

**MINUTES OF THE SEPTEMBER 2011 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, September 13, 2011, in Room 116, State Capitol, Des Moines, Iowa.

Members present: Senator Wally Horn, Chair, and Representative Dawn Pettengill, Vice Chair; Senators Merlin Bartz, Thomas Courtney, John P. Kibbie, and James Seymour; Representatives David Heaton, Rick Olson, and Guy Vander Linden were present. Representative Jo Oldson was not present.

Also present: Joseph A. Royce and Jack Ewing, Legal Counsel; Stephanie A. Hoff, Administrative Code Editor; Brenna Findley, Administrative Rules Coordinator; fiscal staff; caucus staff; and other interested parties.

Convened Sen. Horn convened the meeting at 9:31 a.m.

Fiscal overview Sue Lerdal presented the LSA fiscal report.

ATTORNEY GENERAL Bill Brauch represented the attorney general.

ARC 9669B Proposed ch 36 pertains to a disclosure statement of repairs or adjustments to, or replacements of parts with new parts on, new motor vehicles. Mr. Brauch stated that disclosure to the buyer by the new vehicle dealer is required if the actual cost of any labor or parts charged to or performed by the dealer for any such repairs, adjustments or parts exceeds 4 percent of the dealer's adjusted cost. Discussion pertained to consumer protection and the liability and standards for disclosure for new and used vehicles. Mr. Brauch stated the opinion that the rules do not create for new vehicles a different liability or disclosure or a different standard for material facts.

CREDIT UNION DIVISION JoAnn Johnson represented the division.

ARC 9672B Proposed amendments to ch 18 relate to maintenance of allowance for loan and lease losses account. Ms. Johnson stated that the amendments reflect the guidance of the National Credit Union Administration and establish methodology in accordance with generally accepted accounting principles (GAAP). Rep. Pettengill noted the rescission of several definitions and expressed concern about a possible reduction in accountability. In response, Ms. Johnson stated that those definitions are currently set forth in the GAAP standards. At the request of Rep. Olson, Ms. Johnson will provide the committee with more information about lease losses.

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF Elyse Shindelar represented the department.

ARC 9668B No action on amendments to ch 27 relating to the neighborhood stabilization program (NSP).

EDUCATIONAL EXAMINERS BOARD George Maurer represented the board. Other interested parties included Brad Hudson and Christy Hickman on behalf of the Iowa State Education Association.

ARC 9659B Rule 11.39 concerns denial of an application for a Class B license during a pending professional practices case. Discussion pertained to Class B license-related issues and clarification of differences between statutory due process in licensure cases and in professional practice cases.

ARC 9661B No questions on proposed amendments to 13.17(1) regarding a one-year teacher exchange license for out-of-state applicants who seek licensure in Iowa.

ARC 9662B Proposed amendments to 13.28(12) allow a holder of a physics endorsement to add a mathematics endorsement. In response to an inquiry from Sen. Horn, Mr. Maurer stated that the required units for the added endorsement must be earned at a two- or four-year institution.

ARC 9663B No questions on proposed amendments to 13.28(17)“g” to allow a holder of a mathematics endorsement to add a physics endorsement.

Educational Examiners Board (continued)

ARC 9660B Proposed 22.5 pertains to the preliminary professional career authorization. Mr. Maurer stated that this rule is intended to address teacher shortage areas, including foreign language, mathematics, chemistry, physics, biology and music, and allows a person with a major in the content area to teach while completing, within three years, board-approved teacher training. Mr. Maurer emphasized that the authorization may apply only in emergency situations as determined by local school districts and verified by the department.

Sen. Courtney stated that the promulgation of this rule may exceed the authority of the board and that the issue of teacher shortages should be addressed by the legislature and expressed concern about lowering the standard for trained professional teachers. Sen. Kibbie inquired about the reason for the shortage of teachers in the aforementioned areas and stated that the legislature needs to address the issue. Sen. Bartz stated that the standard for this authorization may be different from but not substantially lower than that of traditionally trained professional teachers. Sen. Bartz requested that Mr. Maurer provide the committee with information about the authority of the board to promulgate this rule and with a list of required teacher training courses that include a diversity training component.

Ms. Hickman stated that this rule allows a substantially lower standard and is a significant departure from the long-held expectations for and the practice of licensed teachers and that this rule should not be promulgated to address teacher shortages. Mr. Hudson named alternatives for pedagogical training that already address the teacher shortage, including dual-credit courses offered at community colleges, 28E agreements with other school districts, and ICN opportunities, and reiterated that the goal should be to employ high-quality teachers who are trained in the subject matter and in pedagogy. Ms. Hickman and Mr. Hudson suggested that candidates with subject matter expertise may also enroll in the teacher intern program, in which pedagogical training precedes actual classroom teaching.

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA Megan Tooker represented the board.

ARC 9679B No questions on proposed amendments to 2.15(10) regarding executive branch lobbying reports.

ARC 9680B No questions on proposed amendments to 8.7 pertaining to required lobbyist registration.

ARC 9681B No questions on proposed amendments to 8.9 concerning executive branch lobbyist client reporting.

ARC 9682B No questions on proposed amendments to 8.20 relating to retention and availability of filed forms.

IOWA FINANCE AUTHORITY Mark Thompson and Carla Pope represented the authority.

ARC 9691B The amendment to 32.7 pertains to the calculation of jobs created in the Iowa jobs program. When the notice was under review, the committee requested that the authority reconsider the exclusion of temporary positions from the jobs-reporting requirements. Mr. Thompson reported that the authority had considered the request but left the amendment unchanged.

Sen. Kibbie asked why part-time jobs are not being counted. In response, Mr. Thompson stated that the spirit of the legislation was to require only the reporting of full-time jobs; in addition, because the reporting of part-time jobs is a significant burden to businesses, the exclusion of temporary positions from the jobs-reporting requirement is more business-friendly. Rep. Heaton stated that, even though workers may be hired through temp agencies, full-time jobs should be correctly classified as full-time. Rep. Olson questioned the definition of "permanent" and stated that temporary jobs are important and should be reported. In response to Rep. Olson, Mr. Thompson stated that the authority continues to examine what constitutes a permanent job and to resolve the issue on a case-by-case basis. In response to an inquiry from Rep. Pettengill, Mr. Thompson stated that a person employed on a temporary basis could be counted more than once and that the authority does not have the resources to conduct an audit of jobs reports.

Iowa Finance Authority (continued)

- Motion to object Sen. Kibbie moved an objection to the deletion of “temporary” from 32.7, which excludes temporary positions from employee jobs reports.
Sen. Bartz noted that a court case based on an objection to this rule would be unlikely given that the level of scrutiny regarding the counting of jobs lies with the agency itself.
- Motion carried On a voice vote of 9 to 0, the motion carried.
- ARC 9690B No action on ch 43, community housing and services for person with disabilities revolving loan program. Ms. Pope reported that no public comments were received and no changes have been made and stated that the authority is receiving applications for these loans.

PUBLIC SAFETY DEPARTMENT Mike Coveyou and Barb Mentzer represented the department.

- ARC 9652B Proposed amendments to chs 500 and 502 pertain to electrician licensure. Mr. Coveyou explained that the rule is intended to simplify for many electricians the process of achieving licensure as journeyman electricians by examination. In response to an inquiry from Rep. Olson, Ms. Mentzer stated that the rule provides a way for persons previously working as electricians without an alternative for licensure in statute to take the examination and become licensed journeyman electricians. In response to an inquiry from Sen. Horn, Ms. Mentzer and Mr. Coveyou offered to consult legal counsel regarding the possibility that a journeyman electrician might be precluded from performing electrical work on the electrician’s own mobile home or rental property because of a homestead requirement.
- ARC 9678B No action on ch 600, statewide interoperable communications system board. Mr. Coveyou reported that, at the request of the committee, “shall” had been changed to “may” in 600.3 to reflect the intention of the board to employ a coordinator to provide staff support for the board but only if funds are made available to compensate the coordinator.

REVENUE DEPARTMENT Victoria Daniels represented the department.

- ARC 9675B No questions on proposed ch 224 and amendments to chs 18 and 26 regarding telecommunications services. Sen. Bartz noted that the rule making does not require additional expenditures by political subdivisions.

HUMAN SERVICES DEPARTMENT Nancy Freudenberg represented the department.

- ARC 9646B No action on ch 31, civil commitment unit.
- ARC 9647B Amendments to 75.1(41) pertain to medical assistance eligibility under the Iowa family planning network (IFPN). Sen. Bartz requested that the department provide the committee with the statutory basis for disregard of changes in 75.1(41)“c”(5) and with the associated cost. In response to an inquiry from Rep. Pettengill, Ms. Freudenberg stated that these family planning services are not available to undocumented persons.
- ARC 9649B No action on amendments to chs 77 and 78 to allow licensed mental health counselors and certified alcohol and drug counselors to enroll as Medicaid providers of behavioral health services.
- ARC 9650B No action on amendments to chs 78 and 83 pertaining to the HCBS intellectual disability waiver.
- ARC 9687B No questions on proposed amendments to ch 105 regarding the addition of record checks on volunteers to the requirements for approval of juvenile shelter care and detention facilities.
- ARC 9651B No action on amendments to ch 170 concerning child care assistance.

Committee business The minutes of the August 16 and 17, 2011, meeting were approved.

The next meeting was scheduled for Tuesday, October 11, 2011, at 9:30 a.m.

Mr. Royce presented a proposed joint resolution by the administrative rules review committee nullifying 571 Iowa Administrative Code 97.6, fifth sentence, prohibiting the use of lead shot for hunting mourning doves and providing an effective date. Discussion pertained to the action required by the standing committees in the house and senate on a bill introduced by this committee.

Committee business (continued)

Motion Sen. Kibbie moved to proceed on the proposed joint resolution as described above.

Motion carried On a voice vote of 9 to 0, the motion carried.

Mr. Royce presented a draft of an act relating to professional licensing board consideration of criminal acts by a licensee. Rep. Olson requested that the draft, which is a work in progress, be placed on the agenda for the October meeting.

Mr. Royce requested that the committee consider whether a review of the committee's rules of procedure is warranted. The committee agreed to the review and requested copies of the current rules of procedure. The review will be placed on the agenda for the October meeting.

Adjourned The meeting was adjourned at 11:53 a.m.

Respectfully submitted,

Stephanie A. Hoff

APPROVED:

Chair Wally Horn

Vice Chair Dawn Pettengill