

MINUTES OF THE SPECIAL MEETING OF THE

ADMINISTRATIVE RULES REVIEW COMMITTEE

- Date of meeting: A special meeting of the Administrative Rules Review Committee (ARRC) was held Monday, March 10, 2003, in Room 116, State Capitol, Des Moines, Iowa.
- Members present: Senator Jeff Angelo, Chair, and Representative George Eichhorn, Vice Chair; Senators Michael Connolly, John P. Kibbie, Paul McKinley, and Donald Redfern; Representatives Danny Carroll, Marcella Frevert, and David Heaton. Representative Mark Kuhn was not present.
- Also present: Joseph A. Royce, Legal Counsel; Kathleen K. Bates, Administrative Code Editor, and Teresa Vander Linden, Assistant; caucus staff and other interested parties.
- Convened Chair Angelo convened the meeting at 8 a.m.
- HUMAN SERVICES DEPARTMENT** Nancy Freudenberg and Mary Loven represented the department. Other interested parties included Bernard Nesbit.
- ARC 2317B No action on proposed amendments to ch 7 relating to contested case proceedings.
- ARC 2260B No questions on amendments to ch 14 pertaining to offset of county debts owed the department. The amendments represent resolution of county concerns.
- ARC 2254B Freudenberg reported that amendments to the rent subsidy program are intended to serve more people and save Medicaid dollars by keeping people in the community. Carroll expressed a desire for the agenda to reflect which rules affect Medicaid and for the department to forward Medicaid-related rules to the legislative fiscal bureau for a fiscal analysis prior to committee review. There was discussion about whether the request for fiscal analysis should be limited to Medicaid rules or be required of any rule making with an impact expected to exceed a certain threshold. Freudenberg indicated that the department can notify committee members of fiscal impacts and intended sources of funds for rule makings. The committee agreed to continue discussion of the proposal next month.
- ARC 2286B No questions on proposed amendments to the refugee services program relating to eligibility of victims of a severe form of trafficking in persons as certified by the U.S. Department of Health and Human Services.
- ARC 2261B No action on disability determination reports.
- ARC 2255B No action on 75.5(3)"f"(4), (5), and (7) concerning the estimated cost of an annuity.
- ARC 2258B No questions on amendments pertaining to community mental health centers.
- ARC 2257B No action on amendments relating to supported community living services in community-based, integrated settings for mentally retarded and brain-injured persons. Carroll suggested that the rules include a definition for "integrated."
- ARC 2259B No questions on 82.19 concerning ICF/MR certificate of need.
- ARC 2318B No action on amendments to chs 95 to 98 pertaining to the child support recovery unit. Nesbit expressed concern about the requirement in 95.3(1)"b" for the collection services center to base distributions on the date of the check when the income provider does not document the month for which sums are withheld.
- ARC 2256B Amendments to ch 99 are the result of the review conducted pursuant to Executive Order 8. Nesbit expressed concern about the reference to "spouse of the custodial parent" in 99.62(3)"b." Loven responded that the phrase was added for consistency and noted that the department views the amendment as beneficial. Nesbit concurred but maintained that child support rules should not include a reference to a spouse. Freudenberg responded that the the department's rules are based on supreme court guidelines for child support.
- AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT** Dr. John Schiltz represented the department.
- ARC 2292B Schiltz reported that the department intends to proceed with an emergency after notice filing for these proposed amendments governing exhibitions.
- ARC 2319B No action on proposed amendments to ch 64, chronic wasting disease surveillance and monitoring program. Schiltz stated that although white tail deer are not included in the department's voluntary CWD program for farm deer, the department has sent the rules to the Iowa white tail deer association in response to pending legislation.
- CAPITAL INVESTMENT BOARD** Jim McNulty represented the board.
- ARC 2290B No questions on ch 3, tax credits for investments in venture capital funds.
- REVENUE AND FINANCE DEPARTMENT** Jim McNulty represented the department.
- ARC 2288B No questions on 19.12, sales tax exemption for purchase of building materials, supplies and equipment for construction contracts for exempt entities.
- ARC 2289B No questions on amendments implementing tax credits for equity investments in venture capital funds.

EDUCATION DEPARTMENT Carol Greta and Jeff Berger represented the department.

- ARC 2274B No questions on amendments to add a nonvoting student member to the state board of education. Greta reported that the department received 40 applications.
- ARC 2273B No questions on amendments to open enrollment rules.
- ARC 2275B No action on proposed amendment to rules governing waiver of school fees.
- ARC 2276B No questions on proposed amendments to ch 51 relating to on-the-job training and programs for qualified veterans.
- ARC 2277B No action on proposed amendments to ch 52 concerning training and education of eligible veterans.
- ARC 2278B No questions on the rescission of ch 68 pertaining to charter schools.
- ARC 2279B Proposed amendments to ch 83 affect the teacher quality program. Berger explained that the amendments pertain to providers of evaluator training, teacher evaluations by local districts, and individual teacher career development plans. Committee questions concerned the data-based decision-making skills criteria, uniform standards and criteria, the appeals process, the potential for disparity in recommendations of local evaluators, a request for a detailed definition of "summative evaluation," and requirements for teachers who return to teaching after a period of absence from the profession taken prior to their comprehensive evaluation.
- McKinley asked for the names of members of the panel that reviewed RFP applications and for the minutes of their meetings.

LOTTERY DIVISION Ken Brickman represented the division.

- ARC 2320B No questions on proposed amendments resulting from the Executive Order 8 review.
- ARC 2322B No action on the amendment to 2.4(3) to reduce the lottery license fee.

PERSONNEL DEPARTMENT Gregg Schochenmaier represented the department.

- ARC 2287B Schochenmaier outlined amendments to ch 21. No action was taken.

PUBLIC HEALTH DEPARTMENT Barb Nervig, Charlene Craig, Roger Chapman, Jo Hinrichs and Julia Goodin represented the department.

- ARC 2269B No questions on proposed ch 26 regarding backflow prevention assembly tester registration.
- ARC 2272B Craig noted that item 29 was the only controversial provision in the proposed amendments to the radiation rules and indicated that the department is working closely with the board of medical examiners and the hospital association to resolve the issue.
- ARC 2268B The proposed amendment to 85.3(1) allows a hospital ethics committee to act as a local substitute decision-making board. Chapman agreed to provide additional information about whether a county board of supervisors can overrule a decision of the board of health.
- ARC 2267B Proposed ch 94 pertains to the child protection center grant program. Two centers in Iowa have met national accreditation standards, and two other child protection centers are working toward accreditation. Heaton expressed concern about the potential number of child protection centers and availability of funding. McKinley asked the department to coordinate efforts with family planning clinics to ensure that youth requesting birth control pills are not victims of sexual abuse.
- ARC 2270B No action on 126.1 and 126.3 concerning fees for autopsies and related services.
- ARC 2271B Goodin estimated that the amendments to ch 127 will result in approximately 65 additional autopsies statewide per year.

VISION IOWA BOARD Michael Gartner represented the board. Other interested parties included Page County resident Brian Walker; Linda Stoores, David Naegele and Beverly McLaren of Citizens for Responsible Choices; and attorney Frank Smith.

- Special review In response to inquiries about legislative direction that would be helpful in establishing a similar program, Gartner emphasized the importance of ensuring diversity through statutory designation of board members and giving a new board the ability to leverage funds and establish partnerships. In regard to the pending lawsuit, Connolly requested a summary of the petition and response.
- Public comment was accepted. Walker expressed opposition to a Vision Iowa project that will result in condemnation of property in Page County. Stoores emphasized negative effects of a Vision Iowa project on some residents of Page County. McLaren expressed the belief that condemnation laws need to change. Smith expressed a desire for rules governing any similar programs to provide an opportunity for affected parties to be heard. Naegele related his experience of moving into Iowa and building a home which was soon condemned.

ENVIRONMENTAL PROTECTION COMMISSION Anne Preziosi and Mel Pins represented the commission.

ARC 2304B No questions on 2.1 adopting the department's rules on public records and fair information practices.

ARC 2306B No questions on 7.1 adopting the department's rules on contested cases.

ARC 2305B No action on amendments to ch 117 to clarify setback distances for aboveground waste tire stockpile sites.

Committee business The minutes of the February meeting were approved.

The April meeting was set for Monday, April 14, 2003, at 8 a.m.

The committee approved the Department of Public Safety's request to publish notices of approved of breath testing devices and ignition interlock devices in the Iowa Administrative Bulletin.

Frevert expressed concern about the college student aid commission's definition "located in Iowa," which appears in several rule making documents for which no representative was requested to appear.

Frevert suggested that 567—ch 111 regarding postclosure accounts be placed on the April agenda.

Adjourned The meeting was adjourned at 11:55 a.m.

Respectfully submitted,

Kathleen K. Bates
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APPROVED:

Jeff Angelo
Chair Jeff Angelo

George Eichhorn
Vice Chair George Eichhorn