

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

- Date of meeting: A special meeting of the Administrative Rules Review Committee (ARRC) was held Friday, April 6, 2001, in Room 116, State Capitol, Des Moines, Iowa.
- Members present: Representative Clyde Bradley, Chair; Senator Merlin E. Bartz, Vice Chair; Senators Patricia Harper, JoAnn Johnson, and John P. Kibbie; Representatives Danny Carroll, Marcella Frevert, Janet Metcalf, and Paul Scherrman. Senator Sheldon Rittmer was not present.
- Also present: Joseph A. Royce, Legal Counsel; Kathleen K. Bates, Administrative Code Editor, and Teresa VanderLinden, Assistant; Brian Gentry, Administrative Rules Coordinator; caucus staff and other interested persons.
- Convened Chair Bradley convened the meeting at 9:03 a.m.
- HUMAN SERVICES DEPARTMENT** Karla Fultz McHenry represented the department.
- ARC 0522B Amendments concerning recoupment of child care assistance overpayments led to discussion of pending legislation regarding instances of fraud on the part of child care providers.
- ARC 0523B No action on the annual adjustments to amounts of resources attributed to and maintenance needs of the community spouse and the SSA program.
- ARC 0524B No action on amendments to the refugee cash assistance and service programs.
- ARC 0520B These proposed amendments to the food stamp program have been further revised so that more farmers will be eligible for food stamps. McHenry responded to Johnson's inquiry by confirming that, in accordance with federal regulations, the income of a child under the age of 18 is counted when the department determines a family's eligibility for food stamps. Johnson noted that it seems unfair for a family to lose food stamp eligibility due to the income of a child who is working and saving for college. Kibbie suggested that ARRC could send a letter to Iowa's congressional delegation voicing opposition to the regulation. Metcalf suggested that the request be qualified to protect only college money. Frevert suggested that a copy of the letter also be sent to the USDA.
- ARC 0547B No questions on the amendment to 65.8(1) made in response to the heating crisis.
- ARC 0543B No action on proposed 65.21(4) to 65.21(6) regarding claims for overissued food stamps.
- ARC 0525B No questions on amendments to the HCBS waiver program.
- ARC 0546B No action on termination of the proposed price-based case-mix system for Medicaid reimbursement of non-state-owned nursing facilities.
- ARC 0544B No action on proposed 78.50 concerning Medicaid reimbursement for local education agency services.
- ARC 0545B The proposed amendment to ch 83 increases the monthly cost of services for nursing level of care under the ill and handicapped waiver.
- ARC 0548B No questions on proposed sex offender registry checks and evaluation of founded child abuse reports and criminal convictions for registrants and licensees.
- Special Review No action on emergency amendments affecting state supplementary assistance.
- ENVIRONMENTAL PROTECTION COMMISSION** Anne Preziosi, Wayne Ferrand, and Randy Clark represented the commission.
- ARC 0573B No questions on proposed ch 13 waiver rules.
- ARC 0572B No action on proposed 22.108(3)"b" to "d" regarding air pollution monitoring.
- ARC 0568B Proposed amendments to ch 64 for general permits are intended to simplify the permitting process for applicants and result in greater efficiency for the department.
- ARC 0571B No questions on 64.16(4) which allows for a refund of fees for storm water discharge permits.
- ARC 0569B No action on proposed amendments to ch 65 pertaining to certification and fees for manure applicators and manure storage structures.
- ARC 0570B This proposed amendment, which would extend the deadline and allow land application pending manure management plan approval, is in response to ARRC's objection to the previous emergency extension, which will expire in July 2001. Clark represented the department on behalf of Wayne Gieselman who was unable to attend this ARRC meeting. Bartz urged the department to specify starting and ending dates, so that an extension would apply only to those applications filed before a given date. Bradley asked that Gieselman advise ARRC of any intention to incorporate date parameters as requested by Bartz and to specify how the department prioritizes reviews. Frevert and Scherrman expressed disappointment in the department's need for an additional extension. Clark clarified that an extension would apply only to those facilities not required to be permitted.

Environmental Protection Commission (continued)

Kibbie expressed the opinion that current statutes are slanted toward large corporate producers and observed that the backlog is going to continue until the legislature takes action regarding size of facilities required to be permitted and funding for staff to review plans. Metcalf viewed the problem as one which the department, rather than the legislature, needs to address and asked Clark to remind the department that the person responsible for the program needs to attend ARRC meetings. Carroll suggested that Bradley convene a special meeting so that questions could be addressed to Gieselman.

NATURAL RESOURCE COMMISSION Jon Tack, Richard Smith, and Al Farris represented the commission. Laverne Schroeder represented the Iowa Sportsmen's Association.

- ARC 0536B No action on 15.1(1) concerning hunting licenses.
- ARC 0542B No action on proposed amendments to ch 15 for an administrative fee for electronic license sales. Frevert stressed the need for all areas of the state to have licensing opportunities during nonbusiness hours, such as weekends.
- ARC 0537B Amendments to ch 23 pertain to distribution of wildlife habitat stamp funds to county conservation boards.
- ARC 0541B No comments on waterfowl and coot hunting seasons.
- ARC 0538B No action on nonresident deer hunting.
- ARC 0540B Proposed ch 99, pertaining to wild turkey fall hunting by residents, will be changed in response to HJR 11.
- ARC 0539B No action on proposed ch 100 which pertains to deer hunting by residents. Having received numerous reports of crop damage due to the deer population, Johnson asked if the department might also consider issuing antlerless-only licenses in Guthrie County. Farris responded that DNR will look at options in the area and added that the private property at Lake Panorama has a significant deer population in spite of the special hunting season held in Springbrook Park.
Schroeder requested use of an 800-number rather than a postcard for reporting information to the department.
Kibbie commended DNR for use of the ICN for public hearings.

PERSONNEL DEPARTMENT The department was excused from review at this time.

IOWA FINANCE AUTHORITY Loyd Ogle and Donna Davis represented the authority. Developers Bob Burns of Iowa City and David Collins of Clear Lake were also in attendance.

- ARC 0532B Proposed 12.1 and 12.2 pertain to the qualified allocation plan for the low-income housing tax credit program. Davis reported that IFA intends to award credits in July this year and in March or April next year. Royce explained how adoption by reference functions in the rule-making process. Discussion centered on scoring categories and removal of a past preference for elderly projects. Ogle stated that applications have to be supported by a market study and that consideration of local need is part of the process. Davis added that more credits are available this year, and because points are available in various categories, the plan should provide a mix of both elderly and family projects.
Burns emphasized the importance of the point system in the award process, expressed concern that elderly projects will no longer receive a preference, and cautioned against basing state policy on a single study. Davis responded by pointing out categories, such as projects offering supportive services, for which both elderly and family projects can receive points.
Ogle reported that a total of 540 points are available and that the board will consider these comments before approving rules on April 11. Davis referenced IRS requirements that state plans include preferences for families with children. Gentry stated that concerns about the point system were not expressed at the public hearing on the qualified allocation plan, which is adjusted annually to meet the state's housing needs.
In response to an inquiry from Metcalf, Davis indicated that the three model communities designated by IFA are specified in an attachment to the plan and are allocated 10 of the 540 points. Metcalf requested a report of how many units of each kind have been awarded credits and built over the past two years.

- ARC 0531B No action on proposed 12.3 and 12.4 concerning the compliance manual for the low-income housing tax credit program.

INSURANCE DIVISION Jerry Wickersham represented the division.

- ARC 0554B No action on proposed ch 38 pertaining to coordination of benefits.

PROFESSIONAL LICENSURE DIVISION Marge Bledsoe represented the division.

- ARC 0398B Subrule 281.3(1) of the board of social work examiners is under a 70-day delay. Areas of concern have been worked out to the satisfaction of all parties and an amendment will be forthcoming. The consensus of the committee was to allow the delay to expire.

REVENUE AND FINANCE DEPARTMENT Carl Castelda represented the department.

ARC 0558B No action on the temporary sales tax exemption for certain fuels to residential customers. Johnson reported that the date the meter was read determined whether or not tax was exempted during February. The utilities division is coordinating the program with the billing entities.

ARC 0559B No questions on the amendment to 52.1(2).

CORRECTIONS DEPARTMENT Michael Savala represented the department. Also present were Tom Stelzer of prison industries and Luis Rosell, director of the sex offender treatment program at Mt. Pleasant. Mark Kilmer, president of Republic Companies, participated by telephone.

ARC 0551B No questions on proposed 20.18 pertaining to violator programs.

ARC 0519B No action on amendments to ch 38 which pertain to risk assessment and appeal process for sex offenders. Bartz expressed concern about registration of offenders in instances in which actual convictions are affected by plea bargains.

Special Review A review of prison industries was requested by Kilmer, whose company has been in business in the quad cities area for 85 years. Emphasizing that the legislative intent was rehabilitation of prisoners not resale of products in competition with private industry, Kilmer protested the sale of sign posts by prison industries. Kilmer asserted that a major part of Republic's sign post sales are to counties, municipalities and the Iowa department of transportation. Since prison industries manufactures only the signs, and since signs and posts are separate components, Kilmer concluded they should not be sold as a single product.

Stelzer reviewed the history of a request from counties for prison industries to bid on a package which included signs, posts and hardware. Prison industries contacted Unistrut, the manufacturer, and was referred to Republic, a Unistrut service center, but Republic declined to sell posts to prison industries. Savala called the committee's attention to Iowa Code section 904.812, which allows such sales by prison industries. Royce noted that the review was scheduled for informational purposes, rather than for review of a specific rule or committee action. Discussion continued about whether ARRC was the appropriate committee to hear the issues. It was agreed Royce should ask the Ombudsman to investigate and report to ARRC if a general referral would be in order.

Committee business Questions were raised on amendments related to fire safety in bed and breakfast inns.

Motion to delay Bartz moved a 70-day delay be placed on ARC 0566B.

Motion carried The motion to delay carried. The May 1, 2001, effective date of ARC 0566B was delayed for 70 days.

Representative Paul Scherrman was welcomed to the ARRC.

Minutes The minutes of the March 2001 meeting were approved.

Meeting date The next meeting was scheduled for the afternoon of Friday, May 4, 2001, possibly to be rescheduled for the statutory May 8, 2001, depending upon adjournment of the General Assembly.

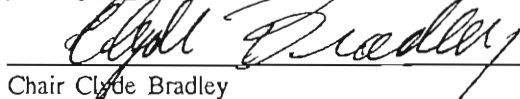
Adjourn The meeting was adjourned at 12:45 p.m.

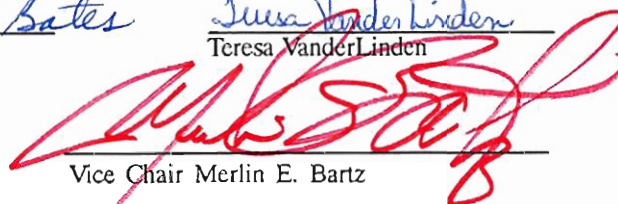
Respectfully submitted,


Kathleen K. Bates


Teresa VanderLinden

APPROVED:


Chair Clyde Bradley


Vice Chair Merlin E. Bartz