

MINUTES OF THE DECEMBER 2003 MEETING OF THE

ADMINISTRATIVE RULES REVIEW COMMITTEE

Date of meeting: The regular, statutory meeting of the Administrative Rules Review Committee (ARRC) was held Tuesday, December 9, and Wednesday, December 10, 2003, in Room 116, State Capitol, Des Moines, Iowa.

Members present: Representative George Eichhorn, Chair, and Senator Jeff Angelo, Vice Chair; Senators Michael Connolly, John P. Kibbie, Paul McKinley, and Donald Redfern; Representatives Danny Carroll, Marcella Frevert, and David Heaton. Representative Geri Huser was not present.

Also present: Joseph A. Royce, Legal Counsel; Kathleen K. Bates, Administrative Code Editor, and Teresa Vander Linden, Assistant Editor; Kristen Hardt, Office of Administrative Rules Coordinator; fiscal staff, caucus staff and other interested parties.

Convened Chair Eichhorn convened the meeting at 8:55 a.m.

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT Ron Rowland and Dr. John Schiltz represented the department. Deer farmer Rod Schmidt was also present.

ARC 2976B Rowland indicated that the filed rules for whitetail deer hunting preserves include changes from the previous emergency filing. Schmidt expressed support for regulation by the department, but voiced opposition to these rules, which he believes limit the use of private property and the growth of small business, violate free enterprise, and impose unfair and unnecessary fees, such as the fee for fence inspections.

Schiltz advised Heaton that CWD is a disease for which there is no antemortem test and that research indicates that the disease is communicable. All states regulate movement of cervidae; Iowa's program is voluntary except for hunting preserves and commercial enterprises. Rowland added that although the fees are necessary to defray the costs of the program, the department and industry have differing interpretations of the statute which exempted whitetail hunting preserves from DNR regulation. Noting a vast increase in the department's regulatory responsibility, Frevert distributed a summary of the reductions in the department's appropriations and urged preserve operators to work with the regulatory agency until the legislature can address the issues.

Motion to refer Kibbie moved a referral of ch 57 to the appropriate committee of the legislature.

The committee discussed other options, such as objecting to the substance of the rule, objecting to the emergency adoption, or delaying the filed rule.

Motion carried The motion to refer carried; ch 57, whitetail deer hunting preserves, is referred to the general assembly.

ARC 2958B No questions on the rescission of ch 59 pertaining to sorghum.

ARC 2957B Proposed rule 66.13 is not intended to become effective until July 2004. Rowland indicated that bonding of feeder pig dealers would afford protection to buyers, but that dealers oppose the requirements and want the statute repealed.

GROW IOWA VALUES BOARD Melanie Johnson and board chair Craig Lang represented the board.

ARC 2917B Johnson reported that the eight public hearings were well attended and that the rules were revised as a result of comments received in regard to wage requirements and start-up businesses. Johnson advised McKinley that the attorney general determined that allocations for CEBA and VAAPFAP are appropriate. Kibbie and Frevert offered favorable comments about the hearing held in Spencer, noting that it was well publicized and attended by entrepreneurs.

TRANSPORTATION DEPARTMENT Michelle McEnany represented the department.

ARC 2914B No questions on proposed amendments pertaining to airport improvement.

ARC 2913B No action on the proposed rescission of ch 718.

Frevert asked the department to work with IDED to enhance air travel in and to Iowa.

REAL ESTATE COMMISSION Roger Hansen represented the commission.

ARC 2927B No questions on termination of the notice to reduce fees.

SECRETARY OF STATE Christy Scase represented the secretary of state.

ARC 2939B Scase reported that a minor change was made in response to a comment from the voter registration commission.

ARC 2928B No action on ch 25 implementing administrative complaint procedures.

HUMAN SERVICES DEPARTMENT Nancy Freudenberg and Kevin Concannon represented the department. Foster parents and adoptive parents present included Dana Cheek, Wendy Laurence, Terri Bailey, Rod and Julie Cronk, and Valerie Owens. Other interested parties included Sue Lerdal of the legislative services agency, Mary O'Brien of Visiting Nurse Services/Children's Policy Coalition, and Karon Perlowski of Child and Family Policy Center.

ARC 2920B No action on amendments to the HAWK-I board meeting schedule.

ARC 2921B No action on amendments to ch 86 to eliminate the six-month waiting period for HAWK-I.

ARC 2977B In anticipation of a funding deficit, the department has proposed cost-cutting strategies for the state payment program. Freudenberg clarified "legal settlement" and explained that when legal settlement is disputed, the county of residence provides mental health services and bills the state payment program for the nonfederal share. Heaton expressed concern about the effect of reductions on community mental health centers. Lerdal advised the committee that last year the department transferred \$400,000 from the program. Carroll encouraged DHS to pursue dialog with providers to find ways to provide services more efficiently. Eichhorn asked the department to provide the committee with documentation of the projected deficit.

ARC 2900B Freudenberg reported that, as a result of the November 19, 2003, meeting concerning amendments to the adoption subsidy program, some changes have been made. The department has determined that race alone is not a deterrent to placement; therefore, the adoption subsidy will be reserved for minority race children over the age of two. In addition, the department decided that the 143 children receiving the additional maximum difficulty of care payment will continue to receive child care reimbursement through the adoption subsidy program, and ongoing adoptions will be able to apply for additional child care reimbursement as an exception to policy. The rule pertaining to home equity modifications will be revisited in the future. The department agreed to grandfather families currently receiving child care reimbursement through the adoption subsidy program, but with a cap on benefits. Needs in excess of the cap will be considered on an exception to policy basis. Concannon stated that in the past few years the adoption subsidy program has increased from 10 percent to 25 percent of the state's child welfare budget.

Laurence asked that adoptive parents be included in the process as decisions affecting this program are made. Cronk expressed concern about any reductions in the amount of subsidy. Owens emphasized the importance of the child care subsidy in her adoption of children with special needs. Bailey stated that she was part of the group convened in March to brainstorm ideas for saving moneys and commented that the group was not in agreement with the resulting rules. Cheek outlined costs adoptive parents may have to face and voiced concern about families having to ask for an exception to policy after the state made promises to subsidize the care of their children. Perlowski indicated that the program is serving an important need. Commenters were in agreement that these rules are likely to discourage adoptions.

Angelo clarified that the old rules are still in effect because these amendments are under a 70-day delay. Eichhorn asked the department to continue discussions with affected parties, and to provide them information on how to request an exception to policy. Freudenberg stated that amendments implementing grandfathering and any cap on benefits will be forthcoming.

ARC 3023B No questions on emergency amendments to chs 51, 52, and 75 to implement cost-of-living increases required by the federal government.

Committee business The minutes of the November 2003 meeting were approved. The next meeting was set for January 6, 2004.

Fiscal notes Jennifer Vermeer of the legislative services agency reported that the fiscal analysis process is working, but LSA would like to devote more time to review and analysis of the data rather than gathering the information. Vermeer reported that LSA attention will be diverted during Session, but the process may be revised to make it more efficient after Session. Carroll commented that the information is very useful.

INSPECTIONS AND APPEALS DEPARTMENT David Werning represented the department.

ARC 2945B No questions on termination of the notice regarding the manner in which residents of long-term care facilities may obtain prescriptions. Werning reported that a group has been convened and a study is underway.

IOWA FINANCE AUTHORITY Donna Davis, Sharon Murphy and James Smith represented the authority. James Conlin of Conlin Properties was also present.

ARC 2973B No questions on amendments updating ch 1.

ARC 2972B No action on ch 19 concerning the state housing trust fund. Conlin encouraged the authority to take steps to ensure fairness for developers and to determine viability of projects.

IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM Gregg Schochenmaier represented the system.

ARC 2926B Schochenmaier reviewed the proposed amendments and clarified duties of the executive director and the investment board. In response to Carroll's question about avoiding conflicts of interests, Schochenmaier stated that recommendations of the investment board are carefully reviewed by investment managers, consultants and IPERS staff and that meetings are open to the public and are well attended.

ENVIRONMENTAL PROTECTION COMMISSION Gene Tinker and Mel Pins represented the commission.

ARC 2923B No questions on amendments to ch 65 regarding manure applicator certification fees.

ARC 2925B No questions on amendments to ch 117 to update statutory references.

PROFESSIONAL LICENSURE DIVISION Pierce Wilson represented the division. Tom Fey of the Iowa Podiatric Medical Society was also present.

ARC 2961B No questions on amendments pertaining to rules of the board of barber examiners.

ARC 2963B No questions on board of chiropractic examiners' ch 42.

ARC 2962B No questions on amendments to chs 43 and 44 concerning chiropractors.

ARC 2960B No questions on proposed amendments to ch 60 relating to cosmetology arts and sciences.

ARC 2959B No questions on proposed amendments to rules of the board of psychology examiners.

ARC 2891B Wilson reported, and Fey confirmed, that the provision in question does not go into effect for another year and the board of podiatry examiners has agreed to work with the Iowa Podiatric Medical Society to resolve the concern before that time.

PUBLIC HEALTH DEPARTMENT Barb Nervig and Judy Naber represented the department. Sarah Kobliska represented the Iowa Free Clinic Association and Denise Hill represented the Iowa Medical Society.

ARC 2975B Nervig summarized proposed changes to ch 88, which governs the volunteer health care provider program. Two hundred fourteen providers and 30 clinics are enrolled in the program. Discussion focused on the state's liability in cases involving gross negligence. Royce reported that providers in this program are considered employees of the state and are held harmless, except in the case of a willful or wanton act, in which case the state can hold the provider responsible. Nervig stated that in the ten-year history of the program only one claim has been filed against the state and that claim was dropped. Kobliska emphasized the importance of the program and summarized the scope of services provided. Regarding the rules, Kobliska suggested that some clinics may find the reporting requirements somewhat onerous and noted that one physician was uncomfortable with the ethnicity question. Hill stated that the Iowa Medical Society has provided comments to the department.

EDUCATIONAL EXAMINERS BOARD Anne Kruse represented the board.

ARC 2929B No questions on proposed 11.37 regarding mandatory reporting of contract nonrenewal or termination or resignation based on allegations of misconduct.

ARC 2931B No questions on amendments to ch 14 concerning endorsements for elementary and secondary principals.

ARC 2930B No action on amendments to ch 22 pertaining to paraeducator certificates. Connolly expressed concern about the wide use of paraeducators in lieu of teachers, especially in school libraries.

Wednesday, December 10, 2003

Members present: Representative George Eichhorn, Chair; Senators Michael Connolly, John P. Kibbie, Paul McKinley; Representatives Danny Carroll and Marcella Frevert. Representatives David Heaton and Geri Huser and Senators Jeff Angelo and Donald Redfern were not present.

UTILITIES DIVISION Gary Stump represented the board. Also present were Cal Hultman representing Union Pacific Railroad and Julie Smith representing municipal utilities and the small utilities group.

ARC 2506B Stump reported that agreement has been reached and asked that the session delay be lifted. Hultman expressed appreciation to the utilities board, the small utilities group, and the ARRC for the opportunity to work out a compromise. Smith thanked the committee, the board and the railroads and commented that the agreement will allow cities to save unnecessary costs. The committee decided to hold a meeting by telephone on Monday, December 15 to vote on lifting the delay.

MANAGEMENT DEPARTMENT Steve Ford represented the department.

ARC 2872B Ford reported that the department would like to proceed with an emergency adoption of proposed ch 15 pertaining to the local government innovation fund committee. Ford distributed the department's written response to issues identified by Senators McKinley and Angelo when the proposed rules were reviewed. Emergency adoption of the rules will allow the committee to begin work before the start of the legislative session.

ECONOMIC DEVELOPMENT DEPARTMENT Amy Johnson, Melanie Johnson, and Jeff Rossate represented the department.

ARC 2915B Amy Johnson outlined changes made in response to comments received on proposed ch 64, new capital investment program. McKinley reiterated concerns about the director's authority in the approval of awards. Johnson responded that award limits are consistent with the department's other programs, and Connolly added that these decisions are very much under public scrutiny.

ARC 2916B Proposed ch 63 pertains to the university-based research utilization program. In response to McKinley's inquiry about how the program will meet the goals of the grow Iowa values program, Rossate indicated that the program is intended to provide an incentive for university professors and researchers to commercialize their patents. McKinley suggested that the definition of "approved business" be clarified and that the department consider inclusion of sanctions for businesses that fail to meet their goals.

There was discussion about the director's statutory authority. Johnson agreed to provide a summary of relevant statutes.

Connolly asked the department to provide information on rehabilitation tax credits approved by the department. Johnson agreed.

REVENUE DEPARTMENT David Casey and Ed Henderson represented the department.

ARC 2941B No action on amendments to transfer finance responsibilities to the department of administrative services.

ARC 2956B No action on amendments pertaining to tax benefits and exemptions related to military service in national guard and reserve units.

ARC 2942B No action on amendments expanding eligibility for investment tax credits.

ARC 2953B Proposed amendments to ch 42 and 52 pertain to property tax credits for projects located in cultural and entertainment districts and tax credits for the university-based research utilization program. Discussion related to definitions, consolidated filing groups, and limitations. Connolly requested data on tax credits awarded.

ARC 2940B No questions on amendments relating to transferability of tax credits.

ARC 2954B No questions on new capital investment program tax credits.

ARC 2955B No action on amendments to motor fuel tax rules.

ARC 2943B Property tax rules are amended to include leased land owned by the department of corrections or the department of human services. Another change pertains to the military service property tax exemption for veterans who served in the reserves during WWII and provide evidence of satisfactory military service and property ownership. Henderson agreed to send a copy of the bill affecting WWII reservists to Connolly.

LAW ENFORCEMENT ACADEMY Penny Westfall represented the academy. Tom Cope represented Western Iowa Technical Community College.

ARC 2944B No questions on 3.12 concerning law enforcement officer certification. Cope voiced support for the rule.

ARC 2978B Proposed amendments to ch 10 establish reserve officer personal standards as a step toward certification. Twenty-two meetings were held across the state.

ETHICS AND CAMPAIGN DISCLOSURE BOARD Charlie Smithson represented the board. Laverne Schraeder was also present.

ARC 2971B No questions on proposed addition of statutory definitions to ch 4.

ARC 2968B No questions on the amendment to 4.4(1) regarding officers of a candidate's committee.

ARC 2965B No questions on clarification of date of contributions sent by mail.

ARC 2967B No questions on 4.31 regarding information required from certain trusts.

ARC 2970B No action on proposed amendments exempting larger yard signs from the attribution statement requirement.

ARC 2966B No questions on the amendment pertaining to Web site attribution statements.

ARC 2969B No action on 4.46 concerning filing of campaign disclosure reports. Connolly suggested that the board require electronic filing. Discussion ensued. Smithson stated that the date of filing is an additional issue to consider because reports sent by mail may not reach the board for several days.

Motion to refer Kibbie moved a referral to the appropriate committee of the general assembly the issue of electronic filing of campaign reports and maintenance of a searchable database of campaign filings.

Motion carried The motion carried; electronic filing of campaign reports is referred.

ARC 2964B No action on chs 8 and 13. Schraeder raised questions about the reporting of time spent researching and communicating.

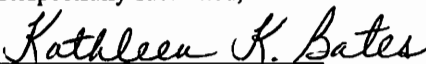
ADMINISTRATIVE SERVICES DEPARTMENT Carol Stratemeyer, Michael Prey, Debbie O'Leary, Kenneth Paulsen, Dean Ibsen, and David Adamson represented the department.

ARC 2933B No action on termination of the notice to adopt ch 1.
 ARC 2936B No questions on proposed ch 4, public records and fair information practices.
 ARC 2952B No questions on ch 5, petitions for rule making.
 ARC 2951B No questions on ch 6, agency procedure for rule making.
 ARC 2950B No questions on ch 8, declaratory orders.
 ARC 2938B No questions on proposed ch 9, waivers.
 ARC 2947B No questions on proposed incorporation of information technology operational standards.
 ARC 2946B No questions on proposed human resources definitions.
 ARC 2949B No action on proposed transfer of rules concerning coverage and exclusions, job classifications, separations, disciplinary actions, reductions in force and grievances and appeals.
 ARC 2934B No action on proposed ch 63 pertaining to employee leave. Prey stated that family medical leave provisions were amended to be consistent with federal regulations.
 ARC 2937B No action on proposed ch 64 concerning benefits. Connolly expressed concern about types and costs of deferred compensation.
 ARC 2935B No action on proposed ch 71 concerning the combined charitable campaign.
 ARC 2948B No questions on proposed transfer of rules pertaining to Terrace Hill.
 ARC 2885B In response to a request made at the November meeting, O'Leary and Ibsen distributed written materials and presented an overview of the solicitation process used for the procurement of construction services at the Iowa laboratories facility in Ankeny.
 Adjourned The meeting was adjourned at 12:30 p.m.

Special meeting

Date of meeting: A special meeting of the Administrative Rules Review Committee (ARRC) was held Monday, December 15, 2003, via telephone.
 Members present: Representative George Eichhorn, Chair; Senators Michael Connolly, John P. Kibbie, Mary Lundby, and Donald Redfern; Representatives Danny Carroll, Marcella Frevert, and David Heaton.
 Also present: Joseph A. Royce, Legal Counsel; Kathleen K. Bates, Administrative Code Editor, Gary Stump of the Utilities Division; Ron Robinson of the fiscal staff;
 Convened Chair Eichhorn convened the meeting at 1:12 p.m. and welcomed Senator Lundby, who has been appointed to the committee to fill the vacancy created by Senator Angelo.
 Motion to lift delay Kibbie moved, and Frevert seconded, lifting the session delay imposed on 199—subrules 42.9(3) and 42.9(4).
 Motion carried The roll was called; the motion carried.
 Adjourned The meeting held by telephone was adjourned at 1:15 p.m.

Respectfully submitted,


 Kathleen K. Bates

APPROVED:


 Chair George Eichhorn