

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

Date of meeting: A special meeting of the Administrative Rules Review Committee (ARRC) was held Friday, May 4, 2001, in House Committee Room 1, State Capitol, Des Moines, Iowa.

Members present: Representative Clyde Bradley, Chair; Senator Merlin E. Bartz, Vice Chair; Senators Patricia Harper, JoAnn Johnson, John P. Kibbie, Sheldon Rittmer; Representatives Danny Carroll, Marcella Frevert, Janet Metcalf, and Paul Scherrman.

Also present: Joseph A. Royce, Legal Counsel; Teresa VanderLinden and Bruce Carr of the Administrative Code Office; Brian Gentry, Administrative Rules Coordinator; caucus staff and other interested persons.

Convened Chair Bradley convened the meeting at 1:10 p.m.

Motion Kibbie moved that Senator Bartz be designated chair of the committee and that Representative Bradley be designated vice chair.

Motion carried The motion carried by unanimous consent.

The committee thanked Bradley and commended him for his service as chair.

**TRANSPORTATION DEPARTMENT** Mark Hunacek, assistant attorney general, Kevin Mahoney, and Steve McMenamin represented the department. Also present were Kristen Hirschman of the ombudsman's office, Mike Nixon, owner of Sedcom, Inc., and Keith and Annette Byman, owners of Central Iowa Contract Services, who were represented by Don Avenson and Brice Oakley of Avenson and Oakley Consulting.

Special Review Under the department's current policy, a vendor of cleaning services may contract for no more than 6 interstate highway rest areas. Byman objected to the policy, which limits the Bymans' total contracts to 12, and contended that the department would save money by permitting his companies to contract for more rest areas. Nixon, another cleaning service vendor, expressed support for the policy. In response to Hunacek's assertion that the ARRC meeting was not the appropriate forum for addressing the Bymans' complaint, Metcalf explained the committee's long-standing policy to permit any member of the public to address the committee even though the matter might not be set out in rules. Hunacek explained that the department implemented its cleaning service policy to ensure that rest areas are adequately maintained and to reduce problems caused by vendors who fail to perform under contract. Hunacek added that the department lacks the resources necessary to maintain many rest areas should they be neglected by a vendor. Gentry urged the department to consult with other state agencies about their policies and rules regarding bidding processes before deciding on any petition for rule making that may be received.

Motion Kibbie moved that the issue be placed on the June agenda. The motion carried.

**INSURANCE DIVISION** Susan Voss and Angela Burke Boston represented the division.

ARC 0484B The effective date of ch 77, multiple employer welfare arrangements, was delayed 70 days at the March meeting. Voss reported that the division has consulted with interested parties and intends to rescind ch 77 and propose new rules in response to HF 325.

ARC 0622B No questions regarding rule 20.12, use of credit history in underwriting and making of rates for personal automobile and homeowners policies.

ARC 0656B No action on ch 90, which includes an opt-out provision for consumers and requires that an insurer provide notice to consumers of the types of nonpublic personal financial information it collects and how it will share that information.

**ENVIRONMENTAL PROTECTION COMMISSION** Wayne Gieselman represented the commission.

ARC 0570B ARRC initially discussed proposed subrule 65.16(3), which extends the deadline to allow land application pending approval of a manure management plan (MMP), at the April meeting. Gieselman updated the committee on DNR's progress in reviewing MMPs and estimated that the plan reviews should be completed by July 2002 if staffing remains at the current level. In response to Bartz' request in April, Gieselman distributed a draft Notice of Intended Action, which would amend 65.16(3) to add an October 24, 2001, deadline by which an MMP must be submitted to be eligible for the extension. Bartz warned against the possibility of manure applicators' taking inappropriate advantage of continually receding deadlines. Royce suggested that EPC could reduce that possibility by adopting the amendment on an Emergency After Notice basis.

**NATURAL RESOURCE COMMISSION** Allen Farris represented the commission.

ARC 0651B No questions on proposed amendments to ch 51, game management areas.

ARC 0652B No questions concerning an amendment to maintain the unprotected status of timber rattlesnakes (with certain exceptions) and garter snakes.

ARC 0385B Farris reported that HJR 11 nullifies rules 98.5 and 98.16, which require a wild turkey harvest report.

**EDUCATIONAL EXAMINERS BOARD** Chris Scase, assistant attorney general, Jane Heinsen and Jim Graeber represented the board.

ARC 0603B No questions concerning adopted amendments to ch 11, complaints, investigations, contested case hearings.

ARC 0604B Heinsen reported that the proposed amendments to ch 15 increase the scope of practice for special education practitioners. Bartz was informed that the August 31, 2004, effective date enables practitioners with conditional licenses to continue in their current licensure programs. In response to Frevert, Heinsen confirmed the need for more special education teachers but could not yet say whether recent legislation implementing alternative licensure would alleviate the shortage.

**EDUCATION DEPARTMENT** Ann McCarthy, Jeff Berger and Sandra Renegar represented the department.

ARC 0607B No questions concerning adopted waiver rules.

ARC 0608B No questions on amendments pertaining to use of allowable growth funds for programs for at-risk students.

ARC 0609B No questions on proposed rescission of ch 61. The content of ch 61 is being transferred to ch 12.

ARC 0605B Under the proposed amendments to ch 72, the department may accredit an area education agency (AEA) as a whole rather than accredit each individual program area within the AEA.

ARC 0606B Renegar explained that the proposed changes are intended to focus more attention on administrator preparation programs to ensure that the programs enable future administrators to meet the increased demands of their positions. Renegar pointed out that non-higher education organizations may offer administrator preparation programs. Bradley was informed that the programs will have to adjust their curriculum to ensure that administrator candidates meet the standards for competence and knowledge outlined in the rules.

**PUBLIC HEALTH DEPARTMENT** David Fries and Donald Flater represented the department. Jim West, representing Burlington Northern Santa Fe, also attended.

ARC 0597B Adopted subrule 38.8(11) allows the department to charge fees to shippers who transport radioactive waste across Iowa. In response to Scherrman's inquiry, Flater explained that fees for the transport of high-level radioactive waste offset the costs of escorting those waste shipments across Iowa and are in line with other states' fees and lower than those charged by Illinois. Flater conceded, however, that fees for the transport of low-level radioactive waste are higher than those charged by other states, but are intended to offset the costs of administering a program to train local EMS personnel and firefighters who would respond to an accident involving radioactive waste. West objected to the amount of the fees and questioned the efficacy of the program. Fries informed ARRC that a meeting is scheduled for June in an attempt to address the concerns of interested parties. Metcalf urged the department to resolve the issues as soon as possible and to report on progress at the June ARRC meeting.

Motion to delay Metcalf moved that a 70-day delay be placed on the May 9, 2001, effective date of subrule 38.8(11).

Motion carried The motion to delay carried.

**INFORMATION TECHNOLOGY DEPARTMENT** Stephanie Pickens, Bill Haigh, and Dan Combs represented the department.

ARC 0591B Proposed ch 15 set outs the parameters by which the department may enter into public or private partnerships to supplement its appropriations. Pickens reported that the department is drafting rules pertaining to revenue sharing and agency review of advertising content.

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

ARC 0628B No questions on rules concerning multilevel marketer agreements.

ARC 0627B No questions on adopted amendments to ch 7, practice and procedure before the board.

ARC 0629B No questions on proposed amendments regarding property rehabilitation tax credits and accelerated career education (ACE) training program credits from withholding.

**CORRECTIONS DEPARTMENT** Michael Savala, Mike Richardson, and Carla Sabin represented the department. David Vestal of the Iowa State Association of Counties (ISAC) and Don Orgel of the Iowa State Sheriffs and Deputies Association (ISSDA) were also in attendance.

ARC 0650B No questions regarding waivers and variances.

ARC 0649B The adopted and filed emergency amendment to 20.20(4) expands oversight of the offender telephone commission funds, as suggested by ARRC, by providing notice to the legislature.

ARC 0653B Savala reported that the revised standards for county jails were developed in consultation with city, county, and law enforcement associations. In response to Kibbie's inquiry about fiscal impact, Vestal stated that counties are willing to spend funds to meet the standards because doing so reduces counties' legal liability. Savala added that the new standards apply only to new jail construction and to remodeling

MAY 4, 2001

of existing jails planned or begun after the effective date of the rules. Savala confirmed for Harper that medical services may not be waived. Johnson requested that Savala provide ARRC with information regarding medical services which prisoners may receive.

ARC 0654B  
Committee business

No questions concerning standards for temporary holding facilities.  
Royce reported that both Iowa senators and some congressional members from Iowa have responded to ARRC's E-mail concerning food stamp eligibility.

Minutes

The minutes of the April 2001 meeting were approved.

Meeting date

The next meeting was scheduled for Tuesday, June 5, 2001, and Wednesday, June 6, 2001. Kibbie encouraged members to review the "no rep requested" list prior to the next meeting. Metcalf asked that ARRC send a letter to the speaker of the house and the president of the senate reminding them of ARRC's statutory meeting dates and asking that they not schedule meetings during those times.

Adjourn

The meeting was adjourned at 3:55 p.m.

Respectfully submitted,

  
Teresa VanderLinden

  
Bruce Carr

APPROVED:



Chair Merlin E. Bartz

  
Vice Chair Clyde Bradley