning requirements and that a general notice sent to 74,000 obligors in December generated \$1 million. In the past month, notice was sent to 22,000 obligors who were subject to licensing sanctioning. Bergwall stated the most egregious delinquent cases would be pursued first.

Weigel asked if the two concerns raised by the Family and Juvenile Law Section of the Iowa State Bar Association had been addressed. Bergwall felt the ability to pay issue was addressed in the rules because the amount required to pay under the child support guidelines was treated no differently than if an order for support was being established. It was the bar association's position the 90 days for delinquent support payments was mandated by statute. Bergwall noted that the rules had been reviewed by a broad spectrum of people. The Department used the 90 days as a minimum and wanted to retain a flexibility in these rules but was willing to reexamine the concerns.

Rittmer asked what could be done when an individual did not work and earned no income. Bergwall responded that a process was being implemented in which an order could be issued that required those individuals to seek employment.

179.1, et al

Hedge read excerpts from a letter received from a county mental health coordinator alleging the state was owed between \$800,000 and \$1 million in back payments, that no plans for collection were being made, and no time was available to determine who owed the money. Walker stated she would determine the validity of this.

S.F. 2442

Emergency Rules

No questions on Rule 1, amendments to Chapters 52 and 177.

Walker noted the second rule amending Chapters 79 and 81 modified the reimbursement method for skilled nursing facilities which met disproportionate share payment provisions and increased the maximum reimbursement rate for nursing facilities from \$61.63 to \$64.60 a day effective January 1 and then to an estimated \$65.89 on July 1. In response to Priebe, she stated this would be paid retroactively to January 1.

Daggett questioned whether the third rule amending Chapter 93, a 24-month funding limit for PROMISE JOBS post-secondary vocational classroom training, also contained a spending limit per individual and was told it did.

DHS (Continued) No questions on Rule 4 amending Chapters 130 and 170.

The fifth rule amended Chapter 150 and provided for an increase of rates for licensed adult residential care providers up to the amount of actual and allowable costs plus an inflation factor of 2.7 percent of not more than \$4.36 per day or less than \$.44 per day. Priebe asked if the Department had set an amount in the given range and was told no.

No questions on Rule 6, amending Chapters 152 and 185; Rule 7, amending Chapters 156 and 185; and Rule 8, amending Chapters 156, 201, and 202.

AGRICULTURE

Ron Rowland and Michael M. Mamminga represented the Department for the following:

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Administrative law judge, 2.2(1)"c," 2.2(5), 2.2(6), Notice ARC 6408A5/22/96

Dairy, dairy products, 68.13, 71.1, Filed ARC 6426A.....5/22/96

2.2(1)"c," et al No questions on 2.2(1) "c," et al.

68.13, 71.1 No committee action.

Special Review Doderer pointed out retail grocery stores are governed by federal regulations which prohibit the resale of meat to restaurants if 25 percent of the total meat sales have been exceeded. A wholesale license would be required if sales exceeded 25 percent.

Priebe added that two grocers in small towns cannot buy federally inspected cold meat and divide it between them for resale, even though neither would be able to sell the entire undivided amount. He noted such regulations made it difficult for small businesses to remain in operation.

Motion - Review Doderer moved this issue be called up for review at the September meeting. The
Motion Carried motion carried.

VETERINARY MEDICINE BOARD

Rowland appeared on behalf of the Board.

VETERINARY MEDICINE

Child support noncompliance, 5.17, ch 13, Notice ARC 6408A 5.22/96

Fees-late renewals, 6.2, Filed ARC 6425A..... 5/22/96

5.17, et al No questions on 5.17, et al.

6.2 The amount of the late license renewal penalty in rule 6.2 was increased to \$100. Rittmer asked if late renewal had been a problem. Rowland stated veterinarians renew licenses every three years at a cost of \$45 and that late renewals had indeed been a problem.

NATURAL RESOURCES COMMISSION

Al Farris appeared on behalf of the Department of Natural Resources.

NATURAL RESOURCE COMMISSION[571]

NATURAL RESOURCES DEPARTMENT[561]"umbrella"

Boating regulations on Lake Macbride, ch 45

Natural Resources
(Continued)
Special Review

Special Review, carryover from May agenda.

Farris said the Commission would maintain its current position as presented at the May 14, ARRC meeting on boating regulations at Lake Macbride. No committee action.

**CORRECTIONS
DEPARTMENT**

Fred Scaletta appeared on behalf of the department.

CORRECTIONS DEPARTMENT[201]

Correctional treatment unit — visiting, 25.1, Filed ARC 6434A5/22/96

Medical and classification center — visiting, 27.2, Filed ARC 6435A5/22/96

Correctional release center — visiting, 28.2, Filed ARC 6436A5/22/96

- 25.1 Scaletta said the amendments to rule 25.1 reduced the length of visits to inmates. Priebe asked if any complaints had been received and was told no.
- 27.2 Scaletta stated that subrule 27.2(1) reduced the length of visits on weekends and holidays when the visiting room became full. Daggett inquired if some inmates consistently had more visitors, thus reducing other inmates' visits. Scaletta noted he was aware this had occurred only at Mitchellville.
- 28.2 No questions on 28.2

**EDUCATIONAL
EXAMINERS
BOARD**

Jane Heinsen and Gary Borlaug were present from the Board of Educational Examiners for the following:

EDUCATIONAL EXAMINERS BOARD[282]

EDUCATION DEPARTMENT[281]"umbrella"

Endorsements for the instruction of mildly disabled children, 15.2(13), 15.2(14),

Filed Emergency ARC 6397A 5/8/96

Staff development programs for license renewal, 17.11, Notice ARC 6396A.....5/8/96

- 15.2(13), et al No questions on 15.2(13), et al.
- 17.11 No questions on 17.11.
- Minutes Kibbie moved to approve the minutes of the May meeting as submitted. The motion carried.
- Metcalf in chair

**EDUCATION
DEPARTMENT**

Ann Molis appeared on behalf of the Department.

EDUCATION DEPARTMENT[281]

School fees, ch 18, Filed ARC 6391A5/8/96

- Chapter 18 Molis stated the amendments to Chapter 18 required the board of directors of a school district to waive fees for indigent families. Five public hearings were held and one change was made in response to public comment. Waivers had to be explained at or before the time of registration and a partial waiver was to be

Education (Continued)

granted on a sliding scale similar to that of the reduced priced lunch. Some school districts felt this would be an administrative burden and requested that it be the option of the districts to waive the entire fee or do the partial waiver on a sliding scale. Schools currently charge approximately \$18 million in school fees, of which \$3.2 million is waived and an additional \$1.6 million has to be waived to comply with the rules. School district officials have evinced concern this may cause cuts in school programs.

In response to Priebe, Molis noted federal guidelines were used to determine who qualified. Students on the free lunch program, the state's FIP program, SSI, or in foster care automatically were qualified for full waiver.

Daggett asked if the school budget review committee would have to grant additional allowable growth in those situations. Molis said a few instances had occurred but it was not common. Daggett believed adjustment or special aid to some schools was needed to maintain equity in the school program because of the high property tax burden and the high number of low-income students.

Molis pointed out the Department would address the collateral issue to the fee waivers of legal versus illegal fees and the type of fees charged.

Metcalf asked if the total amount not waived was collected. Molis replied the remainder was collected but because the survey asked the amount of fees collected from students and not the amount charged, the figures were not available on how much was assessed.

Committee Business Objection Motion Carried

Priebe moved to retain the objection on rule 571 IAC 106.5(1) "b" stating the deer population was currently large enough to support an "any sex" season. Motion carried.

Priebe in chair.

Motion - Salary Motion Carried

Metcalf made a motion to increase Royce's salary from a Grade 38.4 to a Grade 38.5, effective June 28, 1996. Motion carried.

Recess

The Committee recessed at 11:35 a.m. and reconvened at 1:30 p.m.

EPC

Anne Preziosi, Christine Spackman, David Warnsen, Keith Bridson, Scott J. Vader Hart, Al Farris and Darrell McAlister appeared on behalf of the Department and Kristie Hirschman and Ruth Cooperrider were present from the Citizens Aide/Ombudsman office for the state of Iowa.

ENVIRONMENTAL PROTECTION COMMISSION[567]

NATURAL RESOURCES DEPARTMENT[561]"umbrella"

Air quality, 20.2, 22.1(2)"i," 22.8(1)"b," "c," and "e," 22.101(1), 22.202, 22.203(1)"a,"

22.300, 23.1(4)"r," "x," "ac," and "ag," 23.3(2)"d," 29.1, Filed ARC 6407A5/8/96

Country grain elevator, emergency generator and potential to emit, 20.2, 22.100,

Notice ARC 6406A5/8/96

Groundwater professionals — certification, 134.2 to 134.5, Filed ARC 6405A5/8/96

Laboratory certification, ch 83, Filed ARC 6363A, 70-day delay, Item 144/10/96

EPC (Continued)
20.2, et al

Preziosi indicated numerous changes to the rules were made as a result of comments received. An amendment to subrule 23.1(4) added that visual emission standards of less than 40 percent may be established in construction permits. 567-22.300(455B) established that small sources with actual emissions of less than 50 percent of the major source threshold level, otherwise subject to Title V permitting applications and registration, have the option of registering with the Department and avoiding the fees and the lengthier application of Title V, if they are willing to meet certain qualifications.

Daggett inquired if grain elevators in rural towns were affected by this rule. Spackman stated it was possible since potential emissions would have to be calculated and, under the modified definition of potential emissions, a number of elevators would no longer be subject to Title V application and fees.

Priebe asked if this rule affected IPSCO. Spackman explained IPSCO was a major project subject to the federal prevention of significant deterioration permitting requirement. IPSCO had complied with standards in the past but since those standards had been raised, it would now have to comply with the full Title V operating requirement.

Hirschman supported the rule but evinced concern with portions of rule 22.300 and provided suggestions for change. She stated there were two major concerns, one of which dealt with 22.300(8)"a"(1) and the fact that a July 1, 1996, registration was required but the Department used an August 1 deadline on its application forms. She expressed concern that a lawsuit could be filed as a result of the two deadlines. The other concern was 22.300(8)"b"(2) which required a description of source processes and products by two digit Standard Industrial Classification Code but this did not appear in the instructions nor on the forms.

She noted paragraph 22.300 (3)"c" contained language that small sources were eligible for an operating permit by rule after a certain date or until final promulgation of a federal standard. She asked that the language be changed from "whichever is earlier" to "whichever is later."

A further concern was that the rule stated the annual log begin from the date of application rather than on a calendar year basis. It was her belief complaints on the extensive record keeping would be received.

In response to Daggett, Preziosi stated the instructions and the materials contained the August 1 dates and thus indicated forbearance of enforcement. Spackman added time constraints resulted in the two dates and the Department would not require applications to be submitted until August 1.

Kibbie asked if the EPC was in agreement or disagreement with the statements from the Citizen's Aide/Ombudsman's office. Spackman replied both the phrase "whichever is earlier" and the annual log were reiterations of federal requirements.

She indicated a willingness to work toward consensus and noted the comments had been received on that date.

EPC (Continued)
Motion for Delay
Motion Carried

Metcalf moved a 70-day delay be placed on 22.300 of **ARC 6407A**. The EPC and the Citizen's Aide/Ombudsman's office were requested to meet, discuss the differences and return to the Committee the following day. The motion carried.

20.2, 22.100

Preziosi explained amendments to rules 20.2 and 22.100 defined country grain elevators and emergency generators and also redefined potential to emit for those sources. Priebe asked why the potential to emit for country grain elevators meant the greatest amount of grain received by the elevator during any of the previous five years multiplied by an adjustment factor of 1.2.

Spackman stated the 1.2 factor was consistent with EPA guidance document.

134.2

No questions on 134.2.

Ch 83

Bridson reported to the Committee the Department had been unable to complete the economic impact analysis concerning the wastewater facilities submitting wastewater reports to the Department. The Department would continue to work on this.

SECRETARY OF STATE

Sandy Steinbach appeared on behalf of the Secretary of State's office.

SECRETARY OF STATE[721]

Renewal elections for local option taxes with sunset dates, 21.800(3)"b"(2),

Notice **ARC 6401A**5/8/96

MicroVote Absentee Voting System, 22.60, Notice **ARC 6423A**5/22/96

21.800(3)"b"(2)

Steinbach noted the amendment to 721—subparagraph 21.800(3)"b"(2) provided an opportunity to include local option tax on the general election ballot and reduce the costs to the taxpayers of holding a special election.

Priebe questioned the authority of the Secretary of State and stated he did not believe this was the will of the Senate. Steinbach pointed out the amendment permitted but did not require the local option tax to appear on the general election ballot.

22.60

Steinbach explained that under 721—22.60(52), the MicroVote absentee voting system contained a secrecy sleeve, the ballot and a booklet, all of which required additional instructions to the voters and additional administrative procedures to safeguard both the secrecy of the ballot and guarantee a correct count.

Daggett queried whether this new method was more complicated and difficult for senior citizens. Steinbach replied this process was tested in Warren County and the county auditor reported there were no problems with this concept nor were there a high number of spoiled ballots.

In response to Rittmer, Steinbach said this is currently used in Warren, Floyd and Wapello.

APPEAL BOARD Linda Hurst and Ron Amonson appeared for the Board.

APPEAL BOARD, STATE[543]

MANAGEMENT DEPARTMENT[541]"umbrella"

General claims, 3.1, 3.1(1), 3.1(5), Notice ARC 6389A,

also Filed Emergency ARC 6390A.....5/8/96

3.1, et al No questions on 3.1, et al.

**LABOR
SERVICES
DEPARTMENT**

Walter Johnson was present from the Department.

LABOR SERVICES DIVISION[347]

EMPLOYMENT SERVICES DEPARTMENT[341]"umbrella"

General industry safety and health, 10.20, Notice ARC 6431A5/22/96

Construction safety and health, 26.1, Notice ARC 6432A.....5/22/96

Occupational safety and health standards for agriculture, 28.1, Notice ARC 6433A.....5/22/96

10.20 No questions on 10.20.

26.1 No questions on 26.1.

28.1 No questions on 28.1.

**MEDICAL
EXAMINERS
BOARD**

Ann Martino appeared on behalf of the Board. Also present were Keith Luchtel and Becky Roorda from the Iowa Medical Society, Greg Kolbinger from the Iowa Physician Assistant Society, Robert A. Witt and Ed Friedman from the Board of Physician Assistants Examiners, Dr. Clark from the HPBA, Norman Pawlewski from IOMA, and Dave Carlyle and Jeanine Gazzen from the Iowa Academy of Family Physicians.

MEDICAL EXAMINERS BOARD[653]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Eligibility for physician assistant supervision, ch 21, Filed ARC 6318A, 70-day delay3/13/96

Ch 21 Martino stated the Medical Examiners had not yet voted on the rules, which were designed to address the two concerns previously raised concerning clarification of initial authorization and due process in Chapter 21 regarding physician assistant supervision. She indicated areas of disagreement still exist.

Witt, Friedman, and Kolbinger indicated these rules had been received within the past week and remained unacceptable. Each favored a delay.

Luchtel and Carlyle spoke and noted that differences still remain.

Motion to Delay Halvorson made a motion to delay the rules until the end of the 1997 legislative
Motion Carried session. Discussion ensued. Motion carried.

**LIVESTOCK
HEALTH
ADVISORY
COUNCIL**

Mark Williams and Maynard Jayne of the Iowa Cattlemen's Association were present.

**LIVESTOCK
Health (Continued)**

LIVESTOCK HEALTH ADVISORY COUNCIL[521]

Recommendations, ch 1, Notice ARC 6398A.....5/8/96

Ch 1

Williams stated that Chapter 1 provided for the \$251,000 appropriation with a contingency fund of \$25,000 for fiscal year 1996 - 1997 to be used for livestock disease research by the Iowa State University College of Veterinary Medicine.

Priebe noted he would like to see \$15,000 to \$20,000 carried over to the middle of the year in case of disease outbreak.

**RACING AND
GAMING
COMMISSION**

Jack Ketterer appeared on behalf of the Racing and Gaming Commission. Also present were Rick Olson on behalf of the Iowa Horsemen's Organization, Jeff Farrell, Assistant Attorney General, Beverly Zylstra from the Inspections and Appeals Department, Representative Teresa Garman and Representative Jack Holvick.

RACING AND GAMING COMMISSION[491]

INSPECTIONS AND APPEALS DEPARTMENT[481]"umbrella"

Thoroughbred racing, phenylbutazone level, 10.6(2)"g",

Filed emergency ARC 6474ASPECIAL REVIEW

Special Review

Ketterer said a mistake in paragraph 10.6(2)"g" changed the wording from milliliter to millimeter. He explained that millimeter is a linear measure that cannot correctly be applied to a liquid. The wording issue had been addressed in an administrative hearing and it was deemed the "...section as written is meaningless and has no function." Ketterer stated the matter had been determined to be a substantive change rather than a technical or typographical change and could not be corrected in a Code Editor's bill. A legislative bill with the milliliter/millimeter issue included was deferred. The statute, as applicable to the current racing season, authorized the administration of phenylbutazone but with no enforceable limit. The Attorney General's office recommended a rule change be pursued. The Commission subsequently agreed to a consent item in which "the Commission would not issue a civil penalty if the phenylbutazone level was between 2.2 and 5 micrograms per milliliter if the horsemen would not use the milliliter/millimeter defense if there was a phenylbutazone level over 5 micrograms per milliliter." The consent item would terminate once the Commission passed a rule.

Ketterer said that in the bill presented to the legislature, the level of phenylbutazone was changed from 2.2 to 5 micrograms per milliliter and that approximately 80 percent of the states allow 5 micrograms per milliliter. He believed a threshold level needed to be established to prevent abuse of this and ensure the safety of the animals.

Priebe stated he did not believe the Committee could change the word from millimeter to milliliter when this could not be done in the Code Editor's bill.

Responding to Hedge, Ketterer replied this rule was identical to current Code language but changed the word from millimeter to milliliter.

Special Review
(Continued)

Halvorson indicated his agreement with Priebe that this could not be done by rule.

Weigel, Metcalf and Doderer spoke in favor of changing the rule from millimeter to milliliter.

Garman stated that after consultation with the Code Editor, the change could be included in the Code Editor's bill next session. She voiced opposition to the increase to 5 micrograms per milliliter from 2.2, and added she would pursue this with the Attorney General.

Motion

Metcalf moved the word "millimeter" be changed to "milliliter" and retain the level at 2.2 micrograms per milliliter.

Withdraw Motion

Following discussion the motion was withdrawn.

Recess

Priebe recessed the meeting at 4 p.m. until 9 a.m. Wednesday, June 12, 1996.

Reconvened

Priebe reconvened the meeting at 9 a.m. Representative Weigel was excused from the meeting.

**VETERANS
AFFAIRS
COMMISSION**

Jack J. Dack, Commandant and Lowell E. Bartel, Adjutant, Nancy Morford, Iowa Veterans Home; Robert O. Steben, Commission Veterans Affairs were present for the following:

VETERANS AFFAIRS COMMISSION[801]

Iowa veterans home, 10.1, 10.2(1)"f," 10.3(2)"a," 10.3(4)"c" to "e," 10.4(3), 10.4(5)"a" and "d," 10.6(7), 10.11(1), 10.12(1), 10.12(4), 10.15(1)"a"(3), 10.15(1)"b"(3), 10.16(2)"d," 10.17(3), 10.18, 10.19(2)"a"(5), (8) and (9), 10.19(2)"e"(4), 10.19(3)"a," 10.19(4), 10.20(7) to 10.20(9), 10.21, 10.23(1), 10.30, 10.35, 10.35(2), 10.35(4), 10.35(7), 10.40(2)"b," 10.50(1) to 10.50(7), 10.51(1), 10.56(1) to 10.56(3), 10.57(8), Notice **ARC 6388A** 5/8/96

Ch 10, et al

Bartel pointed out that with the exception of paragraph 10.2(1)"f," which required veterans living in the facility to apply for all benefits, these amendments updated Chapter 10.

Rittmer asked and was told by Dack that there currently are 726 veterans in the home and 53 on the waiting list with 16 scheduled for admission and 16 applications being reviewed. Approximately five applicants per week seek admission. Dack pointed out a faster turnover rate existed due to increased substance abuse, psychotic patients and hospice type individuals. Rittmer asked if the wait for admission was lengthy, and Dack replied it was not since there were 768 operating beds.

In response to Kibbie, Bartel stated every veteran or dependent spouse was supplied a copy of administrative rules before moving into the home. Bartel noted the rules were also sent to all 99 counties, the VA facilities and the University of Iowa Hospital. Each of the 99 county commissions is provided training at least once a year and, under a new plan, all new commission members will come to the Iowa Veterans Home for orientation.

LOTTERY

Ken Brickman appeared on behalf of the Iowa Lottery and Libby Nelson was present from the Attorney General's office.

LOTTERY DIVISION[705]

REVENUE AND FINANCE DEPARTMENT[701]"umbrella"

Licensing — child support noncompliance, 1.5, 2.1, 2.2, 2.4, 2.4(3), 2.4(7), 2.7, 2.12 to 2.15,

Filed **ARC 6410A**.....5/22/96

Assignment of prizes, 1.18, Notice **ARC 6411A**.....5/22/96

Dishonored checks and electronic funds transfers, 3.8, Notice **ARC 6409A**5/22/96

Computerized lottery definitions, prizes and odds, pool exhaustion game, 13.2, 13.5, 13.22,

Filed Emergency **ARC 6412A**5/22/96

1.5, et al

No questions on 1.5, et al.

1.18

Brickman stated that 705-1.18(99E) clarified the payment of lottery prizes and addressed certain federal and state tax regulations. Daggett inquired if all taxes were withheld immediately. Nelson responded that 28 percent are withheld for federal and 5 percent for Iowa tax, however, additional taxes may be due based upon the individual's tax consequences. She pointed out that a winner who received a prize on an installment basis and effected an assignment that does not follow the federal tax law can accelerate the tax ramifications of the federal tax situation and be taxed for the present worth of the entire prize in the first year.

In response to Palmer, Nelson indicated remaining installment payments were paid to the estate upon the death of a lottery winner as provided by statute. She added there was a provision in the rule for the acceleration of the prize paid to the estate.

Rittmer asked if the prize was calculated as a portion of the individual's income or if it was taxed at a flat rate. Brickman stated it was considered other income and the individual received a W2G form showing what amount had been withheld and what taxes had been paid.

Priebe asked about the language used in subrule 1.18(4) and was told by Nelson that it reflects the language of that provision of the Internal Revenue Code.

In response to Palmer, Brickman said federally-backed securities were purchased upfront in the market and "they fund the income stream." Because of the federal tax acceleration implications, the securities belong to the Lottery and not to the prizewinner. It is all prefunded and prepaid. Palmer questioned both the return investment and why the Treasurer's office was not involved in the purchase of the securities. Brickman agreed a larger purchase could be made when interest rates were favorable.

Metcalf asked what type of oversight was available on the person responsible for purchasing the securities. Brickman responded an audit was conducted on a quarterly basis by the state auditor's office.

Priebe requested clarification on the application of interest.

Brickman explained that only the amount of the ticket sales is invested rather than the total amount of the prize. An investment is purchased that will yield the

Lottery (Continued) approximate value of the total prize and the interest is included therein. Nelson added that, based upon the number of tickets sold, the value of the prize pool can be projected over the length of the 20-year period based on the current interest rate.

3.8 No questions on 3.8.

13.2, 13.5, 13.22 Priebe inquired why amendments to Chapter 13 had been filed Emergency and was told it cleared up ambiguities on one of the current games.

PERSONNEL DEPARTMENT

Clint Davis represented the Department and Greg Cusack, Marie Dean and Kelly Lovell were present from IPERS.

PERSONNEL DEPARTMENT[581]

Reduction in force, 11.3, Notice ARC 6430A5/22/96
Iowa public employees' retirement system, 21.4(1), 21.4(1)"c," "f," and "g," 21.4(2),
21.5(1)"a"(13), (35), and (43), 21.8(1)"g" and "h," 21.8(3), 21.9(1)"a"(4), 21.9(2) to 21.9(4),
21.10(13), 21.10(14), 21.11(1), 21.13(1), 21.13(6)"b," 21.14(2), 21.20(2), 21.21, 21.22(2),
21.24(8), 21.27, 21.28, Notice ARC 6428A, also Filed Emergency ARC 6429A5/22/96

11.3 Davis stated amendments to 581—11.3(19A) modified the method of calculation of noncontract employees undergoing a layoff due to a reduction in funding or lack of work.

Priebe asked why subrule 11.3(1) contained actions which were not considered reductions in force. Davis answered this subrule acknowledged the possibility an organization might restructure itself without having fewer positions.

21.4(1), et al Rittmer questioned whether the phrase pertaining to reemployed retirees "...years of membership service not to exceed 30..." contained in subrule 21.22(2) was appropriate. Cusack stated it should be adjusted to reflect what the legislature had done this year.

Cusack agreed with Daggett that the Code definition of temporary employee continued to create problems for IPERS and that IPERS would prefer the definition be the same as Social Security.

Palmer asked whether the public employees retirement system should conform more to what is expected of the private sector. He cited employees' options and relationship to vesting and relationship to employer's contributions. Cusack agreed.

PROFESSIONAL LICENSURE DIVISION

Carolyn Adams and Marge Bledsoe represented the Department.

PROFESSIONAL LICENSURE DIVISION[645]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"
Social work examiners, 280.3(3), 280.4(1), 280.4(5)"c," 280.5(2), 280.5(4),
Filed ARC 6427A5/22/96

280.3(3), et al No questions on 280.3(3), et al.

RACING AND GAMING COMMISSION

Beverly Zylstra appeared on behalf of the Commission.

RACING AND GAMING COMMISSION[491]

INSPECTIONS AND APPEALS DEPARTMENT[481]"umbrella"

Thoroughbred racing, 10.5(1)"y," 10.5(8)"d"(2), 10.5(17)"g"(2), Filed **ARC 6399A**5/8/96

License applications — disclosure of information and cooperation with commission, 13.2(1)"h,"

13.2(3), 20.16, Notice **ARC 6400A**5/8/96

10.5(1)"y," et al

No committee action on 10.5(1)"y," et al.

13.2(1)"h," et al

Priebe pointed out that under subparagraph 13.2(3)"b"(1) owners of horses could not be licensed in any other capacity, such as jockeys, veterinarians, and farriers. He felt this needed to be examined. Zylstra responded this was existing law.

Hedge inquired if this was applicable to any veterinarian or to one working only at the track and was told it was not clearly delineated.

Rittmer asked if tax was withheld if more than \$1250 was won in horseracing. Zylstra replied both a federal and state tax limit existed and would ascertain those amounts.

DOT

Ian MacGilliwray, Walt McDonald, Tom Sever, Sue Albright, Tom Cackler, Saleem Baig and Steve Westvold were present from the Department of Transportation, Jerry Brown appeared for Universal Outdoor, and Rick Malm represented the Iowa Outdoor Advertising Association.

TRANSPORTATION DEPARTMENT[761]

Signing manual, highway-railroad grade crossings, 130.1(3), ch 811, ch 812, 820.5(2),

Filed **ARC 6393A**5/8/96

Cost of constructing curb ramps in compliance with ADA, 150.4(3),

Filed Emergency After Notice **ARC 6392A**5/8/96

Regulations applicable to carriers, 520.1(1)"a" and "b," Filed **ARC 6420A**5/22/96

Outdoor advertising, 117.1. 117.3(1)"h," 117.3(4), 117.4(3), 117.5(5)"m,"

117.6(1), 117.6(2), 117.6(4) to 117.6(9), 117.7(6), Notice

ARC 6294A, carryover from April agenda3/13/96

130.1(3), et al

McDonald explained that the amendments to Chapters 130, 811, 812, and 820 examined the classification system for grade crossings and signing standards applicable to grade crossing warning devices.

In response to Rittmer, McDonald said there was no difference in the signing between single and double tracks.

Metcalf asked if local governmental officials had been consulted on these rules and was told yes.

DOT (Continued)
150.4(3)

Baig stated subrule 150.4(3), the construction of curb ramps on existing sidewalks within in the right-of-way of primary road extensions, complied with the American Disabilities Act.

Priebe asked whether departmental participation was often at the \$250,000 per year per city limit. Baig replied it had not occurred as yet since the spending limit was incorporated in the new language.

520.1(1) "a," "b"

No questions on 520.1(1) "a," and "b."

117.1, et al

Westvold iterated the primary issue concerning the Chapter 117 outdoor advertising amendments was the definition of face and facings. A concern had been the number of displays that could be visible at one location and how those were treated. He stated permitting by size will now be the determining factor and the fee for a permit will be dependent on the size of the device. Information will be submitted to the legislature in December for consideration of change in the law.

Brown responded to Priebe that the outdoor advertising people were not satisfied with the rule but were satisfied with the process that will be put into place to change the rule during the next session.

Metcalf in chair.

Kibbie asked if signs must still be set back from the highway 660 feet and was told that was the bonus provision. Westvold noted that in a city the Department control ends at 660 feet and anything beyond that is strictly a city issue. In a rural area, a new off premise sign visible from the highway must be within the 660 feet and has to be in an area that is commercially or industrially zoned. On an interstate highway, it has to be in an area that was exempted under bonus.

Priebe in chair.

Doderer asked what the Department currently received for outdoor advertising permits. Westvold replied initial permits cost \$50 and renewals cost \$10 per year. He added a recent bill increased those amounts to \$100 initially and \$15 for renewal but those fees did not cover the cost.

Daggett recommended that consideration be given that fees be raised to cover costs.

UTILITIES DIVISION

Vicki Place and Diane Munns represented the Board and Larry Toll was present from US West.

UTILITIES DIVISION[199]

COMMERCE DEPARTMENT[181]"umbrella"

Requests for interconnection negotiations, 22.22, Filed Emergency ARC 6402A5/8/96

22.22

No questions on 22.22.

INSURANCE DIVISION

Susan E. Voss represented the Department.

INSURANCE DIVISION[191]

COMMERCE DEPARTMENT[181]"umbrella"

Small group health benefit plans — lifetime maximum mental health and substance abuse treatment coverage, ch 71 matrix, footnote (3), Notice

ARC 6374A, Economic Impact Statement4/24/96

Ch 71

Voss stated that following the Milliman & Robertson study, the Division concluded the lifetime maximum coverage for mental health costs in the small group standard plan should be increased to \$50,000.

Palmer pointed out that health insurance is a substantial part of the small employer's fixed expenses and this forces small employers to look at changing the method in which insurance is paid to employees. He considered it a detriment to small employers but a benefit to the providers of health services.

Voss said another study will be done to examine other alternative benefits in the basic and standard plans.

Metcalf questioned why the Division had not reported back to the Commerce Committee but had proceeded with the increase following the study. Voss indicated the Commission filed a written report with the General Assembly on January 15 and it was the commissioner's determination based on the study that an increase would be both appropriate and cost effective. Metcalf expressed a desire that a slower approach to this issue be taken and Voss agreed to do so. Metcalf requested this issue be put on the July agenda.

July Agenda

DENTAL EXAMINERS

Connie Price appeared on behalf of the Board.

DENTAL EXAMINERS BOARD[650]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Child support noncompliance, 6.9(2)"h," 30.4"41," ch 33, Filed ARC 6416A.....5/22/96

Examination application, 11.1, 11.2(2)"d," Filed ARC 6415A.....5/22/96

Examinations, 12.1(7), 12.2(5), 12.3(7), 12.4(5), Filed ARC 6414A.....5/22/96

Impaired practitioner review committee, 30.5, Filed ARC 6417A.....5/22/96

6.9(2)"h," et al

No questions on 6.9(2)"h," et al.

11.1, et al

In response to Priebe, Price stated the Northeast Regional Board of Dental Examiners, Inc. was deleted from 650—11.1(15) because Iowa belongs to the ten-state region Central Regional Examination Testing Service. The reference to Northeast was no longer applicable since it was a separate entity.

12.1, et al

No questions on 12.1, et al.

30.5

No questions on 30.5.

**PHARMACY
EXAMINERS**

Lloyd Jessen appeared on behalf of the board.

PHARMACY EXAMINERS BOARD[657]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Child support noncompliance, 9.1(4)"x," ch 25, Filed ARC 6418A.....5/22/96

Impaired pharmacist review committee, 9.30, Notice ARC 6419A.....5/22/96

9.1(4)"x," ch 25

No questions on 9.1(4)"x," Chapter 25.

9.30

No questions on 9.30.

Special
Review

Allen Stokes, Anne Preziosi and Christine Spackman represented the Department and Bill Angrick, Kristie Hirschman and Diane C. Fouks were present from the Citizen's Aide/Ombudsman office. Mona Bond was present on behalf of Agri Business.

Stokes enumerated the issues as set forth by the Citizen's Aide/Ombudsman office and presented the EPA responses. It was his belief the two major concerns, 22.300(8)"a"(1)1, regarding the registration date of July 1, 1996, and the application date of August 1, 1996, and 22.300(8)"b"(2), a description of source processes and products by two digit Standard Industrial Classification Code, had been addressed administratively.

Stokes then stated they would be willing to prepare an omnibus correction set of rules for historical purposes.

It was the intent of the Department to use "whichever is earlier" in paragraph 22.300(3)"c." He added that should the federal government adopt a standard prior to the 1999 date, that then would become applicable.

Stokes noted the Department provided several reference sources for the basis for figuring emission factors both in data processing and paper document form. Because these emission factors are changed periodically and frequently by the federal government, this was intended only to provide customer service in accessing those calculations.

The Department would maintain a standard use of the words "registration" and "application" throughout the rule.

Relative to the amount of paperwork involved, Stokes stated the form might be further streamlined.

He noted the use of the annual log was to commence on the date of application and be kept on an annual basis thereafter. Stokes agreed this could use some clarification.

Angrick pointed out it was not the intent to delay the rule, but a number of concerns had been voiced within the past two weeks and his office was responding to those complaints. He did not believe the Department unilaterally had the authority to give this type of administrative waiver and speak for the federal EPA nor did he believe policy could override the July 1 date. Angrick

Special Review
(Continued) noted the rest of the changes were acceptable.
Bond received numerous requests for help from association members who voiced concern over the proper procedure for filling out the forms. She recommended that the annual log be completed on a calendar year.

Motion to Lift
Delay Metcalf moved to lift the 70-day delay imposed on **ARC 6407A**. The motion
Motion Carried carried.

NO REPS. No agency representative was requested to appear for the following:

ACCOUNTANCY EXAMINING BOARD[193A]
Professional Licensing and Regulation Division[193]
COMMERCE DEPARTMENT[181]"umbrella"
Child support noncompliance, 9.12, 12.18, 16.9(3), Filed **ARC 6413A**5/22/96

ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C]
Professional Licensing and Regulation Division[193]
COMMERCE DEPARTMENT[181]"umbrella"
Child support noncompliance, 1.8, 4.30, 5.9(3), Filed **ARC 6422A**5/22/96

REAL ESTATE COMMISSION[193E]
Professional Licensing and Regulation Division[193]
COMMERCE DEPARTMENT[181]"umbrella"
Enforcement date, 1.52, Filed **ARC 6421A**5/22/96

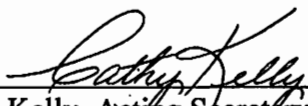
REVENUE AND FINANCE DEPARTMENT[701]
Reduction in state itemized deductions for certain high-income taxpayers, 41.11,
41.11(1), 41.11(2), 43.5, 43.5(1)"a," 43.5(1)"b," Notice **ARC 6403A**5/8/96

July Meeting The July meeting was scheduled for July 9 and 10, 1996, and will be held in Room 22 of the Capitol.

Special A special thank you was extended to Kim McKnight for her services to the Committee.

Adjourned The meeting was adjourned at 12:00 p.m.

Respectfully submitted,


Cathy Kelly, Acting Secretary

APPROVED:


Senator Berl Priebe, Cochair