

MINUTES OF THE SPECIAL MEETING OF THE

ADMINISTRATIVE RULES REVIEW COMMITTEE

Date of meeting: A special meeting of the Administrative Rules Review Committee (ARRC) was held Tuesday, January 7, 2003, in Room 116, State Capitol, Des Moines, Iowa.

Members present: Senator Sheldon Rittmer, Chair, and Representative Clyde Bradley, Vice Chair; Senators Jeff Angelo, Patricia Harper, John P. Kibbie, and Paul McKinley; Representatives Danny Carroll, Marcella Frevert, Mark Kuhn and Janet Metcalf.

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 parties.

Convened Chair Rittmer convened the meeting at 9 a.m.

VISION IOWA BOARD Michael Gartner, Melanie Johnson, and Nichole Warren represented the board.

Special review Bradley asked if there was a need for rules relating to conflicts of interest. Gartner responded that all state boards and commissions are subject to the same conflict of interest provisions and indicated that a board member abstains whenever a real or perceived conflict exists.

In response to other issues, Gartner reported that quarterly deadlines have been established for applications and noted that the board would consider outlining the negotiation process in the rules in the event of additional funding in the future.

ECONOMIC DEVELOPMENT DEPARTMENT Rose Wazny represented the department.

ARC 2168B Ch 24 pertains to the emergency shelter grants program. McKinley asked Wazny to provide additional information about exceptions to the requirement for matching funds.

ARC 2170B No action on the homeless shelter operation grants program. Wazny explained that although these funds are intended to provide shelter rather than services, most shelters have connections with community service providers.

EDUCATIONAL EXAMINERS BOARD Anne Kruse and Chris Scase represented the board.

ARC 2198B Proposed amendments to chs 11 and 12 relate to license denial or revocation. Kruse reported that for the purpose of these rules the entry of a deferred judgment constitutes a conviction. Scase stated that the Iowa supreme court ruled that, for the protection of the public, a deferred judgment should be considered by agencies evaluating criminal histories. Frevert expressed a concern about nonprofessional school staff. Scase responded that while the board does not have authority to require background checks for employees not licensed by the state, local districts may opt to check criminal histories of all employees.

EDUCATION DEPARTMENT Ann McCarthy, Julie Curry, and Jim Clark represented the department.

ARC 2202B No questions on the addition of a nonvoting student member to the state board of education.

ARC 2175B Proposed ch 11 pertains to the unsafe school choice option as required by the No Child Left Behind Act. The rules define the conditions for determining persistently unsafe schools. McCarthy indicated that the department does not anticipate adoption before March. Discussion centered on state and federal requirements and funding, threats, expulsions, due process, and data involving special education students.

ARC 2203B No action on amendments relating to open enrollment.

ARC 2193B No questions on 21.3(4) regarding the quality faculty plan for community colleges.

ARC 2192B No questions on the proposed rescission of ch 68 concerning charter schools.

ARC 2194B No questions on criteria for and approval of teacher intern preparation programs.

ARC 2174B No action on ch 120, the early ACCESS integrated system of early intervention services.

GENERAL SERVICES DEPARTMENT ARC 2196B was excused from review.

ENVIRONMENTAL PROTECTION COMMISSION Anne Preziosi, Robin Puisner, and Jeff Myrom represented the commission.

ARC 2180B No questions on 22.100 concerning fugitive emissions.

ARC 2179B No action on termination of the interim matrix rule making. In response to a question from Kuhn, Puisner clarified that the definition of karst area was developed as a result of SF2293, which referenced karst terrain. Kuhn commended Puisner for her work on the rules; Frevert concurred.

ARC 2169B No questions on reorganization of sanitary landfill rules.

ARC 2166B No action on proposed ch 108 concerning beneficial use determinations for solid by-products.

Special review Puisner presented the rules governing use of the master matrix by county boards of supervisors and highlighted the changes adopted. In the final rules, enrollment is on an annual basis; counties electing to use the master matrix are required to use the matrix in the evaluation of all construction permit applications; and the rules specify that the department will disregard the recommendation of a county that fails to use the matrix until the board timely submits a new construction evaluation resolution.

NATURAL RESOURCE COMMISSION Anne Preziosi, Martin Konrad, and Richard Bishop represented the commission. Other interested parties included Laverne Schroeder of Iowa Sportsmens Association, Ervin Wagner and Shann Brandcomb of the Iowa Bow Hunters Association, and Steve Skuld of the Iowa Conservation Alliance.

- ARC 2185B No questions on proposed 7.1 regarding contested cases.
- ARC 2181B No questions on termination of the notice to amend a fishing restriction in portions of the Cedar River in Mitchell County.
- ARC 2182B No questions on proposed rules relating to fishing tournaments.
- ARC 2187B No action on proposed 94.6(1) concerning nonresident deer hunting license quotas.
- ARC 2184B Amendments to ch 98 include definitions for farm unit and legal weapon for bow hunting. Schroeder voiced opposition to the definition of legal weapon. Representatives of the Iowa Bow Hunters Association and the Iowa Conservation Alliance expressed support for the amendments.
- ARC 2183B No questions on proposed 104.11 concerning identification and disposal of diseased Cervidae.

REVENUE AND FINANCE DEPARTMENT David Casey represented the department.

- ARC 2201B No questions on proposed 19.12 regarding a sales tax exemption for the purchase of building materials, supplies and equipment for construction contracts with designated exempt entities. Casey outlined Web-based registration and issuance of exemption certificates and authorization letters.
- ARC 2200B No action on proposed amendments to provide individual, corporate and franchise tax credits for equity investments in venture capital funds.

CAPITAL INVESTMENT BOARD David Casey represented the board.

- ARC 2199B No action on proposed ch 3 concerning tax credits for investments in venture capital funds within the state.

ELDER AFFAIRS DEPARTMENT Greg Anliker represented the department.

- ARC 2217B Proposed amendments to ch 14 update the retired senior volunteer program. Anliker indicated that thousands of volunteers are involved in 27 projects around the state.

Committee business Carroll moved approval of the minutes of the December meetings. The motion carried. The date of the next meeting was set for Friday, February 14, 2003. On behalf of the committee, Senator Kibbie presented retirement gifts to Representative Bradley, Representative Metcalf, Senator Harper and Senator Rittmer.

PERSONNEL DEPARTMENT Gregg Schochenmaier and Greg Cusack represented the department.

- ARC 2219B No questions on amendments to ch 21.
- ARC 2171B No action on proposed amendments providing a level payment option for special service members.

IOWA FINANCE AUTHORITY Loyd Ogle represented the authority.

- ARC 2286B No questions on amendments to the housing assistance fund, ch 15.

UTILITIES DIVISION Cecil Wright, Jennifer Johnson, and David Lynch represented the division.

- ARC 2173B No action on proposed amendments reducing filing requirements for extensions of electric franchises.
- ARC 2213B No questions on amendments proposed pursuant to executive orders 8 and 9.
- ARC 2105B No action on proposed amendments relating to telephone numbering resources. There was discussion about international, national and state issues, as well as confidentiality, number portability and area code exhaust.

HUMAN SERVICES DEPARTMENT Nancy Freudenberg, Jan Walters, and Susan Parker represented the department. Other interested parties included Steve Ackerson and Jeff Steggerda of Iowa Health Care Association.

- ARC 2157B No action on assessment fee for ICF/MR facilities not operated by the state. Freudenberg offered assurance that counties will not be responsible for the nonfederal share of the increase in per diem rates.
- ARC 2160B No action on direct deposit of FIP benefits.
- ARC 2215B No action on electronic benefits transfer of food stamp benefits. Walters reported that EBT cards can be used statewide as well as in neighboring states.
- ARC 2161B These amendments were placed under 70-day delay at the December 10, 2002, meeting. The delay remains on Items 1 and 2; however, emergency amendments will rescind delayed paragraph "d" in Items 3 and 4.
- ARC 2162B The emergency amendment to 78.13(5) reduces reimbursement for transportation for medical care from 29 cents per mile to 20 cents per mile. The change will result in savings to the state of \$88,000 per month.
- ARC 2155B No questions on amendments concerning Medicaid reimbursement for services of nurse-midwives.

Human Services Department (continued)

- ARC 2156B No questions on amendments related to disproportionate share payments to children's hospitals.
- ARC 2163B No action on amendments pertaining to procedures for setting state maximum allowable costs for specified drugs. Parker reported that the invoice cost of drugs is used. Freudenberg agreed to find out what the federal government pays for drugs and whether the state can require persons with veterans benefits to acquire drugs through that program rather than Medicaid.
- ARC 2214B Proposed amendments to ch 81 pertain to nursing facility reimbursement. Changes in payment for reserve bed days and crossover claims will result in savings to the state. Ackerson asserted that the amendments will cause cash flow problems and result in a financial hardship for small rural facilities. Steggerda stated that the association's figures differ greatly from those in the department's estimates.
- Motion to refer Angelo moved a referral to the general assembly.
- Motion carried The motion carried; the proposed amendments to ch 81 are referred.
- ARC 2158B No action on amendments concerning licensure for child-placing agencies and foster family homes.
- ARC 2159B No questions on Iowa senior living trust fund amendments.
- Special reviews The department is proceeding with the following emergency rule makings:
- No questions on amendments to ch 78 regarding Medicaid coverage requirements for community mental health centers.
 - Supported community living services amendments affecting 5-bed facilities are under 70-day delay. The delay affords the department additional time to ensure that the amendments comply with legislative intent. Items 3 and 4 of the emergency amendments rescind delayed paragraph "d" pertaining to integrated settings. These amendments will become effect February 1, 2003.
 - There were no questions on emergency amendments pertaining to ICF/MR certification.
 - Emergency amendments to ch 14 concern offset of county debts owed to the department. The department and counties are in agreement on all issues except for date of notification. The department maintains that the postmark date is the date of notification, but has agreed to also send an E-mail notification that a notice has been sent by regular mail.
- 70-day delay The review of targeted case management was deferred until the February meeting.

LABOR SERVICES DIVISION Byron Orton, Mary Bryant, and Anne Jackson represented the division.

- ARC 2197B No action on 4.3 standards for reporting hearing loss.
- ARC 2164B No action on proposed safety standards for signs, signals and barricades.
- Adjourned The meeting was adjourned at 3:40 p.m.

Respectfully submitted,



Kathleen K. Bates

APPROVED:

 Chair

 Vice Chair