

**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 Friday, March 10, 2000, in Room 118, State Capitol, Des Moines, Iowa.
- Members present:** Representative Clyde Bradley, chair, and Senator H. Kay Hedge, vice chair; Senators Merlin E. Bartz, Patricia M. Harper, John P. Kibbie, and Sheldon Rittmer; Representatives Danny Carroll, Minnette Doderer, Geri Huser, and Janet Metcalf.
- Also present:** Joseph A. Royce, Legal Counsel; Brian Gentry, Administrative Rules Coordinator; Kathleen K. Bates, Administrative Code Editor, and Teresa Vander Linden, Assistant; caucus staff and other interested persons.
- Convened** •Chair Bradley convened the meeting at 9:05 a.m.
- TRANSPORTATION DEPARTMENT** Jody Johnson, Dave Titcomb, Steve Westvold and Scott Dockstader represented the department.
- ARC 9690A** No questions on proposed 400.23 pertaining to junked vehicles.
- ARC 9694A** No action on the proposed amendment to 604.13(4) to license, upon recommendation by the medical advisory board, individuals with good visual acuity who do not meet the field of vision standard.
- Harper was informed that after the medical advisory board recommends licensure, a reviewing officer conducts testing and may impose a restriction limiting driving to a specific area.
- Special Review** Royce suggested that a definition of "medical advisory board" be included in the rules. Carroll requested a review of the department's policy on highway signage after a constituent that spent \$10,000 to replace the supports on a sign was notified that the sign would have to be removed because it was in violation of IAC ch 117. Westvold stated that the department has revised its policy and will include with the annual billing to owners of signs a letter explaining what constitutes routine maintenance, reconstruction and modification. In addition, whenever the department becomes aware of activity at a sign, the permit holder will be sent a letter specifying what can and cannot be done. Westvold added that the federal Highway Beautification Program is based on 1959 zoning and that while existing nonconforming signs can be maintained, they cannot be modified or replaced. If Iowa were to withdraw from the federal bonus program, all funds received under the program would have to be repaid. The department has considered giving notice to the federal government that Iowa is no longer bound by the agreement because bonus money has not been paid since the 1980s.
- Bartz asked the department to provide Royce information comparing bonus states and nonbonus states. Westvold clarified for Bartz that signs may be erected within the corporate limits of a city if they are more than 660 feet from the interstate highway.
- Kibbie asked Royce to send a letter to the transportation committees to consider a resolution regarding Iowa's continued participation in the Highway Beautification Program.
- HUMAN SERVICES DEPARTMENT** Mary Ann Walker, Ruth Schanke, and Anita Smith represented DHS.
- ARC 9643A** No action on proposed ch 24 pertaining to accreditation of providers of services to persons with mental illness, mental retardation and developmental disabilities. Schanke clarified the difference between supported community living services and group therapy.
- ARC 9637A** No questions on amendments to ch 65 pertaining to the pilot workfare program for able-bodied adults without dependents.
- ARC 9691A** No questions on proposed amendments to ch 78 concerning billing for oxygen in nursing facilities.
- ARC 9644A** No questions on the proposed amendment to 79.1 concerning Medicaid reimbursement of skilled facilities providing ventilator care.
- ARC 9692A** Amendments to ch 86 allow depreciation of capital assets for self-employed individuals in the determination of income eligibility for the HAWK-I program and provide limitations on cost-sharing and emergency room copayments.
- Bartz asked the department to investigate how self-employment income is figured in determining eligibility for other department programs.
- Bradley requested a report on the department's findings.
- DENTAL EXAMINERS BOARD** Jennifer Hart represented the board.
- ARC 9661A** No questions on 1.1 concerning practice of dental hygiene.
- ARC 9659A** No questions on emergency amendments to change the address of the board.
- ARC 9660A** No questions on rescission of delayed provisions concerning monitoring of nitrous oxide inhalation analgesia.

EDUCATIONAL EXAMINERS BOARD Gary Borlaug and Susan Fischer represented the board. Charles Krogmeier represented the Iowa State Education Association.

- ARC 9667A No questions on ch 3 concerning declaratory orders.
- ARC 9668A No questions on ch 4 concerning agency procedure for rule making.
- ARC 9674A No questions on proposed ch 6 pertaining to uniform waiver and variance rules.
- ARC 9669A Ch 11 pertains to complaints, investigations, and contested case hearings.
- Krogmeier stated that ISEA opposes the rules because the board has not addressed the written concerns presented to the board last October.
- Bartz presented a letter from ISEA in which approximately 40 questions were raised and the board's response which indicated a lack of time to respond to the questions.
- Motion to delay Kibbie moved a 45-day delay be imposed on ch 11 and the rules be reviewed at next month's meeting.
- Motion carried The motion to delay ch 11 passed. The rules will appear on next month's agenda.
- ARC 9672A No action on proposed amendments to ch 14 which would require state and federal background checks on all applicants for initial Iowa licensure.
- ARC 9666A No action on proposed amendments to ch 14 pertaining to alternative preparation programs.
- ARC 9670A No questions on proposed 14.17(3) concerning substitute teaching.
- ARC 9673A No action on proposed amendments to ch 16 concerning staff development.
- ARC 9671A No questions on amendments to ch 17 concerning license renewals.

EDUCATION DEPARTMENT Ann McCarthy and Lee Tack represented the department. Ralph Rosenberg represented the Coalition of Family and Children Services. Ivan Vonk represented Youth Services of Linn County.

- ARC 9641A No questions on proposed ch 4 concerning waiver of rules.
- ARC 9640A Ch 63 pertains to educational programs and services for pupils in juvenile homes.
- On behalf of shelter operators, Rosenberg voiced a concern about 63.18(4) which prohibits payment of rent for classroom space "if space is available." The department intends to handle requests for rent on a case-by-case basis through the waiver process. Vonk maintained that space is "available" only if the shelter operator makes it available. Vonk further asserted that since waivers have been inconsistently granted, the shelters want the ability to negotiate rents with the department.
- Motion to delay Doderer moved a 70-day delay be imposed on 63.18(4).
- Kibbie asked about the fiscal impact of renting classroom space. Shelter operators in attendance disagreed with Tack's estimate of \$650,000. Tack added that pending legislation addresses cost sharing of juvenile home rents. Kibbie also inquired about the number of youngsters involved and was informed that on any given day about 350 individuals are in juvenile shelters.
- Motion carried Subrule 63.18(4) was delayed for 70 days.
- Bradley asked the department to report back on the cost of renting space.

PETROLEUM UNDERGROUND STORAGE TANK FUND BOARD, IOWA COMPREHENSIVE Scott Scheidel represented the board.

- ARC 9654A No action on ch 10 and amendments to ch 11. Scheidel clarified that the no-further-action fund can provide up to \$100,000 per site if action is needed on a no-further-action site.

PUBLIC HEALTH DEPARTMENT Gary Ireland represented the department. Lynn Boes and Linda Goeldner represented the Iowa Nurses' Association.

- ARC 9651A Ch 131 and amendments to ch 132 pertain to emergency medical services. The Iowa Nurses' Association pointed out that registered nurses need definitions of personnel with whom they interface, for example, "paramedic specialist," "critical care paramedic," and "critical care transport"; however, the association is not requesting a delay at this time because the department has agreed to clarify the definitions in rules that will be forthcoming.

TREASURER OF STATE Karen Sinclair represented the office.

- ARC 9639A •Metcalf requested a summary of the poultry deboning operation that was funded under the value-added agricultural linked investment loan program.
- ARC 9677A No questions on ch 19 concerning waiver of administrative rules.

WORKFORCE DEVELOPMENT BOARD/SERVICES DIVISION Joann Callison represented the division.

- ARC 9687A Proposed changes to ch 1 pertain to the workforce development board.
- Huser asked Callison to report back on the accuracy of 1.5(2), which indicates a 30-day period for job listings.
- ARC 9686A Rule 2.4 pertains to waiver provisions.
- Motion to delay Doderer moved a 70-day delay.
- Motion carried Rule 2.4 was delayed for 70 days.

Workforce Development Board/Services Division (continued)

ARC 9688A No questions on proposed ch 7, Iowa workforce investment Act program.

RACING AND GAMING COMMISSION Karyl Jones represented the commission.

ARC 9648A Chapters 1, 10 and 26 were amended.

Motion to delay Metcalf moved a 70-day delay on Item 1, which pertains to waiver of rules.

Motion carried Rule 1.8 was delayed for 70 days.

ARC 9649A Adopted amendments are identical to those proposed.

•Bradley reported that the state government committee took no action on Item 24, regarding video machines, which had been referred by the ARRC.

ARC 9647A No questions on proposed amendments to chs 8 and 13.

ENVIRONMENTAL PROTECTION COMMISSION Anne Preziosi, Catherine Fitzsimmons and Pete Hamlin represented the commission. Elizabeth Henderson represented the Iowa Association of Business and Industry.

ARC 9676A No questions on proposed ch 13 regarding waiver provisions.

Regulatory Analysis Fitzsimmons distributed the department's response to the ARRC's request for a regulatory analysis. Henderson questioned the increase in the department's workload, the relationship of the state-run program to Title V fees, the lack of a fee structure incentive for reducing pollution, and the effect of the carry forward balance. Henderson urged the department to find greater efficiencies and suggested the increase in the fee cap be set at \$26 a ton, representing about an 8% increase as opposed to a 20% increase. Fitzsimmons illustrated the correlation between reduction in emissions and fees.

•Carroll noted that the efficiency of facilities does not impact fees. Further, increased fees do not result in increased benefits. Hamlin responded that the program is funded by fees, and the fees can be used only in accordance with federal law and the department's rules and budget.

•Subsequent to Bradley's suggestion that a breakdown of how the funds are used would be helpful, the proposed budget was distributed.

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT John Schiltz and Ron Rowland represented the department.

ARC 9683A Amendments to ch 64 pertain to pseudorabies disease.

•Bartz asked for clarification about vaccination responsibilities of owners and contract producers and about movement of swine from nursery units. Bartz and Hedge requested a summary of the written comments received on this rule making and the minutes of the January 12, 2000, Iowa Pseudorabies Advisory Committee meeting.

Committee Business**Minutes**

Huser moved approval of the minutes of the February 2000 meeting.

The motion carried.

Meeting Date

The next meeting was set for April 7, 2000, at 8 a.m.

17A.4A

Royce advised the committee that the "32" days allowed by 17A.4A is always a Sunday. The committee recommended a statutory change to "30" days.

Adjourn

The meeting was adjourned at 12:25 p.m.

Respectfully submitted,

Kathleen K. Bates
Kathleen K. Bates

APPROVED:

Clyde Bradley
Chair Clyde Bradley

H. Kay Hedge
Vice Chair H. Kay Hedge