

**MINUTES OF THE SEPTEMBER 2001 MEETING
OF THE
ADMINISTRATIVE RULES REVIEW COMMITTEE**

Date of meeting: The regular meeting of the Administrative Rules Review Committee (ARRC) was held Tuesday, September 11, 2001, in Room 116, State Capitol, Des Moines, Iowa.

Members present: Senator Merlin E. Bartz, Chair; Representative Clyde Bradley, Vice Chair; Senators JoAnn Johnson, John P. Kibbie, and Sheldon Rittmer; Representatives Danny Carroll, Marcella Frevert, Janet Metcalf, and Paul Scherrman. Senator Patricia Harper was excused.

Also present: Joseph A. Royce, Legal Counsel; Kathleen K. Bates, Administrative Code Editor and Karon Elfvin, Assistant; Brian Gentry, Administrative Rules Coordinator; caucus staff and other interested persons.

Convened Chair Bartz convened the meeting at 9:30 a.m.

IOWA FINANCE AUTHORITY Loyd Ogle, Donna Davis, Tim Waddell and Mike Tramontina represented the authority. Other interested parties included Robert P. Burns, architect from Iowa City; Jim Cain of the Iowa Coalition for Housing and the Homeless; Jim Conlin of Conlin Properties; and Sister Stella O'Neill of Anawim Housing.

ARC 0764B In response to Metcalf's inquiry, Waddell indicated that comments received from the public related to changes from the 2001 QAP, construction standards, inclusion of the mentally disabled in the hard-to-house population, calculation of the not-for-profit set-aside, and the 10 percent set-aside for assisted living. Davis advised Metcalf that the board anticipates adopting final rules at the October 10 meeting. In response to questions raised at the previous meeting, Tramontina provided information relative to the number of not-for-profit awards made from 1998 to 2001 and informed the committee that the requirement for completion of a market study to determine demand has affected the overall number of applications. In response to Metcalf's concern that Iowa's program may be too restrictive, Tramontina stated that Iowa's program conforms to the federal requirement for states to give preference to developers who develop housing for the lowest-income people for the longest period and that the tax credit program is intended to involve for-profit investors in the development of low-income housing projects.

Kibbie asked that a written explanation of changes be provided to Royce before the next meeting.

Burns supported the hard-to-house set-aside and offered an example of a project in Keokuk sponsored by the Lee County Board of Supervisors to provide housing for the severely mentally ill. Burns commented that resident eligibility for the Medicaid waiver for assisted living services results in a cost reduction to the county and the state.

Cain commended IFA's cooperation in providing information and opportunities for public participation and articulated the benefits that nonprofit entities bring to the housing arena.

Conlin voiced opposition to application fees, points awarded to applications for projects serving the lowest-income population, and caps on developers and projects. O'Neill held that awards are not skewed toward nonprofit entities and illustrated how a nonprofit housing organization uses tax credits with other programs to make rents affordable for the population most in need of housing.

Bartz asked that IFA appear at the October 9 ARRC meeting with the recommendations that will be taken to the October 10 meeting of the IFA board.

TRANSPORTATION DEPARTMENT Craig Marvick, Jody Johnson, and Michelle McEnany represented the department.

ARC 0856B No questions on amendments to ch 163 relating to the RISE program.

ARC 0858B No action on amendments pertaining to vehicle registration, certificate of title and salvage titles.

ARC 0857B No questions on general aviation hangar revolving loan fund, ch 718.

SOIL CONSERVATION DIVISION Ken Tow and Bill McGill represented the division.

ARC 0891B No action on amendments to ch 12.

REVENUE AND FINANCE DEPARTMENT Carl Castelda represented the department.

ARC 0862B No questions on 52.15 and 58.8 relating to eligible housing business tax credit.

ALCOHOLIC BEVERAGES DIVISION Lynn Walding and Judy Seib represented the division. Other interested parties included Doni DeNucci of the Iowa Hospitality Association.

ARC 0855B No questions on proposed surety bond requirements.
ARC 0854B Proposed amendments to chs 5 and 12 increase dramshop liability insurance requirements. Walding distributed materials to illustrate which states have a dramshop liability insurance requirement and in what amounts. Walding reported receiving comments pertaining to personal responsibility of the drinker, sales by off-premises establishments to intoxicated persons, bonding and self-insurance. Bartz was advised that the prohibition on exclusion from assault and battery was included to clarify that dramshop liability covers not only drunk driving, but also fights which result from intoxication. Walding added that the division is considering setting an effective date, such as July 1, 2002, for uniform application of the rule.

Motion Bradley moved the committee request a regulatory analysis.
Motion carried The motion carried. A regulatory analysis must be published before the amendments are adopted.

Kibbie asked about the effect on insurance rates for community organizations, such as American Legion and VFW, that serve at occasional events, and Walding responded that dramshop discounts may be available for organizations that provide server training. Walding noted that the division is also concerned about binge drinking on college campuses and that institutions without alcohol programs may face liability. DeNucci commented that some hospitality association members have raised the same concerns that Walding and Kibbie have summarized and noted that many businesses exceed the minimum coverage required. The association is involved in proposing dramshop reform legislation.

CORRECTIONS DEPARTMENT Michael Savala and Michael Richardson represented the department. Other interested parties included Anastasia Baker of the Iowa Association of Counties and Mark Miller, city administrator of Norwalk.

ARC 0852B No questions on amendments to ch 50.
ARC 0853B Savala reported that the city of Norwalk pointed out that the square footage requirement was missing from the amendments to ch 51 and that the department will be issuing an amendment to correct the inadvertent omission. Miller endorsed the amendments.

INSPECTIONS AND APPEALS DEPARTMENT Jennifer Fiihr represented the department. Linda Goeldner represented the Iowa Nurses Association.

ARC 0871B No action on amendments to exempt from food establishment and processing plant licensure rules a residence in which honey is stored, prepared, packaged, labeled, sold, or from which it is distributed.

ARC 0837B No questions on the amendment to 30.4(7) concerning validity of license for temporary food establishments at farmers markets.

ARC 0869B The amendments to 51.14 pertain to hospital pharmaceutical service procedures for authentication of medication and standing orders. Goeldner commented on the challenges the rules present to those who administer medications and take standing orders from practitioners. Fiihr stated that the June 30, 2007, expiration date will be included in the adopted rules.

ARC 0868B The proposed amendment to 51.28(1) relates to location of records concerning staff authorized to administer anesthesia. Goeldner mentioned that 80 percent of anesthesia is administered by CRNAs.

ARC 0870B No questions on cross-reference corrections in ch 51.

INSURANCE DIVISION Jeanie Vaudt represented the insurance division.

ARC 0834B Proposed amendments to ch 50, which are primarily corrective in nature and allow for electronic filing, have the support of the industry.

NURSING BOARD Lorinda Inman and Chris Newell represented the board.

ARC 0877B No action on amendments to ch 5 proposed pursuant to Executive Order Number 8.

ARC 0878B No action on 5.2(2)"c."

Committee business Metcalf moved approval of the minutes of the August 2001 ARRC meeting. The motion carried.

Kibbie moved the committee meet on the statutory dates: October 9 and 10, November 13 and December 11. The motion carried.

The October meeting will include special reviews of: (1) the general services department policy to remove private vendors of furniture from the list of eligible bidders and deal only with prison industries, and (2) department of inspections and appeals limitations on gambling by qualified organizations.

LAW ENFORCEMENT ACADEMY Gene Shepard represented the academy.

ARC 0846B No action on proposed amendments to ch 3 relating to a time limit for certification of law enforcement officers.

EDUCATIONAL EXAMINERS BOARD Anne Kruse and Chris Scase represented the board.

- ARC 0875B No questions on proposed amendments to 11.28 extending the time for initiation of an appeal or review of decision.
- ARC 0874B Proposed 11.35 and 11.36 establish criteria the executive director will consider in reviewing an application for licensure or renewal and the procedures for appeal of denials. In response to Carroll's question regarding statutes relating to applications from persons with criminal convictions or founded report of child abuse, Scase stated that a 1992 attorney general's opinion concluded that the board must consider and weigh factors relating to the conviction in making licensure decisions.
- ARC 0876B No action on consolidation of ch 14 rules into a single chapter.

DENTAL EXAMINERS BOARD Jennifer Hart represented the board.

- ARC 0880B No questions on amendments to chs 11 and 12.
- ARC 0879B No questions on 20.6(3)"a" regarding dental assistants.

PUBLIC HEALTH DEPARTMENT Mike Magnant, Tanya Diehn, Rita Gergely, and Barb Nervig represented the department. Other interested parties included Chuck Thomas of the Iowa Association of Building Officials; Jim Johnson, building official with the city of Des Moines; Don Hansen, city of Des Moines plumbing inspector; Richard Cheeseman, building official and plumbing inspector for the city of Cedar Falls; David Owen, training director for plumbers and steamfitters Local 33; Bill Wall of the International Conference of Building Officials; and Allen Inlow of IAPMO.

- ARC 0850B Proposed ch 25 updates the state plumbing code by adopting the 2000 Edition of the Uniform Plumbing Code. Magnant reported that there has been some controversy regarding which uniform code Iowa should adopt. Thomas, Johnson and Wall expressed a preference for the International Plumbing Code as an alternative to the Uniform Plumbing Code. Cheeseman, Hanson and Inlow supported the department's selection of the Uniform Plumbing Code as the minimum standard for Iowa. Magnant stated that affected parties are not likely to reach agreement; nevertheless, Metcalf urged parties to continue discussions. Bartz asked that the effective date for the adopted rules be after the November 13, 2001, ARRC meeting.

- ARC 0849B No action on proposed ch 4, birth defects institute, revised in response to Executive Order Number 8.

- ARC 0848B Proposed ch 69 pertains to lead hazard notification in instances of renovation, remodeling and repainting. Rittmer was advised that 45 percent of children born in 1994 have been tested and 12 percent of children tested show evidence of lead poisoning.

- ARC 0851B No action on proposed ch 70 regarding lead professional certification.
- ARC 0847B No questions on proposed ch 72 pertaining to childhood lead poisoning prevention.
- ARC 0893B No questions on correction of address in 174.5.

SECRETARY OF STATE Bob Galbraith and Sandy Steinbach represented the secretary of state.

- ARC 0867B No action on 21.30 concerning inclusion of annexed territory in city reprecincting and redistricting plans.
- ARC 0872B No action on proposed 21.50, which provides polling place accessibility standards. Galbraith reported that the rules allow for a waiver when an alternative voting mechanism, such as curbside voting, is available.

UTILITIES DIVISION Amy Christensen, Cecil Wright and Gary Stump represented the division. Terry Harman of Alliant Energy was also present.

- ARC 0860B No questions on the corrective amendment to 9.3(1).
- ARC 0887B No action on 19.3(8) and 19.10(3) concerning estimation and proration of natural gas bills.
- ARC 0889B Proposed amendments to ch 4 relate to generation plant siting. Harman stated that Alliant Energy is filing comments with the board.
- ARC 0888B No questions on proposed ch 40 regarding competitive bidding.

HUMAN SERVICES DEPARTMENT Nancy Freudenberg, Anita Smith and Mary Ellen Imlau represented the department.

- ARC 0881B No questions on proposed amendments relating to Medicaid application and eligibility determination process.
- ARC 0839B No action on SSA RCF and IHHRC reimbursement rate increase and SSI cost-of-living increase.
- ARC 0882B No questions on proposed amendments to ch 53, rent subsidy program.
- ARC 0883B No questions on proposed amendments to ch 57 concerning interim assistance reimbursement program.
- ARC 0841B No questions on amendments implementing the modified price-based case-mix system for non-state-owned nursing facility Medicaid reimbursement.

Human Services Department (continued)

ARC 0884B No action on amendments to ch 79 relating to disproportionate share payments for graduate medical education.

ARC 0885B No questions on corrective amendments to ch 79.

ARC 0873B Proposed amendments to ch 86 relate to the HAWK-I program. Smith informed Metcalf that the word "transitional" was removed to avoid confusion because the coverage exists as long as the child qualifies, not just for a limited time. Smith further explained that HAWK-I is for children who do not have other coverage, rather than children who are not eligible for other coverage. Smith stated that the department has proposed assigning a plan rather than denying the application when the family neglects to designate a plan and added that those dissatisfied with the plan assigned have 30 days in which to request a change. Metcalf was advised that the plan selection process is set out in 86.6(3).

Carroll asked the department to review the intent of the program as stated in the Code and ensure that the purpose of the program as stated in the rules reflects the language of the Code. Bartz concurred with Carroll's request that the rules reflect the statutory language. Bradley was advised that, based on 1990 census data, HCFA overestimated the number of uninsured children in Iowa.

ARC 0842B No questions on exemption from experience requirement in 108.4(3) and 185.10(1)"a" for graduates with a bachelor's degree in social work.

ARC 0844B No questions on the amendment to 150.3(5)"p"(2)"4" regarding statewide average cost of shelter care.

ARC 0845B No questions on independent audit of RTSS providers.

ENGINEERING AND LAND SURVEYING EXAMINING BOARD Excused.

Adjourn The meeting was adjourned at 3:20 p.m.

Respectfully submitted,

Kathleen K. Bates
Kathleen K. Bates

Karon Elfvin
Karon Elfvin

APPROVED:

Merlin E. Bartz
Chair Merlin E. Bartz

Clyde Bradley
Vice Chair Clyde Bradley