

## MINUTES OF THE SPECIAL MEETING OF THE

### ADMINISTRATIVE RULES REVIEW COMMITTEE

**Time of meeting:** The special meeting of the Administrative Rules Review Committee (ARRC) was held Tuesday, January 6, 1998, 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; Representatives Danny Carroll, Minnette Doderer, Janet Metcalf, and Keith Weigel.

**Also present:** Joseph A. Roycè, Legal Counsel; Kathleen K. Bates, Administrative Code Editor; Jackie Von Ekeren Romp, Administrative Rules Coordinator; caucus staff and other interested persons.

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

#### HUMAN SERVICES DEPARTMENT Mary Ann Walker represented the department.

**ARC 7725A** No questions on 7.5, 41.25, 41.27 and Chapter 47. Walker reported \$100,000 was awarded to family self-sufficiency grant programs in 3 counties; \$100,000 to the community self-sufficiency grants for 3 projects; and \$300,000 was divided among 15 PROMISE JOBS agencies.

**ARC 7727A** Walker distributed a booklet entitled "Protection of Your Resources and Income" and indicated SSI amounts are \$494 for a single person and \$741 for a couple.

**ARC 7728A** No action on Medicaid coverage groups and deprived child amendments to Chapter 75.

**ARC 7724A** No questions on attribution of resources for community and institutionalized spouses, 75.5.

**ARC 7729A** •Walker informed Kibbie that 89 counties are now included in the elderly waiver program and the department anticipates inclusion of the remaining 10 by the end of the year.

#### SOIL CONSERVATION DIVISION Ken Tow and Dean Lemke represented the division.

**ARC 7748A** No questions on the Chapter 10 amendments to the financial incentive program for soil erosion control.

**ARC 7749A** •In response to Hedge's inquiry about the water protection practices amendments to Chapter 12, Tow stated that the federal agency's name was changed to reflect its broadened mission.

**ARC 7750A** •Lemke assured Bartz that the language in Chapter 30 regarding eligibility for cost share for agricultural drainage wells is the same as the statutory language and that, if necessary, the division will seek interpretation assistance from the Attorney General's office to carry out the intent of the legislature.

•Lemke told Weigel that funds have not yet been allocated. If federal wetland protection issues can be resolved and litigation does not delay implementation, the December 31, 1999, date is still workable; the March 1, 1998, date for construction contracts in Pocahontas County will be very difficult to meet.

#### ENVIRONMENTAL PROTECTION COMMISSION Ubbo Agena represented the division.

**ARC 7713A** DNR and AACO recommendations for manure storage facilities were both included in the Notice of Intended Action for Chapter 65 amendments; the DNR recommendations received favorable comment and were adopted.

•Bartz asked the department for information on how many existing lagoons are below the groundwater table and therefore not in compliance with the adopted standards or the previous Chapter 18 design standard guidelines and what will be done regarding them. Agena responded that engineering studies on these sites determine what can be done to bring them up to standards or provide equivalent protection. Bartz questioned case-by-case exemptions being granted by the department in light of the department's rejection of similar recommendations made by AACO.

•Weigel supported the adoption of the DNR standards and identified lagoons that are not in conformance as a legislative issue.

•Kibbie was informed that all permitted facilities since the passage of 1995 Iowa Acts, House File 519, pay into the indemnity fund.

•Carroll inquired about earthen structures constructed since the passage of H.F. 519 and was informed that the shift has been away from earthen structures. Agena reported that availability of standard design plans enables concrete standards to be met without employing a licensed engineer and that facilities below 1000 head are not required to be permitted, so the standards do not apply to them.

•Rittmer was advised that the department intends to inspect permitted facilities annually.

•Agena responded to Kibbie that although most sites are below the level at which a permit is required, remedies may be required of nonpermitted sites if complaints are received.

•Hedge asked if tile guidelines exist for formed structures. Agena responded in the negative.

**NATURAL RESOURCE COMMISSION**

The commission was represented by Arne Sohn, Steve Derman, Richard Bishop and Marion Conover. Butch Ballinger of Mississippi Valley Shell and Chuck Lawson of Empire Shell spoke on behalf of the shelling industry.

- ARC 7746A •Sohn informed Bartz that the deadline in 28.13(2) for ordering trail signs was moved from June to July to conform with other application deadlines.
- ARC 7743A No questions on zoning of the Cedar River at Charles City, 40.45.
- ARC 7747A •Bartz asked the department to provide information on how much revenue is anticipated from the increase in fees at renovated state park facilities.
- Kibbie questioned fee increases since renovation costs were covered by appropriated funds.
- ARC 7744A Bishop explained that 94.8 allows a telecommunication option for nonresidents to apply for a deer hunting license.
- Bishop responded to Bartz that the department has not granted a priority to out-of-state groups with Iowa guide services because of opposition from local sportsmen and Iowans with nonresident friends and family members.
- ARC 7745A Marion Conover of the fisheries bureau stated that the amendments to 87.1 remove washboard mussels from commercial harvest in order to protect the species.
- Conover informed Doderer that washboard mussels used in the cultured pearl industry are sold by the pound. In the past ten years the rate has gone from about \$.25 to about \$2.00. Ballinger, stressing that shells are a renewable resource, targeted dams, barges, lateral dams, and factory and agricultural chemicals as greater threats than commercial harvesters.
- Lawson disputed department figures on live and dead shells taken, particularly regarding the reporting of cut-out shells, which are harvested live, but reported under dead shells.
- Responding to Metcalf, Lawson attributed regional concerns to outdated data and the domino effect.
- Conover emphasized that the department has also required other industries to take measures to protect the species; and that although harvesting is being restricted on the upper Mississippi, washboards are still available from other sources. Conover noted that the department mailed copies of the notice to the shellers so they would know the time and location of public hearings on the issue.
- Motion to refer •Weigel moved a general referral to the legislature.
- Motion carried The motion carried.

**PUBLIC HEALTH DEPARTMENT**

Mike Marshall represented the department.

- ARC 7738A No questions on the termination of the notice to amend 201.6(8).
- ARC 7739A •Doderer commended the department for proposed 201.6(8) regarding prohibition of communications by organized delivery systems. Marshall confirmed that it uses the same language as the insurance division.

**INSURANCE DIVISION**

Jo Oldson and Craig Goettsch represented the division.

- ARC 7740A No questions on 27.8(1) and 40.22(1) regarding prohibition of communications in managed care contracts.
- ARC 7710A No questions on the proposed amendments to Chapter 50.

Rants in chair

**EDUCATION DEPARTMENT**

Don Wederquist represented the department.

- Special Review The review of the drinking driver course was requested by Metcalf. Wederquist stated that the department is responsible for curriculum and certification of instructors for the 12-hour course, which is uniform throughout the state. The 48-hour course offered in Polk County includes the two-day jail sentence.

**CORRECTIONS DEPARTMENT**

Fred Scaletta represented the department. Paul Stanfield represented Friends of Prisoners at Mitchellville.

- ARC 7752A No action on incarceration fees, 20.10.
- ARC 7737A Scaletta explained that rule 20.20 pertains to the expenditure of telephone commissions at institutions, with 25 percent reserved for approved expenditures.
- Metcalf was informed that the subcommittee on appropriations for corrections is aware of this rule.
- Scaletta clarified for Weigel that the 25 percent could be used wherever there is need and that allocations are not made in proportion to the generation of the funds.
- Doderer pointed out that the rate charged is for operator-assisted, person-to-person calls and that a lower rate would facilitate maintaining family connections, which are essential to rehabilitation of the inmate.
- Palmer was told that \$1,843,653.90 was generated this calendar year. Palmer suggested the money go into the general fund and be distributed by the legislature. Scaletta responded that the department is authorized by statute to accept and expend these funds.
- Stanfield requested reducing the cost of the calls or giving inmates and their families input on how the money is spent.

**TRANSPORTATION DEPARTMENT** Dennis Ehlert, Dick Hendrickson, Dave Titcomb and Erik Ericksen represented DOT.

ARC 7708A No questions on special registration plates, Chapter 401.

ARC 7706A •Bartz pointed out that in restricting renewal by mail to those who have digital photos the department may be exceeding its authority; the law allows anyone within the age range to renew by mail and does not require digital photos.

•Weigel was informed that the digital photographs are used for law enforcement purposes.

Motion to refer Rittmer moved referral of Item 12 to the transportation committee.

Motion carried The motion carried.

ARC 7736A No action on motorcycle rider education, Chapter 635.

**RACING AND GAMING COMMISSION** Karyl Jones represented the commission and Jeff Farrell represented the Attorney General's office.

ARC 7707A •Bartz questioned the commission's authority to impose a standard more stringent than the legal limit for alcohol testing. Farrell responded that the rule is designed to protect the integrity of gaming. Bartz asked the commission to provide examples from other governmental agencies or even the private sector in which higher standards are imposed.

**REVENUE AND FINANCE DEPARTMENT** Carl Castelda represented the department.

ARC 7734A No questions on 10.2(17), interest for calendar year 1998.

ARC 7735A No questions on adoption of model recordkeeping and retention regulations amendments to Chapters 11, 38, 41, 51, 57, 67, 81, 86, 89, and 103.

ARC 7733A No action on 50.1 pertaining to apportionment of income for resident shareholders of S corporations.

**ECONOMIC DEVELOPMENT DEPARTMENT** Lane Palmer represented the department.

ARC 7704A No action on 23.11, CDBG housing fund set-aside.

ARC 7705A No questions on housing fund, Chapter 25.

**PUBLIC SAFETY DEPARTMENT** Mike Coveyou, Roy Marshall and Carroll Bidler represented the department. Laverne Schroeder and Robert Andersen of the Iowa Sportsmen's Federation, Sally Brodbeck and Francis Picray, Jr. were also present.

ARC 7717A No action on the rescission of an exception for manufactured homes, 16.626.

ARC 7716A Proposed amendments to Chapter 4 would revise the forms for applications and permits to acquire and carry weapons.

Schroeder and Andersen pointed out inconsistencies between the forms and the statutes and expressed the belief that the department has exceeded its authority in asking for information not covered by statute. Andersen suggested inclusion of space on the form to explain answers to the questions and a release of liability for the sheriff who issues the permit. Concern was expressed about how confidentiality could be ensured.

Picray distributed a written statement to the committee and, since the department forms authorize the release of medical information by the V.A., voiced objection to having to surrender his right to privacy regarding his service-connected disability.

•Rants was told that the department is holding a public hearing on January 22.

•Hedge asked if the previous form had been included in the rules. Coveyou responded that in recent years the form has been referenced and described in the rules, but the form itself has not appeared in the rules.

Bidler distributed a summary of requirements of the federal statute regarding possession of firearms, Iowa Code section 724.15, relating to permits to acquire firearms, and Iowa Code section 724.8, relating to permits to carry firearms.

•Bidler responded to Bartz that although an affirmative answer would lead the issuing officer to make further inquiry rather than disqualify the individual, the department would not be opposed to allowing space for a written explanation. Bartz pointed out possible redundancy in the questions relating to commission of a felony and terrorism.

Brodbeck, an attorney and a certified instructor in rifle, pistol, shotgun, personal protection firearm safety defense, found the application for a permit to carry objectionable. She stated that the department did not consider self-defense and protection of her children as justification for a permit. Brodbeck cited a University of Chicago study showing a dramatic decrease in violent crimes, especially those against women, in counties with liberalized concealed carry laws. Brodbeck did not complete the application.

•Bidler explained to Doderer that permits are required to acquire a weapon and to carry a weapon, but not to possess one.

JANUARY 6, 1998

MANAGEMENT DEPARTMENT Jerry Reid represented the department.

**Special review**

Metcalf and Kibbie requested a review of forms counties, cities and school districts are required to fill out pursuant to House File 726. Reid explained that property tax statements compare current year's and past year's taxes with accountability for distribution of tax dollars. The department of management was given the authority to prescribe the form for the public hearing notice for the budget. The notice of public hearing form gives cities, counties and school districts the opportunity to explain, prior to the public hearing, any item that will exceed the 2.16 national inflation factor.

Royce reminded the department that 17A.3 requires departments to adopt a description of their forms in their rules.

Hedge in chair

**Committee business** Bartz moved the minutes be approved. The motion carried.

The February meeting was set for Monday, February 9, 1998.

Hedge requested that mentors in education be reviewed at the next meeting.

Adjourned


The meeting was adjourned at 3:25 p.m.

Respectfully submitted,

  
Kathleen K. Bates

APPROVED:

  
Chair H. Kay Hedge

  
Vice chair Christopher Rants