

**MINUTES OF THE JULY 2005 MEETING
OF THE
ADMINISTRATIVE RULES REVIEW COMMITTEE**

- Date of meeting:** The regular, statutory meeting of the Administrative Rules Review Committee (ARRC) was held Tuesday, July 12, 2005, in Room 116, State Capitol, Des Moines, Iowa.
- Members present:** Representative George Eichhorn, Chair, and Senator Paul McKinley, Vice Chair; Senators Jeff Angelo, Michael Connolly, and John P. Kibbie; Representatives Danny Carroll, Marcella Frevert, and David Heaton. Senator Mary Lundby and Representative Geri Huser were excused.
- Also present:** Joseph A. Royce, Legal Counsel; Kathleen K. West, Administrative Code Editor; Gary Dickey Jr., Administrative Rules Coordinator; fiscal staff, caucus staff and other interested parties.
- Convened** Chair Eichhorn convened the meeting at 9:05 a.m.
- Fiscal report** Mary Beth Mellick presented the LSA fiscal overview and highlighted five rule makings (ARC 4223B, ARC 4243B, ARC 4106B, ARC 4105B, and ARC 4230B) that have a fiscal impact in excess of \$100,000. Frevert noted that ARC 4237B of the Natural Resource Commission relating to public, commercial and private docks and dock management areas may also have a very large fiscal impact.
- HUMAN SERVICES DEPARTMENT** Nancy Freudenberg represented the department.
- ARC 4225B** No questions on proposed amendments relating to the family investment program and the PROMISE JOBS program.
- ARC 4223B** No action on rescission of ch 180, family respite care services for children with mental retardation or other developmental disability. Freudenberg identified other programs that include these services.
- LABOR SERVICES DIVISION** Kathleen Uehling represented the division. Lynne Rush represented the boiler board.
- ARC 4273B** Amendments to ch 75 increase fees for elevator inspections. Uehling indicated that the increase is needed to provide training and additional inspectors. Noting that the increases are significant, McKinley requested a report on the amount of fees collected last year and the projected revenue to be generated by the increased fees. Frevert suggested the division work closely with the fire marshal regarding overlapping issues.
- ARC 4274B** No questions on 76.7 regarding alterations of elevators.
- ARC 4219B** No action on proposed fee increases relating to boilers and pressure vessels. Rush noted that the board unanimously supports the fee increases.
- ETHICS AND CAMPAIGN DISCLOSURE BOARD** Charlie Smithson represented the board.
- ARC 4255B** No questions on proposed 1.1(1) concerning election of board officers.
- ARC 4254B** No questions on 1.6(5) to allow presidential caucus participation by board members and staff.
- ARC 4250B** No questions on 3.8, filing of Iowa election campaign fund report.
- ARC 4261B** No questions on amendments to ch 4 regarding dissolution of a county central committee.
- ARC 4252B** No action on 4.1(4), definition of "candidate," as it relates to judges required to stand for retention.
- ARC 4263B** No comments on 4.19, filing of Schedule G, monetary expenditures by consultants.
- ARC 4262B** No questions on 4.27 regarding filing of independent expenditure statement.
- ARC 4249B** No action on rules 4.54 to 4.57, which pertain to dissolution of campaign committees. Discussion related to the need for a limit on how long a committee may remain open.
- ARC 4264B** No questions on 6.12, sales of goods and services by staff of the office of the governor.
- ARC 4251B** No questions on 6.19, prohibition on receipt of an honorarium by an executive branch official or employee from a restricted donor.
- ARC 4253B** No action on 8.15(2)"d," contribution by a lobbyist to the lobbyist's own campaign.
- STATE PUBLIC DEFENDER** Tom Becker represented the office of state public defender.
- ARC 4265B** No action on amendments relating to appointment of counsel and approval of claims.
- IOWA FINANCE AUTHORITY** Dennis Dietz and Tim Waddell represented the authority. Other interested parties included Bob Burns of Burns & Burns, L.C., Bill Reinke of Houses, Inc., and Sam Erickson of Community Housing Initiatives, Inc.
- ARC 4281B** Waddell explained the proposed QAP and distributed a written outline of the changes, which include, as a result of input from a subcommittee of the QAP advisory committee, raising the developer/consultant cap.
- Burns distributed information about caps in surrounding states and recommended that the developer/consultant cap be eliminated; Reinke and Erickson expressed support for retention of the cap.
- McKinley requested a report of credits that have been awarded by geographic area.

- PUBLIC HEALTH DEPARTMENT** Barb Nervig represented the department.
- ARC 4210B No questions on amendments to ch 1, reportable diseases.
- ARC 4208B No action on proposed changes to the WIC program, ch 73.
- ARC 4209B No action on proposed amendments to chs 131 and 132 regarding scope of practice for paramedics.
- ENVIRONMENTAL PROTECTION COMMISSION** Christine Paulson, Jon Tack, Bob Drustrup, and Mark Warren represented the commission.
- ARC 4238B No action on amendments to air quality rules to conform to federal standards. Paulson noted that Item 3 was revised in response to public comments.
- ARC 4241B No questions on termination of the proposed addition of the Chemplex site in Clinton County to the list of protected water sources.
- ARC 4240B Tack reported that, as a result of a court determination, the proposed rule making regarding regulation of concentrated animal feeding operations and confinement feeding operations and NPDES permitting has been terminated, although work on the rule making continues.
- ARC 4239B No questions on ch 101, solid waste comprehensive planning requirements.
- NATURAL RESOURCE COMMISSION** Lowell Joslin, Mike Smith, and Greg Jones represented the commission. Other interested parties included Julie and Susan Mau of Mau Marine, representatives of Iowa Great Lakes Area Chamber of Commerce, Okoboki Woods Homeowners Association, Arnold's Park, and Fillenwarth Beach Resort.
- ARC 4237B Proposed ch 16 regulates public, commercial, and private docks and dock management areas. The rules proposed a lakebed lease formula based on the value of the property. Members of the public were overwhelmingly opposed to the fee formula and concerned about the resulting effect on commercial enterprises and condominium associations, tourism, and public access to the lakes. A commenter expressed a willingness to pay a reasonable increase in dock fees if the increased revenue were used to support water safety and water quality. Joslin agreed that the commission needs to reexamine the fee structure for commercial docks and docks for multifamily dwellings. Discussion related to the different policies regarding permanent docks on rivers and docks on lakes.
- Motion Kibbie made a motion that the committee request a regulatory analysis on the commercial dock fee structure.
- Motion carried The motion carried; the regulatory analysis must be completed before the rules are adopted.
- ARC 4242B No action on proposed barge fleeting regulations, ch 17.
- ARC 4243B Proposed ch 18 pertains to leases of state-owned or dedicated public property. Richard Meyer of Arnold's Park raised concerns about 18.8 and 18.11.
- Motion Concerned that lease fees based on the value of the property are essentially additional property taxes, Carroll moved a regulatory analysis on ARC 4243B.
- Motion carried The motion carried; a regulatory analysis must be completed.
- Review No questions on ARC 4236B, ARC 4214B, ARC 4234B, ARC 4235B, ARC 4233B, ARC 4232B, ARC 4231B, or ARC 4244B.
- NURSING BOARD** Lorinda Inman and Jane Hasek represented the board. Linda Goeldner represented the Iowa Nurses Association.
- ARC 4106B No action on proposed amendments to chs 3 and 4 concerning criminal history background checks.
- ARC 4105B The board proposes an increase in license renewal fees. Goeldner distributed written comments and expressed the view that the increased fees, which are the same for all types of nursing practice, are burdensome. McKinley requested a comparison with fees paid by other licensed professionals in Iowa and nurses in surrounding states.
- ARC 4104B No questions on amendments to ch 16.
- PUBLIC SAFETY DEPARTMENT** Mike Coveyou, Jeff Quigle, and Ken Carter represented the department.
- ARC 4226B Proposed amendments to ch 2 eliminate the written examination and incorporate a licensing exemption.
- ARC 4256B No questions on ch 205, fire safety requirements for hospitals and health care facilities.
- ARC 4229B No action on ch 141, closed circuit surveillance systems in gaming establishments.
- ARC 4227B No questions on ch 174 concerning retail sales of pseudoephedrine.
- ARC 4230B No action on ch 251 regarding minimum training standards for fire fighters. Eichhorn asked that the department advise the committee of the closure of any volunteer fire departments. Frevert expressed an interest in allowing training funds to pay for volunteers' physical examinations. Coveyou advised the committee of upcoming emergency rules pertaining to the DNA database and the sex offender registry.

CAPITAL INVESTMENT BOARD David Casey represented the board.

ARC 4221B No questions on ch 4, investment tax credits. Casey reported that the fund of funds has investments of approximately \$15 million.

REVENUE DEPARTMENT David Casey represented the department. John Schad represented Smarts Broadcast Systems.

ARC 4277B No questions on chs 231 and 240, which implement the streamlined sales and use tax. Casey reported that Iowa is one of the governing states for the streamlined sales tax project.

Special review Kibbie requested a review of sales tax on computers. Materials from Smarts Broadcast Systems and the department were distributed. Casey reviewed the legislative history for the exemption for computers and stated that exemptions authorized by legislation are narrowly defined and interpreted. The department determined that stored audio information is not data; therefore, Smarts Broadcast Systems did not qualify for the exemption.

Schad related his company's experience with the department, which originally advised the company that their computers were exempt from the tax and then years later reversed its interpretation. Members expressed concern that in responding to inquiries from businesses, the department does not provide assurances in writing. Casey responded that the department does issue informal written opinions, based on the information provided, but added that the decisions are not binding on the department.

Motion to refer Angelo moved a general referral of the exemption to the legislature.

Motion carried The motion carried.

UTILITIES DIVISION Mary Whitman and David Lynch represented the division. Other interested parties included Bill Schrad of Schrad Enterprises, Rich Leopold of the Iowa Environmental Council, Bill Sutton of Sutton Wind Energy, LLC, Georgia Van Gundy on behalf of Iowa Farm Bureau Federation, and Gregg Heide.

ARC 4220B No questions on 31.4 to 31.9 concerning affiliate reporting requirements.

Special review Kibbie requested a review of wind energy and renewable energy tax credits. A summary of SF 390 and HF 882 was distributed. Lynch reported that the tax credits have been fully committed; applications received after July 6 were placed on a waiting list.

Schrad asked that all applications be carefully reviewed to ensure that individuals with multiple corporations do not monopolize the tax credits. Leopold suggested that instances in which multiple owners at a single site receive credits may be contrary to the intent of the legislation. Sutton requested that applicants be allowed to amend applications without loss of place in queue. Van Gundy expressed support for these rules and the expansion of wind energy in Iowa. Heide asked that IUB look closely at ownership of projects and expressed optimism about the program.

Committee business The minutes of the June 2005 meeting were approved.

The committee's next meeting will take place August 9 and 10, 2005.

Carroll approved the draft of the general referral of lottery MVMs and amusement devices in convenience stores.

The Natural Resource Commission asked the committee's advice regarding a special rifle season for hunting deer. Members have heard a variety of opinions from the public but believe that, for the most part, the public is unaware of a rifle season because it was not included in the Notice of Intended Action. Several members commented on the irregular rule-making procedure and suggested that the legislature, not the committee, approve such a season.

Royce distributed a report from the Iowa Finance Authority on developer/consultant caps in other states.

Royce noted that the committee's requests for regulatory analysis must be informal requests because the 32-day period in which the committee could make a formal request expired July 11, 2005.

Royce asked the committee to consider whether they wish to make a recommendation to the Senate about HF 845.

Adjourn The meeting was adjourned at 4:25 p.m.

Kathleen K. West
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APPROVED:

George A. Eichhorn
Chair George Eichhorn

Paul McKinley
Vice Chair Paul McKinley