

**MINUTES OF THE APRIL 2009 MEETING
OF THE
ADMINISTRATIVE RULES REVIEW COMMITTEE**

Date of meeting: The regular, statutory meeting of the Administrative Rules Review Committee (ARRC) was held on Tuesday, April 28, 2009, at 9 a.m. in Room 116, State Capitol, Des Moines, Iowa.

Members present: Senator Wally Horn, Chair, and Representative Marcella Frevert, Vice Chair; Senators Merlin Bartz, Thomas Courtney, John P. Kibbie, and James Seymour; Representatives David Heaton, Tyler Olson, Nathan Reichert, and Linda Upmeyer were present.

Also present: Joseph A. Royce and Michael Duster, Legal Counsel; Kathleen K. West, Administrative Code Editor; James Larew, Administrative Rules Coordinator; fiscal staff; caucus staff; and other interested parties.

Convened Sen. Horn convened the meeting at 9:02 a.m.

Fiscal overview Sue Lerdal presented the LSA fiscal report.

REVENUE DEPARTMENT Jim McNulty represented the department.

ARC 7632B No action on proposed amendments to update chs 10, 38, 40, 41, 46, 48, 50, 52, 54, 59, 86, 88, 89, and 104.

COMMUNITY ACTION AGENCIES DIVISION Bill Brand represented the division.

ARC 7613B Mr. Brand explained that the individual development accounts program is intended to provide incentives for low-income households to save for specific purposes, such as education or the purchase of a home or automobile or assistive devices, to help them achieve self-sufficiency. Discussion related to financial education, asset-specific training, account limits and account transfers. Rep. Heaton expressed strong support for the program. Rep. Upmeyer requested information about the program that members can distribute in their communities.

VETERANS AFFAIRS, IOWA DEPARTMENT OF No departmental representative was present for review of ARC 7659B, ARC 7660B, and ARC 7661B.

EDUCATION DEPARTMENT Carol Greta represented the department.

ARC 7608B No action on proposed amendments to ch 16, statewide voluntary preschool program. Rep. Frevert expressed concern that the application gives preference to districts that have no preschool program. Rep. Heaton commented that districts with declining enrollments may have to close their preschool programs.

ARC 7612B No action on proposed ch 22, senior year plus program. Ms. Greta noted new provisions regarding proficiency standards, criminal background checks for postsecondary instructors that teach high school students at a location other than the community college, and the requirement that all districts must make AP courses available to their students. Sen. Kibbie expressed support for the program.

ARC 7609B No questions on the proposed rescission of ch 48, certified school to career program.

ARC 7610B No questions on the proposed rescission of ch 91, phase III educational excellence program.

ARC 7611B No action on proposed amendments to ch 97, supplementary weighting for operational function sharing.

MANAGEMENT DEPARTMENT Sonni Vierling represented the department.

ARC 7640B No action on proposed ch 13, first years first grant program.

ENVIRONMENTAL PROTECTION COMMISSION Jim McGraw, Christine Paulson, Courtney Cswercko, Adam Schneiders, and Elaine Douskey represented the commission. Other interested parties included John Kaller of MidAmerican Energy, Emily Piper of Iowa Rural Water Association, Jessica Harder of Iowa League of Cities, and Randy Van Dyke of Iowa Lakes Regional Water.

ARC 7622B Proposed amendments to chs 23, 25 and 34 remove federally vacated CAMR provisions from Iowa's rules and require EGUs to submit reports of quarterly coal sampling analysis and stack testing for mercury to the department. Mr. Kaller supported removal of CAMR provisions, but not the quarterly testing and reporting. Mr. McGraw commented that quarterly testing costs may be offset since the CAMR continuous emissions monitoring system is no longer required.

- ARC 7623B No questions on the amendment to ch 23 regarding brick and boiler MACTs.
ARC 7625B Certain provisions in chs 60 and 63 were delayed at the special meeting held April 8, 2009. Ms. Cswercko reported that a rule making has been initiated to resolve the concerns that resulted in the delay. Ms. Piper and Ms. Harder confirmed that the compromise amendments are acceptable and that the association and the league agree that the delay is no longer necessary. Mr. Van Dyke indicated that he also supports lifting the delay, and he encouraged the department to consider the fiscal impact of the change from quarterly to monthly monitoring of ammonia on homeowners in Iowa's smallest communities. Sen. Bartz identified definitions that may need to be clarified.
- Motion Sen. Bartz made a motion that the committee lift the delay.
Motion carried The delay is lifted, effective April 29, 2009.
ARC 7624B No action on revisions to surface water classifications in 61.3(5). Mr. Schneiders indicated that there were three incorrect counties in the listing of 138 stream segments. Sen. Bartz was advised that water quality standards include designated uses of the waters, criteria to protect the waters, and antidegradation policy.
- ARC 7620B Proposed amendments to ch 134 pertain to licensing and certification of underground storage tank professionals. Ms. Douskey indicated that, based on comments received, changes will be made in regard to reporting of suspected releases. Sen. Kibbie asked for a report of any tanks that are not compatible with biofuel.
- ARC 7621B No action on amendments to ch 135 in regard to the risk-based corrective action program.
- NATURAL RESOURCE COMMISSION** Inga Foster, Mark Warren, Paul Tauke, Tamara Mullen, and Jason Sandholt represented the commission.
- ARC 7616B No action on ch 13, permits and easements for construction and related activities on public lands and waters.
- ARC 7617B No questions on proposed ch 15, general license regulations, which is revised to include new technology for electronic licensing.
- ARC 7615B No action on proposed amendment to 71.3, nursery stock sale to the public.
ARC 7680B No action on ch 78, ginseng harvesting and sale.
- NATURAL RESOURCES DEPARTMENT** Ross Harrison represented the department.
- ARC 7652B No action on proposed ch 12 concerning special nonresident deer and turkey licenses.
- PROFESSIONAL LICENSURE DIVISION** Judy Manning represented the division.
- ARC 7644B No questions on 206.1 concerning physical and occupational therapy.
- PUBLIC SAFETY DEPARTMENT** Mike Coveyou and Stuart Crine represented the department.
- ARC 7657B No questions on proposed ch 310 regarding sustainable design standards. Mr. Coveyou reported that the department will likely adopt emergency rules pertaining to dispensing of biofuels.
- HUMAN SERVICES DEPARTMENT** Nancy Freudenberg, Ann Wiebers, and Jennifer Vermeer represented the department. Other interested parties included Deb Slack of Iowa State Association of Counties.
- ARC 7654B No questions on proposed amendments to ch 11 to consolidate and simplify notification of debt forms.
- ARC 7626B No questions on proposed amendments to ch 25 regarding county of residence for disability services management.
- ARC 7655B No questions on termination of the rule making for ch 26, emergency mental health crisis services system, which was deemed to be too prescriptive.
- ARC 7656B No questions on termination of the rule making for ch 27, mental health services for children and youth, which was deemed to be too prescriptive.
- ARC 7605B No questions on annual adjustment to eligibility and payment levels for the SSA program.
- ARC 7603B No action on 58.51 to 58.58, unmet needs disaster grant program.
ARC 7641B No action on 58.61 to 58.68 and 153.8, ticket to hope program. Ms. Freudenberg advised Rep. Heaton that up to eight mental health counseling sessions are available for those affected by disaster.

- ARC 7629B No action on reduction in the Medicaid premium for employed persons with disabilities.
- ARC 7630B No questions on annual update of the statewide average costs and charges for nursing care for private pay residents.
- ARC 7653B No questions on proposed amendments to ch 77 pertaining to incident reporting standards for providers of HCBS habilitation and waiver services.
- ARC 7631B No action on proposed amendments relative to case management services. Ms. Freudentberg reminded the committee that these amendments were republished in the April 22, 2009, IAB to correct a publication error in this Notice of Intended Action. Those amendments will likely be Adopted and Filed Emergency After Notice in order to become effective on July 1, 2009. Ms. Vermeer explained to Rep. Frevert that the 15-minute billing unit for case management services is in accordance with federal regulations and that many providers have software systems to assist with documentation of services provided. Sen. Kibbie pointed out that the federal regulations are under a moratorium. Ms. Vermeer explained that the department has been working to have rules in place when the moratorium is scheduled to expire on July 1, 2009. Ms. Slack expressed concern about the requirement that case management services be available 24 hours a day, 7 days per week in the event of crisis or emergency. Rep. Upmeyer suggested a sharing of on-call responsibility among case managers.
- ARC 7627B No questions on proposed update of CFR references relating to payment methodology for prescription drugs, 79.1(8).
- ARC 7635B No action on proposed amendments to ch 86, HAWK-I program. Ms. Wiebers clarified that children must be uninsured in the month of application.
- ARC 7606B No questions on amendments to chs 113, 156, 200, and 204 concerning foster care and adoption policies.
- Committee business** The minutes of the March 2009 meeting were approved.
The next meeting was scheduled for Tuesday, May 12, 2009.
- Adjourned The meeting was adjourned at 12:35 p.m.

Respectfully submitted,

Kathleen K. West
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APPROVED:

Wally Horn
Chair Wally Horn

Marcella R. Frevert
Vice Chair Marcella Frevert