

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 Tuesday, and Wednesday October 14 and 15, in Room 116, State Capitol, Des Moines, Iowa.

Members present: Senator H. Kay Hedge, chair and Representative Christopher Rants, vice chair; Senators Merlin E. Bartz, John P. Kibbie, William Palmer, and Sheldon Rittmer; and Representatives Danny Carroll, Minnette Doderer, Janet Metcalf, and Keith Weigel.

Also present: Joseph A. Royce, Legal Counsel; Kathleen Bates, Administrative Code Editor; Cathy Kelly, Assistant Editor; Jackie Van Ekeren Romp, Administrative Rules Coordinator; caucus staff; and other interested persons.

Convened •Chair Hedge convened the meeting at 10:00 a.m.

HUMAN SERVICES DEPARTMENT Present from the department were Mary Ann Walker, Ruth Schanke, Maya Krogman, Shari Seivert, Jo Ann Kazor, Julie Ingersoll, Mary Loven, and Diane Dentlinger.

ARC 7487A •In response to Doderer, Dentlinger stated that the 20-year statute of limitations for collection of delinquent child support was just eliminated and retirement benefits are subject to collection.
•Rittmer was advised by Dentlinger that according to Iowa's procedures, licenses are suspended in the most egregious cases of child support delinquencies, which were initially eight years and now stand at five years.

•Kibbie was informed that private collecting agencies are used in cases that are difficult to collect. The cost of the collection is taken from the share due the state and not from that due the child or parent and the agency cannot be paid more than the state share of the money that is collected. Effective January 1, 1998, an amount will be added to the arrearage to cover the cost of collection.

ARC 7488A •Bartz asked how the 25 percent sanction of FIP benefits relates to the department policy on parent or caretaker removal. Krogman stated that no statistics exist concerning the total number of cases in which participants fail to cooperate. She also stated the 25 percent sanction is more equitable than what has been used in the past, which was dependent upon family size.

ARC 7489A No questions concerning SSA RCF and IHRC rate in Chapters 52 and 177.

ARC 7490A No committee action regarding HCBA MR and BI waivers in Chapters 77, 78, 79, and 83.

ARC 7491A No questions on managed health care amendments to Chapter 88.

ARC 7478A Walker noted the hearings were attended by 150 persons and the majority of comments dealt with lead teacher provisions and the required volunteer record checks.

•Metcalf was informed by Ingersoll that following a review of the comments, the department will work with provider groups and will schedule a series of statewide ICN meetings.

•In response to Doderer, Ingersoll noted the majority of those in attendance at the hearings were providers. Walker pointed out additional notification steps, such as posting notices in county offices, are being considered to apprise recipients of the hearings. Doderer was advised by Walker that department rule 1.8 allows for exemptions in individual cases.

•In reply to Bartz, Walker said the rules are applicable only to licensed child care centers and preschools. Ingersoll stated it is not the intent of the proposed rules to move mass numbers of children from centered base care nor is it anticipated those rules will impact the Delaware and Scott pilot projects.

•Kibbie was advised by Walker the care rules will become effective January 1, while those pertaining to FIP and child support will take effect either on February 1 or March 1. Recipient notification of the changes will be accomplished through the FIP quarterly newsletter and the ICN.

•Ingersoll indicated to Bartz that under the new rules any center not in compliance may be granted a provisional license from six months to one year based on the need for the noncompliant area.

•Hedge inquired about staff ratio for children of mixed ages. Ingersoll said children two and under must be maintained at the one to four ratio. For children aged three and above, staff ratio is determined by whichever age group contains the largest number of children.

ARC 7477A No committee action on financial eligibility for child day care services in Chapters 130 and 170.

ARC 7476A No committee action regarding foster care and subsidized adoptions amendments to 156.6(1), 202.17(1) "a" and "b."

TRANSPORTATION DEPARTMENT Dennis Ehlert, Dave Titcomb, Dick Hendrickson, Ruth Skluzacek, Carol Crouse, and Sue Albright appeared on behalf of the department.

Special Review requested by Senator Rittmer

POW license plates •Rittmer stated that prior to July 1996, prisoner of war license plates could not be retained by a surviving spouse and questioned why the new law which permits surviving spouses to retain those plates at a reduced rate was not made retroactive. He stated some surviving spouses who turned in plates under the old law are seeking to regain the use of those plates.

Motion to refer •Following discussion, Rants moved to refer the issue to the legislature.

Motion to amend •Doderer moved to amend the referral with the recommendation that all receive equal treatment. The amendment carried.

Motion as amended carried The motion as amended carried.

ARC 7528A No questions regarding real property acquisition and relocation assistance manual amendments to 111.1, 111.1(2) "a" and "b."

ARC 7529A No committee action on vehicles and loads of excess size and weight in Chapter 511.

ARC 7527A No committee action pertaining to Chapter 625, motor vehicle licenses for undercover law enforcement officers.

ECONOMIC DEVELOPMENT Mike Miller, Monica Fischer, Mary Lawyer, Melanie Johnson and Kim Statler appeared on behalf of the department.

ARC 7502A •Kibbie pointed out that confusion exists concerning whether there is direct competition when both the department and community colleges offer apprenticeship training programs. •Following Lawyer's statement that the department intends to incorporate suggested changes in proposed emergency rules, Metcalf requested a review by the ARRC prior to implementation.

•Palmer was advised by Lawyer that several different programs are funded by the Workforce Development Fund, including 260F, which now includes apprenticeship, business network, and regular funding for individual businesses.

ARC 7501A No committee action on CDBG program amendments to Chapter 23.

ARC 7500A •Rittmer pointed out there are no checks and balances on the power of a director who opts to waive the \$1 million award limit.

PUBLIC SAFETY DEPARTMENT Mike Coveyou and Mike Rehberg represented the department. Others present included Jim Sinclair and Ward Rouse.

Rants in chair
ARC 7530A Sinclair opposed the minimum performance requirements for direct breath testing being established by the state division of criminal investigation criminalistics laboratory rather than NHTSA's periodic revisions. Sinclair said Iowa is the only state setting standards for evidentiary breath testing devices by a three-person DCI lab. He expressed concern over both the exclusive use of one evidentiary breath testing device in Iowa that was last manufactured in the 1980s and its accuracy. Sinclair pointed out three of the devices listed in 7.2(3) are not used anywhere in the United States.

Coveyou stated the rule making authority has never resided anywhere other than with the department which adopts specific NHTSA standards, but not future enactments.

•Responding to Rittmer, Sinclair stated that juvenile testing in Iowa is .02 tolerance but by striking NHTSA revisions in 7.2(1), the machine only has to be accurate within .05.

•In response to Weigel, Rehberg said the device works and will continue to be used. National testing indicates it does conform to standards and continues to be viable for criminal justice.

Motion to refer •Metcalf moved to refer ARC 7530A to the general assembly.

Motion to amend withdrawn •Weigel moved the motion be amended to a 70-day delay. Following discussion the motion to amend was withdrawn.

Motion carried The motion to refer carried.

ENVIRONMENTAL PROTECTION COMMISSION Present from the division were Diana Hansen, Jack Riessan, and Mel Pins.

ARC 7508A No questions regarding Chapter 44, drinking water revolving fund.

ARC 7509A •In response to Rants, Riessan said the department will review limiting fall application of nitrogen following comments that were received at the public hearings.

•Kibbie pointed out that a watershed area might encompass other people's land up to two miles away. Riessan agreed landowners would not necessarily own the drainage well into which the land drained.

•Weigel was informed by Riessan that the issue of restrictions on sinkholes needs to be examined by the department.

Recess The committee recessed at 12:35 p.m. and reconvened at 1:30 p.m. Hedge in chair.

ARC 7510A No committee action on waste tire stockpile abatement program, Chapter 218.

NATURAL RESOURCE COMMISSION Appearing on behalf of the commission were Steve Dermand, Arnie Sohn, Marion Conover, and Richard Bishop.

- ARC 7514A No questions on permit issuance and construction easements on lands and waters, Chapter 13.
 ARC 7512A No questions on course completion criteria for mandatory hunter safety and ethics certification 15.1(2) to 15.1(5).
 ARC 7520A No committee action pertaining to dock flotation barrels in 16.5(4).
 ARC 7515A No committee action concerning boat motor regulations in 45.4(2) and 45.4(3)"c."
 ARC 7513A No questions on state parks and recreation areas to 61.2, 61.3(1)"f," and 61.6(1).
 ARC 7521A No questions regarding the amendment on black bass in 81.2(2).
 ARC 7511A No committee action on the migratory game birds amendment to 92.7.
 ARC 7523A No questions regarding nonresident deer hunting in 94.7(3) and 94.7(4).
 ARC 7519A No questions on amendments to 97.3 and 97.4, woodcock and ruffed grouse hunting seasons.
 ARC 7518A No committee action pertaining to hunting game birds by falconry, 102.2.
 ARC 7517A No questions on Chapter 105 amendments, hunting deer in deer management units.
 ARC 7522A No questions regarding Chapter 105, deer population management areas.
 ARC 7516A No committee action concerning deer hunting, 106.7(3).

PROFESSIONAL LICENSURE DIVISION Mike Marshall was present from the division.

- ARC 7483A No questions pertaining to amendments to Chapter 100 regarding funeral directors.

PUBLIC HEALTH DEPARTMENT Mike Marshall, Gary Ireland, and Bill Permar appeared on behalf of the department.

- ARC 7479A No committee action on tanning facilities, Chapter 38 and 46.
 ARC 7480A No questions on Chapter 86, places where dead human bodies are prepared for burial or entombment.
 ARC 7482A •In response to Bartz, Marshall stated the department would review policy regarding reciprocity for EMS programs across state lines.
 ARC 7481A No committee action concerning EMS fund grants in chapter 140.

ENGINEERING AND LAND SURVEYING EXAMINING BOARD Carolyn Finch represented the board.

- ARC 7536A No questions on administration and standards for property surveys in Chapters 1 and 2.
 ARC 7537A No questions on professional development amendments to 1.4(5), 1.9(3), and 3.4(3).

RACING AND GAMING COMMISSION Jack Ketterer represented the commission. Others present included Eliza Ovrum and Brice Oakley.

- ARC 7505A No questions on procedures and licensing, Chapters 1, 2, 3, 5, 7, 10, 12, and 20.
 ARC 7504A No committee action regarding riverboat license application, 20.10(5).
 ARC 7503A •In response to Carroll, Ketterer stated that 20.11(6), distribution of receipts to qualified recipients of nonprofits, will be clarified in the adopted rules.
 Rants in chair •When asked by Weigel why limited and general partnerships are combined, Ketterer replied it was to accommodate parties wanting to consider themselves partnerships for purposes of racing and is a requirement of the application for licensure. He added the commission is only concerned with such licensure for anyone owning 5 percent or greater.

REVENUE AND FINANCE DEPARTMENT Carl Castelda and Ed Henderson appeared on behalf of the department.

- ARC 7492A •In response to Metcalf, Castelda said the enterprise zone tax credits become effective when the zones are approved by the department of economic development.
 ARC 7535A No questions pertaining to penalty and interest in Chapters 10, 67, 68, and 69.
 ARC 7494A No questions concerning sales and use tax in Chapters 16, 17, 18, and 30.
 ARC 7493A •In response to Doderer's inquiry, Henderson confirmed that installment payments on property tax, which may be accepted at the discretion of county treasurers, result in less delinquency.
 •Kibbie was informed that although the statute does not prohibit payment of property tax by automatic checking, the department is not aware of any counties doing so.
 ARC 7495A No committee action on offset of debts owed state agencies, 150.1, 150.2(2), and 150.2(3).

SOIL CONSERVATION DIVISION Kenneth Tow, and Jim Gulliford were present from the division.

- ARC 7540A No committee action regarding Chapter 60 minerals program.

LABOR SERVICES DIVISION Walter Johnson and Marta J. Day was present from the division.

- ARC 7534A •Rittmer was informed that annual inspection fees are anticipated to generate approximately \$25,000. The largest increase is for inspection of TV towers to operate the program. Fee increases allow the department to operate the program at a break-even status.
 •Metcalf urged the department to find a way to advise the affected parties of the increases.
 •Day indicated to Rants the last fee increase occurred in 1993.

Committee Business**Minutes**

November meeting

December meeting

Recess

- Upon motion by Metcalf, the minutes were approved as presented.

The November meeting will be held Monday, November 10, 1997.

The December meeting is scheduled for Monday and Tuesday, December 9 and 10, 1997.

The meeting recessed at 3:27 p.m. and reconvened Wednesday, October 15, 1997, at 9:00 a.m.

INSURANCE DIVISION Roseanne Mead, Craig Goettsch, and Ann Outka appeared on behalf of the division.

ARC 7506A

No committee action concerning licensing of an insurance agency, 10.2, 10.8 to 10.24.

ARC 7497A

Goettsch stated that advertising on the Internet is not the equivalent of transacting business, and a license in Iowa is required if a transaction in securities is made and payment is received as a consequence. He noted there is no way to police the system unless complaints are received.

- Rants, Doderer, Bartz, Weigel, and Palmer were in accord that all business on the Internet needs to be examined by the legislature.

ELDER AFFAIRS DEPARTMENT Betty Grandquist and Ron Beane were present from the department and Robin Mixdorf represented the Cedar Falls Lutheran Home.

ARC 7498A

No committee action pertaining to 1.2(2) and 1.2(3), exceptions granted by executive director.

ARC 7499A

No questions concerning AAA service delivery, 7.3(9)"b"(5) and 7.3(13).

SECRETARY OF STATE Carol Olson was present from the secretary's office.

ARC 7524A

No questions pertaining to election forms, 4.3.

ARC 7525A

No committee action regarding election forms and instructions in Chapter 21.

ARC 7531A

No questions concerning city and county election ordinances, 21.30 and 21.31.

ARC 7526A

No questions on alternative voting systems in Chapter 22.

UTILITIES DIVISION Cindy Dilley, Don Stursma, Gary Stump, and Vicki Place represented the division.

ARC 7485A

- Rittmer was informed by Dilley and Stursma that safety control over hazardous liquid pipelines is preempted by the federal government, but the state maintains primary economic and environmental control over construction, maintenance, and operation. Gas pipelines are not included in this category.

ARC 7532A

No questions on notification of winter energy assistance, 19.4(15)"h"(5), 20.4(15)"h"(6).

ARC 7486A

No questions regarding management efficiency, 29.3(1) and 29.5.

ARC 7484A

No questions on acquisition or disposition of utility assets, 32.2(1) and 32.2(2).

ARC 7539A

Place was asked to provide information to the committee through Royce concerning differences between federal and state lists of eligible telecommunications carriers' required services and the amount of money currently in the Universal Service Fund.

PERSONNEL DEPARTMENT Linda Hanson, Gregg Schochenmaier, Clint Davis, Phyllis Watson and Mary Ann Hills were present from the department. Others present included Gregory Seller, Michael Sole, and Dolly Schneidwind from Great-West; George Webb from William M. Mercer; Roderick B. Crane from the Segal Company; Benefits Corporation representative; Terry Hancock and Jim West from the Nyemaster Law Firm; Marcia Nichols from AFSCME; Rick Phillips and Dennis Schneider from Iowa Association of Life Underwriters; Thomas R. Clark from Compensation Designs; Jim Maltby from State Farm Insurance; Robert R. Boucher from VALIC; Herb Phillips, Mike Donahoe, Kurt Cole and Gerald V. Foster from Equitable of U.S.; Brian W. Samuelson, Gary Voggeser, and Roger R. Ruden from Equitable of Iowa; Julie F. Pothorff from the attorney general's office; Julie Shepard from Schreurs & Associates; and Greg Cusack and Kelly Lovell from IPERS.

ARC 7464A

- Following Hanson's synopsis of the development of the new deferred compensation plan, Weigel stated his belief the department had exceeded legislative intent.

Crane said Segal Company reviewed the draft for proposal and the bid specifications mindful of the September 1 implementation date. Segal felt it was necessary to reduce annuities to two for new membership and provide latitude in transferring assets at the election of existing members to the new plan. Without such a plan, competitive bids would not be received.

Segal devised criteria for evaluation of the RFPs and Great-West was selected. Advisors from Segal then assisted in the review of the funds nominated by Great-West as potential investments. Crane stated the reduced investment options permit employees to make informed and rational choices and investment returns will be maximized by managed costs through coordinated services. Retention of existing annuity contract arrangements was appropriate but to do otherwise than freeze the contracts would be complex and costly. He stated the new plan comports with 457 plans and is going to be more efficient, manageable, and effective in meeting the objectives of providing a deferred compensation plan that best meets the needs of plan participants.

PERSONNEL DEPARTMENT continued

Seller pointed out that Great-West is the largest provider of services to the state government market. Currently, 38 states use the single-administrator approach. The investment options are from recognized mutual fund companies but not from Great-West, which serves as a record keeper and provider of educational services. Substantial savings will result since transfers will be permitted on a daily basis with no charge, no fee, no transfer restriction, and no withdrawal fee. Two thousand mutual funds are available under the fully liquid self-directed brokerage account. Great-West provides a toll-free consolidated customer service center with 24-hour voice response unit, as well as free Internet access at video kiosk service centers. He added that debate should center on what is best for plan participants rather than the commission paid to insurance agents.

Webb stated the advantages of a bundled product are that investments are prepackaged, the plan sponsor usually has minimum flexibility and input on selecting investments, the fee is generally priced in the overall package, and the various services are packaged into one.

The disadvantages of bundled product services for the size of the Iowa program is difficulty in determining cost of services. There is also a potential credit risk exposure. Selection of investment products is very limited and participants have limited flexibility.

Advantages of unbundled products include plan sponsor flexibility, flexibility in paying service providers, and flexibility through assets.

Disadvantages include the participant's awareness of more disclosed fees and costs and plan sponsors will have to deal with multiple vendors.

Webb said the pronounced countrywide trend is to move to an unbundled program which permits transfer flexibility with a third-party to sell, market, and explain the products. He also anticipates increased participation and added that as investment products are diversified, credit risk is also diversified.

Van Ekeren Romp announced that on this date, the governor named a task force to study the deferred compensation plan issue over the next 60 days. It will determine whether it was necessary to redesign the state's deferred compensation plan in order to offer direct access to mutual fund investments. Particular attention will be paid to whether the plan should restrict current annuity vendors to their existing contracts and the requirement that the administrative service provider be the exclusive marketing agent. A moratorium on direct marketing by Great-West and insurance representatives will be in place during the 60 days. Employees may take the initiative during that time to either defer initially or transfer.

- Carroll was advised by Crane that Segal Company has no affiliation of any type with Great-West. Seller then indicated to Carroll the only remuneration received by Great-West is the 60 basis point administration fee. Carroll pointed out to Sellers the commission to agents is a factor since many participants want to do business with their trusted hometown agents. Hanson responded there are no significant numbers of various companies represented by local agents.

- Weigel asked why material issued to employees stated that investments offered through mutual funds and group fixed and variable annuities were issued by Great-West. Seller replied the reference was to the stable value fund. Because the RFPs have not yet been issued, Great-West is purchasing securities for the federal securities in that pool and guaranteeing book value of payment of benefits until the final design is concluded.

- In response to Weigel, Hanson said annuities will be selected by the department and an evaluation committee. The mutual funds were selected with the advice of Segal. Great-West will have no interest in either the annuities or the mutual funds.

- Metcalf was informed by Hanson that the department communicated its intention throughout the process to Bob Rafferty of the governor's office. Metcalf expressed concern there was no indication to the people involved of the exclusivity of the administrator or that the marketing would be done by the company awarded the contract. She indicated adequate notice had not been given nor was legislative intent preserved.

- When Rants asked when the governor's office was first aware that annuities had been reduced to two, Hanson stated that should be directed to the governor's office. Van Ekeren Romp will make inquiry.

- Kibbie asked what effect the 60-day moratorium will have on the RFP for annuities. Hanson said the department will send the RFPs out this fall and if it becomes necessary withdraw them contingent upon the task force.

Hancock, West, Schneider, and Nichols spoke in opposition.

Motion to object •Bartz moved the committee object to the department of personnel's rule on the procedural grounds that the emergency filing and implementation of the program constitutes an abuse of emergency procedures, as well as on the substantive grounds that it exceeds statutory authority by going beyond the legislative intent of House File 540.

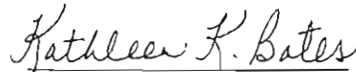
Motion to delay action •Following extensive discussion, Kibbie moved action on the motion to object be deferred until the November meeting. After further discussion, the motion to defer action carried unanimously.

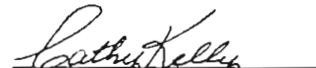
Motion to delay carried

Motion to object tabled The Bartz motion to object was tabled until the November meeting.

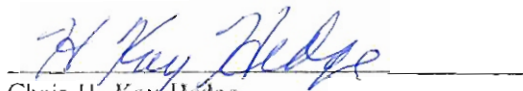
Adjourned The meeting was adjourned at 4:25 p.m.

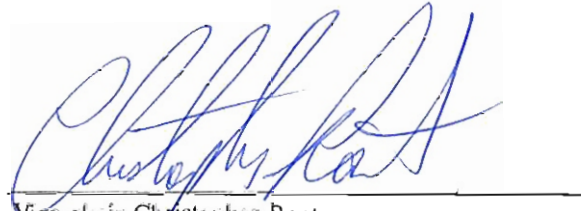
Respectfully submitted,


Kathleen K. Bates


Cathy Kelly

APPROVED:


Chair H. Kay Hedge


Vice chair Christopher Rants