

REVENUE DEPARTMENT[701]

Notice of Intended Action

Proposing rule making related to appeals of the rejection of an assessor appointment or reappointment and providing an opportunity for public comment

The Revenue Department hereby proposes to amend Chapter 7, “Practice and Procedure Before the Department of Revenue,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 421.14 and 441.6(3).

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 441.6(3) and chapter 17A.

Purpose and Summary

This proposed rule making is intended to implement and clarify procedures for appeals of the Director of Revenue’s rejection of an assessor appointment or reappointment under Iowa Code section 441.6(3). This rule making alters the existing appeal procedures to clarify that the Director of Revenue is the presiding officer in contested cases under rule 701—7.37(441). Additionally, this rule making clarifies cross-references to the Department’s rule regarding contested cases before the Department.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 701—7.28(17A).

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on September 28, 2021. Comments should be directed to:

Nick Behlke
Department of Revenue
Hoover State Office Building
P.O. Box 10457
Des Moines, Iowa 50306
Phone: 515.336.9025
Email: nick.behlke@iowa.gov

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making action is proposed:

Amend rule 701—7.37(441) as follows:

701—7.37(441) Appeals of director’s ~~confirmation decision regarding conference board rejection of assessor appointment or reappointment of assessor.~~

7.37(1) ~~Appeal process~~ *Written request for appeal.* Any assessor or conference board wishing to contest the director’s rejection of the conference board’s appointment ~~or reappointment~~ of an assessor under 701—subrule 72.15(4) or reappointment of an assessor under 701—subrule 72.16(3) shall file an appeal, in writing, within 30 days of the director’s notice of decision. Any person who does not seek an appeal within 30 days of the director’s notice shall be precluded from challenging the director’s decision. ~~Appeals will be governed by the procedures set forth in this rule together with the process set forth in the following rules: rule 701—7.8(17A), excluding the first sentence of the introductory paragraph of 701—7.8(17A) and excluding subrules 7.8(1) to 7.8(7); subrules 7.8(8) and 7.8(9); subrule 7.8(10), except the clerk of the hearings section will file the protest file to the division of administrative hearings within ten days; subrules 7.9(1) and 7.9(2); rule 701—7.10(17A); paragraphs 7.11(2)“d” and “e”; subrules 7.12(2) to 7.12(4); subrules 7.12(7) and 7.12(8); rule 701—7.13(17A); rule 701—7.14(17A); rule 701—7.15(17A); rule 701—7.16(17A); subrules 7.17(1) to 7.17(7); subrule 7.17(8), except paragraph 7.17(8)“b” related to costs shall not apply; additionally, Iowa Code section 421.60(4) shall not apply; subrules 7.17(9) and 7.19(10); subrules 7.17(13) and 7.17(14); rule 701—7.18(17A); rule 701—7.19(17A); rule 701—7.20(17A); rule 701—7.21(17A); and rule 701—7.22(17A).~~

7.37(2) *Procedures.* Appeals will be governed by the procedures set forth in this rule together with the procedures set forth in the following rules:

- a. The introductory paragraph of rule 701—7.8(17A), excluding the first sentence of the introductory paragraph of rule 701—7.8(17A); and subrules 7.8(8) and 7.8(9);
- b. Subrules 7.9(1) and 7.9(2);
- c. Rule 701—7.10(17A);
- d. Paragraphs 7.11(2)“d” and “e”;
- e. Subrules 7.12(2) to 7.12(4);
- f. Rule 701—7.13(17A);
- g. Rule 701—7.14(17A);
- h. Rule 701—7.15(17A);
- i. Rule 701—7.16(17A);
- j. Subrule 7.17(1); subrules 7.17(3) through 7.17(7); subrule 7.17(8), except paragraph 7.17(8)“b” related to costs shall not apply; additionally, Iowa Code section 421.60 shall not apply; subrules 7.17(9), 7.17(10), and 7.17(14);
- k. Rule 701—7.18(17A);
- l. Rule 701—7.19(17A);
- m. Rule 701—7.20(17A);

n. Rule 701—7.21(17A); and

o. Rule 701—7.22(17A).

7.37(3) *Presiding officer.* The director shall be the presiding officer in a contested case under this rule. The director may request that an administrative law judge assist and advise the director with any matters related to the contested case proceedings, including but not limited to ruling on any prehearing matters, presiding at the contested case hearing, and issuing orders and rulings.

~~7.37(2)~~ 7.37(4) *Contents of the appeal.* The appeal shall contain the following in separate numbered paragraphs:

- a. A statement of the department action giving rise to the appeal.
- b. The date of the department action giving rise to the appeal.
- c. Each error alleged to have been committed, listed as a separate paragraph. For each error listed, an explanation of the error and all relevant facts related to the error shall be provided.
- d. Reference to the particular statutes, rules, or agreement terms, if known.
- e. References to and copies of any documents or other evidence relevant to the appeal.
- f. Any other matters deemed relevant to the appeal.
- g. A statement setting forth the relief sought.
- h. The signature, mailing address, and telephone number of the person or that person's representative.

~~7.37(3)~~ 7.37(5) *Burden of proof.* The burden of proof is on the party challenging the director's decision under 701—subrule 72.15(4) or 72.16(3).

This rule is intended to implement Iowa Code section 441.6(3) and chapter 17A.